

part of the performance of the person's official duties or because of the person's official status.

§ 1305.2 Production prohibited unless approved.

No employee or former employee of OMB shall, in response to a demand of a court or other authority, produce any material contained in the files of OMB, disclose any information relating to materials contained in the files of OMB, or disclose any information or produce any material acquired as part of the performance of the person's official duties, or because of the person's official status, without the prior approval of the General Counsel.

§ 1305.3 Procedures in the event of a demand for disclosure.

(a) Whenever a demand is made upon an employee or former employee of OMB for the production of material or the disclosure of information described in § 1305.2, he shall immediately notify the General Counsel. If possible, the General Counsel shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If information or material is sought by a demand in any case or matter in which OMB is not a party, an affidavit (or, if that is not feasible, a statement by the party seeking the information or material, or by his attorney) setting forth a summary of the information or material sought and its relevance to the proceeding, must be submitted before a decision is made as to whether materials will be produced or permission to testify or otherwise provide information will be granted. Any authorization for testimony by a present or former employee of OMB shall be limited to the scope of the demand as summarized in such statement.

(c) If response to a demand is required before instructions from the General Counsel are received, an attorney designated for that purpose by OMB shall appear, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the General Counsel. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the General Counsel.

(Approved by the Office of Management and Budget under control number 0348-0056)

§ 1305.4 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 1305.3(c) pending receipt of instructions from the General Counsel, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the General Counsel not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951)). (Approved by the Office of Management and Budget under control number 0348-0056)

§ 1305.5 No private right of action.

This part is intended only to provide guidance for the internal operations of OMB, and is not intended to, and does not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.

[FR Doc. 97-13964 Filed 5-29-97; 8:45 am]

BILLING CODE 3110-01-U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-038-1]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth quarantine and regulations by adding Wisconsin to the list of States quarantined because of gypsy moth and by adding areas in Ohio, Virginia, West Virginia, and Wisconsin to the list of generally infested areas. These changes affect 2 areas in Ohio, 8 areas in Virginia, 1 area in West Virginia, and 4 areas in Wisconsin. These actions are necessary in order to impose certain restrictions on the interstate movement of regulated articles to prevent the artificial spread of gypsy moth.

DATES: Interim rule effective May 30, 1997. Consideration will be given only to comments received on or before July 29, 1997.

ADDRESSES: Please send an original and three copies of your comments to

Docket No. 97-038-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-038-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Coanne E. O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, suite 4C10, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247, or e-mail cohern@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45-12, and referred to below as the regulations), quarantine certain States because of the gypsy moth, and restrict the interstate movement of certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In accordance with § 301.45-2 of the regulations, generally infested areas are, with certain exceptions, those areas in which a gypsy moth general infestation has been found by an inspector, or each portion of a State which the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles; and, (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Designation of Areas as Generally Infested Areas

We are amending § 301.45(a) of the regulations by adding Wisconsin to the list of States quarantined because of gypsy moth. We are also amending

§ 301.45–3(a) of the regulations, which lists generally infested areas, by adding Guernsey and Ottawa Counties in Ohio; Appomattox, Brunswick, Campbell, Charlotte, Halifax, Lunenburg, Mecklenburg, and Pittsylvania Counties in Virginia; Webster County in West Virginia; and Brown, Door, Kewaunee, and Manitowoc Counties in Wisconsin to the list of generally infested areas.

We are taking this action because, in cooperation with the States, the United States Department of Agriculture conducted surveys that detected all life stages of the gypsy moth in these areas. Based on these surveys, we determined that reproducing populations exist at significant levels in these areas. Eradication of these populations is not considered feasible because these areas are immediately adjacent to areas currently recognized to be generally infested and therefore subject to continued reinfestation.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary because of the possibility that the gypsy moth could be spread artificially to noninfested areas of the United States, where it could cause economic loss due to defoliation of susceptible forest areas.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the list of generally infested areas under the gypsy moth quarantine and regulations by adding areas in Ohio, Virginia, West Virginia, and Wisconsin. Immediate action is necessary in order to prevent

the artificial spread of gypsy moth to noninfested areas of the United States.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

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 7 CFR part 3015, subpart V.)

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 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, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.45 [Amended]

2. In § 301.45, paragraph (a) is amended by removing the phrase “and West Virginia” and by adding the phrase “West Virginia, and Wisconsin” in its place.

3. In § 301.45–3, paragraph (a) is amended by adding an entry for Wisconsin, and by adding areas in the entries for Ohio, Virginia, and West Virginia, in alphabetical order, to read as follows:

§ 301.45–3 Generally infested areas.

* * * * *

Ohio

* * * * *

Guernsey County. The entire county.

* * * * *

Ottawa County. The entire county.

* * * * *

Virginia

* * * * *

Appomattox County. The entire county.

* * * * *

Brunswick County. The entire county.

* * * * *

Campbell County. The entire county.

* * * * *

Charlotte County. The entire county.

* * * * *

Halifax County. The entire county.

* * * * *

Lunenburg County. The entire county.

* * * * *

Mecklenburg County. The entire county.

* * * * *

Pittsylvania County. The entire county.

* * * * *

West Virginia

* * * * *

Webster County. The entire county.

* * * * *

Wisconsin

Brown County. The entire county.

Door County. The entire county.

Kewaunee County. The entire county.

Manitowoc County. The entire county.

Done in Washington, DC, this 23rd day of May 1997.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–14200 Filed 5–29–97; 8:45 am]

BILLING CODE 3410–34–P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1314

Book-Entry Procedures for TVA Power Securities Issued Through the Federal Reserve Banks; Technical Amendments

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Technical amendments.

SUMMARY: This document contains amendments to the regulations which were published in the **Federal Register**