

agricultural acres and about 550 wheat producers under regulation. The equivalent figures for Arizona and California are, respectively, 278,000 acres (120 producers) and 56,000 acres (18 producers).

As determined by the Small Business Administration (SBA), the small entity size standard for wheat farming, which is defined as farms "primarily engaged in growing wheat and/or producing wheat seeds" (North American Industry Classification System code 11114), is \$750,000 or less in annual receipts. Although the size of regulated wheat producers is unknown, they are likely to be small in size under SBA standards. This assumption is based on composite data for providers of the same and similar services. In 2002, Arizona had a total of 7,294 farms of all types. Of those farms, 91 percent had annual sales that year of less than \$500,000, well below the SBA's small entity threshold. Similarly, the comparable percentages for Texas (228,926 total farms) and California (79,631 total farms) were 99 percent and 90 percent, respectively. (Source: SBA and NASS, 2002 Census of Agriculture.) Although many of these businesses are considered small under SBA standards, given the reason cited above, the proposed change should have little or no economic impact on small entities, wheat producers or otherwise.

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 final 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 final 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. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

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

■ 2. In § 301.89–3, paragraph (f) is revised to read as follows:

#### § 301.89–3 Regulated areas.

\* \* \* \* \*

(f) A field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, will be released from regulation if:

- (1) The field has been permanently removed from crop production; or
- (2) The field is tilled at least once per year for a total of 5 years (the years need not be consecutive). After tilling, the field may be planted with a crop or left fallow. If the field is planted with a host crop, the crop must test negative, through the absence of bunted kernels, for Karnal bunt.

\* \* \* \* \*

Done in Washington, DC, this 7th day of March 2006.

**Kevin Shea,**

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

[FR Doc. 06–2402 Filed 3–13–06; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 05–027–2]

#### Pine Shoot Beetle; Additions to Quarantined Areas

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule

that amended the pine shoot beetle regulations by adding counties in Illinois, Indiana, New York, Ohio, Pennsylvania, and Wisconsin to the list of quarantined areas. In addition, the interim rule designated the States of New Hampshire and Vermont, in their entirety, as quarantined areas based on their decision to no longer enforce intrastate movement restrictions. The interim rule was necessary to prevent the spread of pine shoot beetle, a pest of pine trees, into noninfested areas of the United States.

**DATES:** Effective on March 14, 2006, we are adopting as a final rule the interim rule that became effective on May 26, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Weyman Fussell, Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1231; (301) 734–5705.

#### SUPPLEMENTARY INFORMATION:

#### Background

The regulations in 7 CFR 301.50 through 301.50–10 (referred to below as the regulations) restrict the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of pine shoot beetle (PSB) into noninfested areas of the United States.

In an interim rule effective and published in the **Federal Register** on May 26, 2005 (70 FR 30329–30330, Docket No. 05–027–1), we amended the regulations in § 301.50–3 by adding Christian, Douglas, and Edgar Counties, IL; Vigo County, IN; Clinton, Essex, Rensselaer, Warren, and Washington Counties, NY; Lawrence and Meigs Counties, OH; Snyder, Sullivan, Union, and Wayne Counties, PA; and Dane, Jackson, Lafayette, Sauk, and Walworth Counties, WI, to the list of quarantined areas in § 301.50–3(c). We took this action based on official surveys which indicated that these counties are infested with PSB. The interim rule also designated the States of New Hampshire and Vermont, in their entirety, as quarantined areas based on their decision to no longer enforce intrastate movement restrictions.

Comments on the interim rule were required to be received on or before July 25, 2005. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

**Regulatory Flexibility Act**

This rule affirms an interim rule that amended the regulations by adding 20 counties in Illinois, Indiana, New York, Ohio, Pennsylvania, and Wisconsin, and the States of New Hampshire (9 previously nonquarantined counties) and Vermont (10 previously nonquarantined counties), in their entirety, to the list of areas quarantined for PSB. As a result of this action, there are additional restrictions on the interstate movement of regulated articles from these areas.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

The interim rule affects entities in the 39 newly regulated counties in Illinois, Indiana, New Hampshire, New York, Ohio, Pennsylvania, Vermont, and Wisconsin that are engaged in moving

regulated articles interstate from the regulated area.

