

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****7 CFR Part 301**

[Docket No. APHIS–2008–0111]

Pine Shoot Beetle; Additions 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 the entire State of Ohio and counties in Maine and Indiana to the list of quarantined areas. We are taking this action following the detection of pine shoot beetle in those areas. This action is necessary to prevent the spread of pine shoot beetle, a pest of pine trees, into noninfested areas of the United States.

DATES: This interim rule is effective September 21, 2009. We will consider all comments that we receive on or before November 20, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0111> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0111, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0111.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. 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.

PSB is a destructive forest pest that attacks both managed and natural stands of pine and especially affects weak and dying trees. The beetle has been found in a variety of pine species (*Pinus* spp.) in the United States. Scotch pine (*P. sylvestris*) is the pest's preferred host. PSB has been reported to also occasionally attack other conifers such as fir (*Abies* spp.) and spruce (*Picea* spp.) at low levels. During "shoot feeding," young beetles tunnel into the center of pine shoots (usually those from the current year's growth), causing stunted and distorted growth in host trees. Large infestations of PSB typically kill most of the lateral shoots near the tops of trees. In addition, PSB is a vector of several diseases of pine trees.

PSB spreads both through natural means (insect flight and wind dispersal) and artificial means (movement of host material from infested areas to noninfested areas). State and Federal inspectors conduct surveys each year to monitor PSB's natural movement as well as its artificial movement via regulated pine articles such as Christmas trees, nursery stock, logs and lumber with bark, stumps, bark nuggets, and raw material for wreaths and garlands.

Surveys conducted by State and Federal inspectors have revealed that areas in Indiana, Maine, and Ohio are infested with PSB. Copies of the surveys may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The regulations in § 301.50–3 provide that the Administrator of the Animal and Plant Health Inspection Service (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 that 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. The regulations further provide that less than an entire State will be designated

as a quarantined area only if the Administrator determines that:

1. The State has adopted and is enforcing a quarantine area and regulations that impose restrictions on the intrastate movement of those articles that are equivalent to those imposed by the regulations on the interstate movement of those articles; and

2. The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of PSB.

In accordance with these criteria, we are adding the following counties to the area quarantined for PSB: Greene County, IN; Androscoggin, Cumberland, Hancock, Kennebec, Knox, Lincoln, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo, and York Counties, ME; and the entire State of Ohio (based on the decision by the Ohio Department of Agriculture not to continue enforcement of an intrastate quarantine). The Maine and Indiana departments of agriculture have elected to continue their intrastate quarantines; therefore, quarantined areas in those States are listed at the county level based on reports of the presence of PSB in individual counties.

Emergency Action

The rulemaking is necessary on an emergency basis to prevent the spread of PSB to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

For the purpose of this analysis and in accordance with Small Business Administration (SBA) guidelines, potentially affected entities are

classified within the following industries: Nursery and Tree Production (North American Industry Classification System [NAICS] 111421), Floriculture Production (NAICS 111422), Timber Tract Operations (NAICS 113110), Forest Nurseries and Gathering of Forest Products (NAICS 113210), and Logging (NAICS 113310). The SBA classifies entities in these industry categories as small if they have annual receipts of not more than \$750,000 (NAICS 111421 and 111422), or not more than \$7 million (NAICS 113110 and 113210), or if their employees number not more than 500 (NAICS 113310). In the 12 counties in Maine, there are 778 farms classified under Nursery and Tree Production, Forest Nurseries and Gathering of Forest Products, or Floriculture Production. In Greene County, IN, there are 17 entities which fall under these same NAICS classifications. In the 5 counties in Ohio, a total of 133 entities fall within these NAICS classifications. Most, if not all, of the affected entities in the newly quarantined counties are assumed to be small, given that 98 percent of firms in these industries nationwide have annual sales of less than \$500,000. Neither the 2002 Census of Agriculture nor the Economic Census contains annual revenue or employee information for firms classified within Timber Tract Operations or Logging.

Entities within the newly quarantined counties are required to comply with the conditions governing the interstate movement of regulated articles. Regulated articles may be moved interstate only if accompanied by a certificate or limited permit. A certificate is issued by an inspector or by an operator who has entered into a compliance agreement with APHIS, after it is determined that the regulated articles are not infested with PSB and do not present a risk of spreading PSB to other areas. A limited permit is issued if the regulated articles are to be moved interstate "to a specified destination for specified handling, processing, or utilization," and the movement will not result in the spread of PSB. While this action will require submission of relevant information for the issuance of certificates, limited permits, and compliance agreements, this information is of the same type as already required for interstate movement of regulated articles under the current Federal Orders.

The services of an inspector are provided without cost during normal business hours. The user is responsible for all costs and charges arising from inspection and other services provided outside of normal business hours. The entity receiving inspection services may

incur certain nonmonetary costs related to those services. For example, any entity (other than one having a compliance agreement with APHIS) that intends to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector at least 48 hours in advance of the desired interstate movement. APHIS welcomes information that the public may provide concerning such nonmonetary costs of the quarantine.

With respect to phytosanitary treatment, fumigation is authorized for use on pine logs with bark attached, pine lumber with bark attached, pine bark products, pine stumps, cut pine Christmas trees, and raw pine materials for pine wreaths and garlands. Cold treatment is authorized for cut pine Christmas trees, pine nursery stock, and raw pine materials for pine wreaths and garlands. In addition, approved pest management methods exist for pine bark products, such as grinding into pieces of 1 inch or less in size or composting in accordance with certain procedures.

