

Rules and Regulations

Federal Register

Vol. 81, No. 116

Thursday, June 16, 2016

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2015–0097]

Asian Longhorned Beetle: Update List of Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Asian longhorned beetle (ALB) regulations by removing plants of the genus *Celtis* from the list of regulated articles, which we have determined not to be a host plant of ALB. This action is necessary to relieve restrictions on the movement of regulated articles that are not hosts of ALB. As a result of this action, there are no longer any restrictions on the movement of *Celtis* spp. plants from areas quarantined for ALB.

DATES: This interim rule is effective June 16, 2016. We will consider all comments that we receive on or before August 15, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/>

#!docketDetail;D=APHIS-2015-0097.

- *Postal Mail/Commercial Delivery:*

Send your comment to Docket No. APHIS–2015–0097, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/> #!docketDetail;D=APHIS-2015-0097 or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence

Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, M.S., Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2352; email: Claudia.Ferguson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (ALB, *Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. It attacks many healthy hardwood trees, including maple, horse chestnut, birch, poplar, willow, and elm. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and wood debris of half an inch or more in diameter are subject to infestation. The beetle bores into the heartwood of a host tree, eventually killing the tree. Immature beetles bore into tree trunks and branches, causing heavy sap flow from wounds and sawdust accumulation at tree bases. They feed on, and overwinter in, the interiors of trees. Adult beetles emerge in the spring and summer months from round holes approximately three-eighths of an inch in diameter that they bore through branches and trunks of trees. After emerging, adult beetles feed for 2 to 3 days and then mate. Adult females then lay eggs in oviposition sites that they make on the branches of trees. A new generation of ALB is produced each year. If this pest moves into the hardwood forests of the United States, the nursery, maple syrup, and forest product industries could experience severe economic losses. In addition, urban and forest ALB infestations will result in environmental damage, aesthetic deterioration, and a reduction of public enjoyment of recreational spaces.

The regulations in 7 CFR 301.51–1 through 301.51–9 restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States.

Section 301.51–2 of the regulations designates certain items as regulated articles. Regulated articles may not be moved interstate from quarantined areas except in accordance with the conditions specified in §§ 301.51–4 through 301.51–9 of the regulations. Regulated articles listed in § 301.51–2(a) have included green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, stumps, roots, branches, and debris of half an inch or more in diameter of the following genera: *Acer* (maple), *Aesculus* (horse chestnut), *Albizia* (mimosa), *Betula* (birch), *Celtis* (hackberry), *Cercidiphyllum* (katsura), *Fraxinus* (ash), *Koelreuteria* (golden rain tree), *Platanus* (sycamore), *Populus* (poplar), *Salix* (willow), *Sorbus* (mountain ash), and *Ulmus* (elm). This list of genera is based on scientific literature provided by government officials, scientists, and government and individual researchers from China as well as survey information collected in the United States since discovery of the pest.

On April 27, 2015, the Animal and Plant Health Inspection Service (APHIS) issued a Federal Order¹ effective on that date to immediately remove plants of the genus *Celtis* (hackberry) as regulated articles for ALB from the host list. This action responds to research conducted by APHIS indicating that ALB does not complete its life cycle in hackberry trees. Therefore, such trees no longer need to be inspected or considered for treatment, and hackberry can now be moved from areas under quarantine for ALB.

Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary because we have determined that hackberry is not a host for ALB. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

¹ DA–2015–22, “Updated List of Regulated Articles for Asian Longhorned Beetle (*Anoplophora glabripennis*) removing *Celtis* spp. as a host of ALB: https://www.aphis.usda.gov/plant_health/plant_pest_info/asian_lhb/downloads/DA-2015-22.pdf.”

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

The hackberry is a widespread small-to medium-sized fast-growing tree. It is widely distributed in the eastern United States from the southern New England States through central New York west to North and South Dakota. The range extends south from western Nebraska to northwestern Texas, then east to Arkansas, Tennessee, and North Carolina, with scattered occurrences in Mississippi, Alabama, and Georgia.

The hackberry is not valuable as a timber tree. Hackberry wood is heavy, soft, light-yellow, and coarse-grained. It rots easily and therefore is generally undesirable commercially. Occasionally, it is utilized to produce fencing, crates and boxes, or inexpensive furniture, but more commonly it is used as firewood.² Under industry standards for business size established by the Small Business Administration, most firewood retailers and wholesalers are considered to be small entities.

Removal of hackberry from the ALB host list will mean that interstate movement of the wood from ALB-quarantined areas will not require a certificate or limited permit issued by an inspector or by a person operating under a compliance agreement. Firewood wholesalers and retailers and other businesses that move hackberry wood from ALB-quarantined areas will benefit from the interim rule, but the economic effects will be modest.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

- 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.51–2 [Amended]

- 2. In § 301.51–2, paragraph (a) is amended by removing the words “*Celtis* (hackberry)”.

Done in Washington, DC, this 10th day of June 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–14248 Filed 6–15–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–15–0063; FV16–930–1 FR]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2015–16 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Cherry Industry Administrative Board (Board) to establish free and restricted percentages for the 2015–16 crop year under the marketing order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (order). The Board locally administers the marketing order and is comprised of producers and handlers of tart cherries operating within the production area. This action establishes the proportion of tart cherries from the 2015 crop which may be handled in commercial outlets at 80 percent free and 20 percent restricted. In addition, this rule increases the carry-out volume of fruit to 55 million pounds for this season. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Effective June 17, 2016.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: Jennie.Varela@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 930, both as amended (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York,

² http://plants.usda.gov/plantguide/pdf/pg_ceoc.pdf.