Entities affected by the interim rule may include nursery stock growers, Christmas tree farms, logging operations, and others who sell, process, or move regulated articles. As a result of the interim rule, any regulated articles to be moved interstate from a quarantined area must first be inspected and/or treated in order to qualify for a certificate or limited permit authorizing the movement. Cut Christmas tree farms, nurseries and greenhouses, sawmills, logging operations, and others in the newly quarantined counties will be required to inspect and/or treat infested pine products before moving them interstate. Certain pine products may not be shipped during certain months of the year or will be required to undergo debarking before transport occurs.

APHIS has identified at least 1,048 entities that sell, process, or move forest products in these 39 regulated counties

which might be impacted by the rule. Of these entities, there were approximately 253 that were producing nursery and greenhouse crops and 795 cut Christmas tree farms (table 1). In addition, an unknown number of sawmills and logging operations in the newly operated counties process pine tree products. According to information provided by agricultural extension officers in Illinois, Indiana, and New York and information previously collected by APHIS, pine trees and pine tree products such as cut Christmas trees sold in these States generally remain within the regulated areas. Nurseries and greenhouses specialize in production of deciduous landscape products rather than production of rooted pine Christmas trees and pine nursery stock, which generally constitute a small part of their production, if they are produced at all. Therefore, the interim rule is not likely to affect most nurseries and greenhouses.

TABLE 1.—NURSERY AND CUT CHRISTMAS TREE FARMS IN NEWLY QUARANTINED AREAS

State	Newly quarantined counties	Nursery and greenhouse farms	Cut Christmas tree farms
Illinois .....	3	6	17
Indiana .....	1	3	8
New Hampshire .....	9	73	209
New York .....	5	37	125
Ohio .....	2	17	11
Pennsylvania .....	4	30	73
Vermont .....	10	22	252
Wisconsin .....	5	65	100
Total .....	39	253	795

Sources: USDA, NASS, 2002 Census of Agriculture Volume 1, Chapter 2, County level data, table 34; Indiana Agricultural Extension Office; and New York Agricultural Extension Office. The 2002 Census of Agriculture does not report sales with county-level data.

**Impact on Small Entities**

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between different sized entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create disparities based on size when they have a significant economic impact on a substantial number of small entities.

According to SBA size standards, nursery stock growers are considered small entities when they have annual sales of \$750,000 or less, and Christmas tree growers are considered small entities when they have annual sales of \$5 million or less. The 2002 Agricultural Census does not report sales by county. However, from

previously gathered information, APHIS would assume that the majority of these types of entities within the newly quarantined areas are small by the SBA size standards.

As noted previously, those nurseries and greenhouses within the newly quarantined areas specialize in production of deciduous landscape products, not the production of regulated articles such as rooted pine trees and pine nursery stock. Further, the Christmas trees and pine products from cut Christmas tree farms generally remain within the regulated areas. For these reasons, the economic effects of the interim rule on regulated entities as a whole are not expected to be significant.

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.

**List of Subjects in 7 CFR Part 301**

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

**PART 301—DOMESTIC QUARANTINE NOTICES**

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 70 FR 30329–30330 on May 26, 2005.

Done in Washington, DC, this 7th day of March 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06-2403 Filed 3-13-06; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 93 and 95

[Docket No. 03-080-9]

#### Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Technical Amendments

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

**ACTION:** Final rule; technical amendments.

**SUMMARY:** In a final rule published in the *Federal Register* on January 4, 2005, we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. In this document, we are clarifying our intent with regard to certain provisions in the final rule and are correcting several inconsistencies within the rule. These technical amendments will clarify the regulations.

