

# Rules and Regulations

Federal Register

Vol. 66, No. 217

Thursday, November 8, 2001

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 300

[Docket No. 99–081–1]

#### Hot Water Treatment for Limes

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, to allow limes that are found to be infested with mealybugs (Pseudococcidae) and other surface pests to be treated with a hot water treatment. This action will provide an additional option for treating imported limes for mealybugs and other surface pests at the port of arrival.

**DATES:** This rule will be effective on January 7, 2002 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before December 10, 2001. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of January 7, 2002.

**ADDRESSES:** Please send four copies (an original and three copies) of your comments or notice of intent to submit adverse comments to: Docket No. 99–081–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–081–1.

You may read any comments that we receive on this docket in our reading room. The reading room 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) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

#### FOR FURTHER INFORMATION CONTACT:

Donna L. West, Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

To prevent the spread of plant pests into the United States, the Animal and Plant Health Inspection Service (APHIS) restricts the importation of many articles, including fruits. As a condition of importation, all fruits are subject to inspection at the port of arrival and, if necessary, treated for plant pests, in accordance with our regulations in 7 CFR chapter III. The Plant Protection and Quarantine (PPQ) Treatment Manual contains approved treatment schedules and is incorporated by reference into the regulations at 7 CFR 300.1.

The PPQ Treatment Manual currently provides that limes that are found to be infested with mealybugs (Pseudococcidae) or other surface pests upon arrival in the United States must be treated with methyl bromide to destroy the mealybugs and other surface pests. In keeping with our commitment to working toward the development of commodity treatment alternatives to methyl bromide, we have determined that the following hot water treatment can be used as an effective treatment method for limes infested with mealybugs and other surface pests:

- The limes must be treated under the supervision of an APHIS inspector;
- The limes must be treated in a certified hot water immersion treatment tank and must be submerged at least 4 inches below the water's surface;
- The water must circulate continually and be kept at 120.2 °F or above for 20 minutes;

- The treatment time begins when the water temperature reaches at least 120.2 °F in all locations of the tank; and

- Cooling and waxing the limes are optional and are the sole responsibility of the processor.

Research conducted by the Department's Agricultural Research Service has shown that hot water treatment will destroy all mealybugs and other surface pests. Therefore, we are adding the hot water treatment described above to the PPQ Treatment Manual and are updating the PPQ Treatment Manual's incorporation by reference at 7 CFR 300.1 to reflect the date of this treatment's inclusion in the manual.

#### Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

#### 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.

We are amending the PPQ Treatment Manual, which is incorporated by reference at 7 CFR 300.1, to allow imported limes that are found to be infested with mealybugs (Pseudococcidae) and other surface pests to be treated with a hot water treatment. This action will provide an alternative to treating infested limes with methyl bromide.

Methyl bromide may still be used as a treatment method. It costs about \$18.40 to fumigate a ton of limes with methyl bromide. Hot water treatment will cost about \$9.10 per ton, taking into account labor and fuel costs. Hot water treatment will also take less time than methyl bromide fumigation. A hot water treatment tank fitted with 4 bins has a capacity to treat about 8 tons per hour. Depending on the amount of limes to be treated and the capacity of the treatment facility, it typically takes approximately 2 hours to fumigate limes with methyl bromide.

This rule does not require the use of hot water treatment for infested limes; rather, it establishes hot water treatment as an alternative to methyl bromide fumigation. The hot water treatment provided for by this rule may lower treatment costs for lime importers who choose it over methyl bromide fumigation, but we do not expect that its availability will have any substantial economic effects on any entities, large or small.

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 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 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 300

Incorporation by reference, Plant diseases and pests, Quarantine.

Accordingly, 7 CFR part 300 is amended as follows:

#### PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

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

2. In § 300.1, paragraph (a), the introductory text is revised to read as follows:

##### § 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Office of the Federal Register has approved, for incorporation by reference in 7 CFR chapter III, the Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and all revisions through May 2000; and Treatments T101–n–2, T102–b, and T102–e, and Table 5–2–5, revised July 2001.

\* \* \* \* \*

Done in Washington, DC, this 2nd day of November 2001.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–28065 Filed 11–7–01; 8:45 am]

**BILLING CODE 3410–34–U**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 01–092–1]

#### Asian Longhorned Beetle; Addition to Quarantined Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Asian longhorned beetle regulations to include additional quarantined areas in Illinois and New York. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary on an emergency basis to prevent the artificial

spread of the Asian longhorned beetle to noninfested areas of the United States.

**DATES:** This interim rule was effective November 2, 2001. We invite you to comment on this docket. We will consider all comments we receive that are postmarked by January 7, 2002.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 01–092–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–092–1.

You may read any comments that we receive on this docket in our reading room. The reading room 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) 690–2817 before coming.

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**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Emergency Programs Coordinator, Surveillance and Emergency Programs Planning and Coordination Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–7338.

#### 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 a 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 over-winter 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 (about the size of a dime) that they bore through branches and trunks of trees. After