

# Rules and Regulations

Federal Register

Vol. 65, No. 118

Monday, June 19, 2000

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 99-101-1]

#### Pine Shoot 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 pine shoot beetle regulations by adding 28 counties in Illinois, Indiana, Michigan, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin to the list of quarantined areas. This action is necessary to prevent the spread of the pine shoot beetle, a pest of pine products, into noninfested areas of the United States.

**DATES:** This interim rule was effective June 13, 2000. We invite you to comment on this docket. We will consider all comments that we receive by August 18, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 99-101-1, 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. 99-101-1.

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:** Ms. Christine K. Markham, Regional Program Manager, PPQ, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606-5202, (919) 716-5582; or Ms. Coanne O'Hern, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 7 CFR 301.64 (referred to below as the regulations) restrict the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of the pine shoot beetle (PSB) into noninfested areas of the United States.

PSB is a pest of pine trees. PSB can cause damage in weak and dying trees, where reproduction and immature stages of PSB occur. During "maturation feeding," young beetles tunnel into the center of pine shoots (usually of the current years growth), causing stunted and distorted growth in host trees. PSB is also a vector of several diseases of pine 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 PSB 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.

PSB hosts include all pine species. The beetle has been found in a variety of pine species (*Pinus* spp.) in the United States. Scotch pine (*P. sylvestris*) is the preferred host of PSB. The Animal and Plant Health Inspection Service (APHIS) has determined, based on scientific data from European countries, that fir (*Abies* spp.), spruce (*Larix* spp.), and larch (*Picea* spp.) are not hosts of PSB.

Surveys recently conducted by State and Federal inspectors revealed 28 additional areas infested with PSB in 9

States (IL, IN, MI, NH, NY, PA, VT, WV, and WI). Copies of the surveys may be obtained by writing to either of the individuals listed under **FOR FURTHER INFORMATION CONTACT**.

The regulations in § 301.50-3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which PSB has been found by an inspector, in which the Administrator has reason to believe PSB is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which PSB has been found.

In accordance with these criteria, we are designating Woodford County, IL; Hamilton, Henry, Marion, Montgomery, and Rush Counties, IN; Arenac, Cheboygan, Iosco, and Roscommon Counties, MI; Coos County, NH; Broome, Chenango, Jefferson, Lewis, Madison, Oneida, and Tioga Counties, NY; Bedford, Bradford, Fayette, and Tioga Counties, PA; Essex and Orleans Counties, VT; Marshall and Tucker Counties, WV; and Green and Rock Counties, WI, as quarantined areas, and we are adding them to the list of quarantined areas provided in § 301.50-3(c).

#### 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 to prevent PSB from spreading to noninfested areas of the United States.

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 this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. The document 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.

We are amending the PSB regulations by adding 28 counties in Illinois, Indiana, Michigan, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin to the list of quarantined areas. This action is necessary to prevent the spread of PSB, a pest of pine products, into 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 interim 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.

**National Environmental Policy Act**

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The assessment provides a basis for the conclusion that the treatment of pine products from these 28 newly regulated counties will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq.), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3)

USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection 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 copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

**Paperwork Reduction Act**

This interim 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, 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. 147a, 150bb, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 301.50–3, paragraph (c) is amended as follows:

a. By adding, in alphabetical order, entries for New Hampshire and Vermont to read as set forth below.

b. Under Illinois, Indiana, Michigan, New York, Pennsylvania, West Virginia, and Wisconsin, by adding new counties in alphabetical order to read as set forth below.

**§ 301.50–3 Quarantined areas.**

\* \* \* \* \*  
(c) \* \* \*

**ILLINOIS**

\* \* \* \* \*  
*Woodford County.* The entire county.

**INDIANA**

\* \* \* \* \*  
*Hamilton County.* The entire county.  
\* \* \* \* \*  
*Henry County.* The entire county.  
\* \* \* \* \*  
*Marion County.* The entire county.  
\* \* \* \* \*

*Montgomery County.* The entire county.  
\* \* \* \* \*  
*Rush County.* The entire county.  
\* \* \* \* \*

**MICHIGAN**

\* \* \* \* \*  
*Arenac County.* The entire county.  
\* \* \* \* \*  
*Cheboygan County.* The entire county.  
\* \* \* \* \*  
*Iosco County.* The entire county.  
\* \* \* \* \*  
*Roscommon County.* The entire county.  
\* \* \* \* \*

**NEW HAMPSHIRE**

*Coos County.* The entire county.

**NEW YORK**

\* \* \* \* \*  
*Broome County.* The entire county.  
\* \* \* \* \*  
*Chenango County.* The entire county.  
\* \* \* \* \*  
*Jefferson County.* The entire county.  
*Lewis County.* The entire county.  
\* \* \* \* \*  
*Madison County.* The entire county.  
\* \* \* \* \*  
*Oneida County.* The entire county.  
\* \* \* \* \*  
*Tioga County.* The entire county.  
\* \* \* \* \*

**PENNSYLVANIA**

\* \* \* \* \*  
*Bedford County.* The entire county.  
\* \* \* \* \*  
*Bradford County.* The entire county.  
\* \* \* \* \*  
*Fayette County.* The entire county.  
\* \* \* \* \*  
*Tioga County.* The entire county.  
\* \* \* \* \*

**VERMONT**

*Essex County.* The entire county.  
*Orleans County.* The entire county.

**WEST VIRGINIA**

\* \* \* \* \*  
*Marshall County.* The entire county.  
\* \* \* \* \*  
*Tucker County.* The entire county.  
\* \* \* \* \*

**WISCONSIN**

\* \* \* \* \*  
*Green County.* The entire county.  
*Rock County.* The entire county.  
\* \* \* \* \*

Done in Washington, DC, this 13th day of June 2000.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–15323 Filed 6–16–00; 8:45 am]