**DATES:** *Effective Date:* These amendments are effective March 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** For information regarding ruminant products, contact Dr. Karen James-Preston, Director, Technical Trade Services, Animal Products, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

For information concerning live ruminants, contact Lee Ann Thomas, Director, Technical Trade Services, Animals, Organisms and Vectors, and Select Agents, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

**SUPPLEMENTARY INFORMATION:**

#### Background

In a final rule published in the *Federal Register* on January 4, 2005 (70 FR 460-553, Docket No. 03-080-3), we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products and byproducts, and we added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions.

Following publication of the final rule, it came to our attention that certain provisions in the rule either did not make clear our intention or were written in a way that was inconsistent with other provisions in the rule or with the description of such provisions in the preamble of the rule. We addressed two of those issues in an interim rule that was published in the *Federal Register* and made effective on November 28, 2005 (70 FR 71213-71218, Docket No. 03-080-8). In this document, we are clarifying certain other provisions of the January 2005 final rule, as discussed below.

#### *Certification and Individual Identification of Bovines, Sheep, and Goats Imported for Immediate Slaughter*

In this amendment, we are making clear that live bovines, sheep, and goats imported from Canada for slaughter in the United States—whether for immediate slaughter or for feeding and then slaughter—must be accompanied by a health certificate issued in accordance with § 93.405 of the regulations and be individually identified before the animal's arrival at the port of entry into the United States.

As established by the January 2005 final rule, § 93.436(a) of the regulations requires a certificate for bovines imported from BSE minimal-risk regions for immediate slaughter, and § 93.436(b) requires a certificate for bovines imported from BSE minimal-risk regions for feeding and then slaughter. Section 93.419(c) requires a certificate for sheep and goats imported from BSE minimal-risk regions. Section 93.405, which contains general requirements for certificates for ruminants, provides in paragraph (a)(4) that certificates for bovines, sheep, and goats imported from BSE minimal-risk regions include, among other information, the name and address of the importer; the species, breed and number or quantity of ruminants to be imported; the purpose

of the importation; individual ruminant identification and any other identification present on the animal, including registration number, if any; a description of the ruminant, including name, age, color, and markings, if any; the region of origin; the address of or other means of identifying the premises of origin and any other premises where the ruminants resided immediately prior to export, including the State or its equivalent, the municipality or nearest city, or an equivalent method, approved by the Administrator, of identifying the location of the premises; the name and address of the exporter; the port of embarkation in the foreign region; and the mode of transportation, route of travel, and port of entry in the United States.

The January 2005 final rule did not amend § 93.405(a), however, which allowed for exemptions to the certificate requirement as provided in § 93.418(a) for cattle imported from Canada for immediate slaughter and as provided in § 93.419(a) for sheep and goats imported from Canada for immediate slaughter.

The language in §§ 93.418(a) and 93.419(a) that exempted cattle, sheep, and goats imported from Canada for immediate slaughter from the certification requirements of § 93.405 was included in the regulations before a BSE-infected cow was diagnosed in Canada in May 2003. It was not removed when BSE was detected in Canada because, following that detection, no live ruminants were allowed importation from Canada, which made the exemptions moot. It was our intention to remove those exemptions once the importation of bovines, sheep, and goats from Canada was allowed to resume. However, by oversight, we neglected to remove those exemptions in our January 2005 final rule. Therefore, in this document, we are amending §§ 93.405(a), 93.418(a), and 93.419(a) to do so.

#### *What Must Be Included on the Certification Regarding Sheep and Goats Imported for Immediate Slaughter*

As discussed above, we are making clear in this technical amendment that sheep and goats imported from Canada for immediate slaughter must be accompanied by the health certificate required in accordance with § 93.405. However, only parts of § 93.405 are applicable to sheep and goats imported from Canada for immediate slaughter. Paragraphs (b) and (c) of § 93.405 include import conditions with regard to scrapie that are not applicable to sheep and goats imported from Canada for immediate slaughter, due to the very restricted movement of such animals in