

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99-082-1]

Pine Shoot Beetle; Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the pine shoot beetle regulations by removing pine wreaths and garlands from the list of regulated articles. We believe that these commodities do not present a risk of spreading pine shoot beetle. This action would eliminate restrictions on the movement of pine wreaths and garlands from areas quarantined because of pine shoot beetle.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by February 22, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-082-1, 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. 99-082-1.

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 rules, are available on the Internet at <http://>

www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Christine Markham, Regional Program Manager, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606-5202; (919) 716-5582; or Coanne E. O'Hern, Operations Officer, 4700 River Road, Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

Pine shoot beetle is a pest of pine trees. Pine shoot beetle can cause damage in weak and dying trees, where reproduction and immature stages of pine shoot beetle occur, and in the new growth of healthy trees. During "maturation feeding," young beetles tunnel into the center of pine shoots (usually of the current year's growth), causing stunted and distorted growth in host trees. Adults can fly at least 1 kilometer, and infested trees and pine products are often transported long distances; these factors may result in the establishment of pine shoot beetle populations far from the location of the original host tree. This pest damages urban ornamental trees and can cause economic losses to the timber, Christmas tree, and nursery industries.

The regulations at 7 CFR 301.50 through 301.50-10, "Subpart—Pine Shoot Beetle," restrict the interstate movement of regulated articles from quarantined areas in order to prevent the spread of pine shoot beetle into noninfested areas of the United States.

Section 301.50-2 lists articles regulated because of pine shoot beetle. Regulated articles are the following pine products (*Pinus* spp.): Bark nuggets (including bark chips), Christmas trees, logs with bark attached, lumber with bark attached, nursery stock, pine wreaths and garlands, raw pine materials for pine wreaths and garlands, and stumps.

We propose to remove pine wreaths and garlands from the list of regulated articles in § 301.50-2. This would mean that these commodities would no longer need to be issued a certificate or limited permit to move out of an area quarantined because of pine shoot beetle, and they would no longer have to be cold treated or fumigated prior to movement from a quarantined area. Pine wreaths and garlands would be able to

move without restriction from a quarantined area.

We are proposing this change based on information we have accumulated during the course of our regulatory program. When we added pine wreaths and garlands to the list of regulated articles in 1995, we regulated the commodities as a precautionary measure because they are made of live plant (pine) material. At that time, industry in quarantined areas did not produce significant amounts of these commodities. Since that time, the domestic production of these commodities has increased, and we have learned a great deal about the risk associated with the movement of these commodities.

Over the years, we have learned that the manufacture of pine wreaths and garlands greatly reduces the risk that these commodities will carry pine shoot beetle. To increase the value and enhance the appearance of their products, producers of pine wreaths and garlands choose the freshest, healthiest, and most attractive pine material to create wreaths and garlands. First, this means that producers cut the pine material from the tree as close to the time of sale as possible. Therefore, because most pine wreaths and garlands are sold for the Christmas holiday, the material is removed from pine trees after the pine shoot beetle has moved to the base of the tree for overwintering. Second, this means that producers do not include any brown or thinning pine shoots in wreaths and garlands. In doing so, producers are excluding material that could be infested with pine shoot beetle.

We have also learned that, most often, "pine" wreaths produced in quarantined areas are actually made from balsam fir (*Abies balsamea*) adorned by minimal sprigs of pine and other species, such as arborvitae (*Thuja* spp.). Balsam fir is not a host of pine shoot beetle. Likewise, pine garlands produced in quarantined areas are generally made from eastern white pine (*Pinus strobus*), a pine species that is not a preferred host for pine shoot beetle. Although pine shoot beetle will feed on the shoots of, and breed in, eastern white pine and other pine species, pine shoot beetle prefers to feed on and breed in Scots pine (*Pinus sylvestris*) or jack pine (*Pinus banksiana*). However, even if pine

wreaths and garlands were made of favored host pine material, we believe that the way these commodities are manufactured would preclude the presence of pine shoot beetle.

Therefore, we believe that pine wreaths and garlands do not pose a risk of spreading pine shoot beetle. Accordingly, we propose to amend § 301.50–2(a) by removing pine wreaths and garlands from the list of regulated articles. Raw pine materials for wreaths and garlands, however, would continue to be listed as regulated articles in § 301.50–2(a) because those articles present a risk of spreading pine shoot beetle.

As a result of removing pine wreaths and garlands from the list of regulated articles, we also propose to amend § 301.50–10(b) and (c) by removing references to treatment options for pine wreaths and garlands. If pine wreaths and garlands were no longer regulated, there would be no reason to list treatments for these commodities in the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 propose to amend the pine shoot beetle regulations by removing pine wreaths and garlands from the list of regulated articles. We believe that these commodities do not present a risk of spreading pine shoot beetle. This action would eliminate restrictions on the movement of pine wreaths and garlands from areas quarantined because of pine shoot beetle.

In 1995, nurseries and other producers in quarantined areas earned an average of 4 percent of their revenue from wreaths and garlands. However, over the next 3 years, that amount doubled; in 1998, nurseries and other producers in quarantined areas increased their earnings from the sale of wreaths and garlands to an average of 8 to 10 percent of their revenue.

The highest levels of production of these commodities in quarantined areas occurs in northeastern States. In 1998, production of wreaths and garlands amounted to approximately \$5.3 million in Vermont, approximately \$3 million in New Hampshire, and approximately \$10 to \$12 million in Maine. Most wreaths and garlands produced in quarantined areas are sold locally.

Most of the producers of pine wreaths and garlands are small businesses, according to the standards of the Small Business Administration (SBA).

Nurseries with less than \$3.5 million in sales are classified as small business by the SBA. Therefore, approximately 65 percent of all nurseries are considered small businesses. In addition, Christmas tree farms with less than \$500,000 in sales are considered small businesses. Nationwide, more than 70 percent of Christmas tree farms are considered small businesses.

This rule would eliminate treatment and certification requirements for pine wreaths and garlands. This would save affected producers time and money and would facilitate the movement of these commodities. Specifically, the elimination of treatment requirements for pine wreaths and garlands moving out of quarantined areas would save affected producers an average of 1 percent of revenue generated from the sale of these commodities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed 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 propose to amend 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue 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).

2. In § 301.50–2, paragraph (a) would be revised to read as follows:

§ 301.50–2 Regulated articles.

* * * * *

(a) Pine products (*Pinus* spp.), as follows: Bark nuggets (including bark chips); Christmas trees; logs with bark attached; lumber with bark attached; nursery stock; raw pine materials for pine wreaths and garlands; and stumps.

* * * * *

3. In § 301.50–10, paragraph (b), up to and including the colon, and paragraph (c), up to the table, would be revised to read as follows:

§ 301.50–10 Treatments.

* * * * *

(b) Cold treatment is authorized for cut pine Christmas trees, pine nursery stock, and raw pine materials for pine wreaths and garlands as follows: * * *

(c) Any one of these fumigation treatments is authorized for use on cut pine Christmas trees and raw pine materials for pine wreaths and garlands. Cut pine Christmas trees and raw pine materials for pine wreaths and garlands may be treated with methyl bromide at normal atmospheric pressure as follows: * * *

Done in Washington, DC, this 14th day of December 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–33058 Filed 12–20–99; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 214, and 299

[INS No. 1991–99]

RIN 1115–AF56

Authorizing Collection of the Fee Levied on F, J, and M Nonimmigrant Classifications Under Public Law 104–208

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service's (Service) regulations to: Establish a \$95 fee, that schools and exchange visitor programs must collect and remit on behalf of F–1, J–1, and M–1 nonimmigrants who are subject to this