These treatment options are unlikely to be burdensome to the affected entities. PSB can be readily managed at Christmas tree farms and nurseries through good sanitation and pest management practices. For example, culled trees and other potential brood material can be chipped or piled and burned prior to beetle emergence in late spring. Susceptible trees can be treated with the application of routine cover sprays during shoot feeding to protect against feeding damage. While the services of a licensed pesticide applicator may be needed, many Christmas tree farms and nurseries either have a licensed pesticide applicator on site or employ a commercial firm for normal pest and disease control.¹

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.)

¹ These observations are taken from a New Jersey Department of Agriculture proposed rule for expanding the pine shoot beetle quarantine in that State. See <http://www.state.nj.us/agriculture/rule/rule22096.html>.

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

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

■ 2. In § 301.50–3, paragraph (c) is amended as follows:

- a. In the entries for Indiana and Maine, by adding new counties in alphabetical order to read as set forth below.
- b. By revising the entry for Ohio to read as set forth below.

§ 301.50–3 Quarantined areas.

* * * * *
 (c) * * *
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Indiana

* * * * *
Greene County. The entire county.
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Maine

Androscoggin County. The entire county.
Cumberland County. The entire county.
 * * * * *
Hancock County. The entire county.
Kennebec County. The entire county.
Knox County. The entire county.
Lincoln County. The entire county.
 * * * * *
Penobscot County. The entire county.
Piscataquis County. The entire county.
Sagadahoc County. The entire county.
Somerset County. The entire county.

Waldo County. The entire county.
York County. The entire county.

* * * * *

Ohio

The entire State.

* * * * *

Done in Washington, DC, this 15th day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-22633 Filed 9-18-09; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1470

RIN 0578-AA43

Conservation Stewardship Program

AGENCY: Commodity Credit Corporation, Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Interim final rule; extension of comment period.

SUMMARY: The Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation, published in the *Federal Register* of July 29, 2009, an interim final rule with request for comment establishing the program framework for implementation of the Conservation Stewardship Program (CSP). The July 29, 2009, interim final rule established a 60-day comment period that closes on September 28, 2009. This document extends the comment period an additional 30-day period to provide the public an opportunity to comment upon the implementation of the program through the first sign-up and ranking period that closes September 30, 2009.

DATES: The comment period for the CSP interim final rule published on July 29, 2009 (74 FR 37499) is hereby extended and comments must be received on or before October 28, 2009. Additionally, NRCS has extended the public comment period for the Environmental Analysis (EA) and Finding of No Significant Impact (FONSI) until October 28, 2009. A copy of the EA and FONSI may be obtained, and comments submitted, as provided for in the July 29, 2009, CSP interim final rule.

ADDRESSES: You may send comments (identified by Docket Number NRCS-IFR-09004) using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov>

and follow the instructions for sending comments electronically.

- *Mail:* Gregory K. Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5237 South Building, Washington, DC 20250;

- *E-mail:* CSP2008@wdc.usda.gov.

- *Fax:* (202) 720-4265.

- *Hand Delivery:* USDA South Building, 1400 Independence Avenue, SW., Room 5237, Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. Please ask the guard at the entrance to the South Building to call (202) 720-4527 in order to be escorted into the building;

- The interim final rule and this extension may be accessed via the Internet. Users can access the NRCS homepage at: <http://www.nrcs.usda.gov>; select the Farm Bill link from the menu; select the Interim Final Rules link from beneath the Final and Interim Final Rules Index title. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at: (202) 720-2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT:

Gregory Johnson, Director, Financial Assistance Programs Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5237 South Building, Washington, DC 20250; Phone: (202) 720-1845; Fax: (202) 720-4265; or e-mail CSP2008@wdc.usda.gov.

Signed this 10th day of September 2009, in Washington, DC.

Dave White,

Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.

[FR Doc. E9-22597 Filed 9-18-09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1779

Rural Housing Service

7 CFR Part 3575

Rural Business—Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4280

Rural Business—Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Part 5001

[FR Doc. E8-29151]

RIN 0570-AA65

Rural Development Guaranteed Loans

AGENCIES: Rural Business—Cooperative Service, Rural Housing Service, Rural Utilities Service, USDA.

ACTION: Interim final rule; withdrawal.

SUMMARY: On December 17, 2008, USDA Rural Development published an interim rule with request for comments establishing a unified guaranteed loan platform for the enhanced delivery of four existing Rural Development guaranteed loan programs—Community Facility; Water and Waste Disposal; Business and Industry; and Renewable Energy Systems and Energy Efficiency Improvement Projects. Having considered the comments received on the interim rule and for the reasons explained below, Rural Development is withdrawing the interim rule for Rural Development Guaranteed Loans.

DATES: The interim final rule published on December 17, 2008 (73 FR 76698), delayed until February 17, 2009 (74 FR 2823), further delayed until March 9, 2009 (74 FR 7179), further delayed until June 1, 2009 (74 FR 9759), and further delayed until October 1, 2009 (74 FR 25617) is withdrawn as of September 21, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Foore, Rural Development, Business and Cooperative Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 3201, Washington, DC 20250-3201; e-mail: Michael.Foore@wdc.usda.gov; telephone (202) 690-4730.

SUPPLEMENTARY INFORMATION: