

# Rules and Regulations

Federal Register

Vol. 66, No. 77

Friday, April 20, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 99–101–2]

#### Pine Shoot Beetle; Addition 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 28 counties in Illinois, Indiana, Michigan, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin to the list of quarantined areas. As a result of that action, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the spread of the pine shoot beetle, a pest of pine products, into noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective on June 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip Bell, Regional Program Manager, PPQ, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606–5202, (919) 716–5582; or Mr. Jonathan M. Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective June 13, 2000, and published in the **Federal Register** on June 19, 2000 (65 FR 37841–37842, Docket No. 99–101–1), we

amended the pine shoot beetle (PSB) regulations contained in §§ 301.50 through 301.50–10 by adding 28 counties in Illinois, Indiana, Michigan, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin to the list of quarantined areas § 301.50–3. That action was necessary to prevent the spread of PSB into noninfested areas of the United States.

Comments on the interim rule were required to be received on or before August 18, 2000. 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 the review process required by Executive Order 12866.

#### Regulatory Flexibility Act

This action affirms an interim rule that amended 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. As a result of that action, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of PSB to noninfested areas of the United States.

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 engaged in the interstate movement of regulated articles from and through the 28 counties in Illinois, Indiana, Michigan, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin that were added to the list of quarantined areas by the interim rule. Affected entities 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 such entities moving regulated articles interstate from one of those 28 counties must first inspect and/or treat the regulated articles in order to obtain a certificate or limited permit authorizing the movement.

The Small Business Administration (SBA) has established size standards to determine whether an entity would be considered small. We have determined that there are 765 nurseries, Christmas tree farms, logging operations, and other entities who sell, process, or move regulated articles in the 28 counties added to the list of quarantined areas by the interim rule. According to SBA standards, the vast majority of the entities may be considered small.

We have determined that the nurseries, Christmas tree growers, and logging operations in most of the 28 counties that are now listed as quarantined areas will not be significantly affected by the interim rule, either because pine species comprise a very minor share of their products or because their shipments do not leave the quarantined areas.

However, some nurseries and Christmas tree growers affected by the interim rule have markets that are predominantly out-of-county and out-of-State. These affected entities can maintain their markets outside the quarantined areas by arranging for the issuance of certificates or limited permits based on inspection or treatment of the regulated articles. Inspections, in some cases, are already occurring for other purposes; therefore, inspecting for PSB will add minimal cost. Also, any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement with the Animal and Plant Health Inspection Service whereby that person, rather than an inspector, may issue a certificate or limited permit for the interstate movement of eligible regulated articles. Costs and potential inconveniences are most likely for producers of live pine nursery stock, since inspection is required for each live plant before it may move interstate from a quarantined area. However, many producers must already have their products inspected for other pests, and adding another inspection will likely be a relatively small burden.

In contrast to the losses associated with the damage caused by PSB, the potential costs and inconvenience associated with inspections and treatment are minimal. The effect on those few small entities that do move regulated articles out-of-county and interstate is minimized by the availability of treatments and

compliance agreements that, in most cases, allow these small entities to move regulated articles with very little additional cost.

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 65 FR 37841–37842 on June 19, 2000.

**Authority:** Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7702; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 16th day of April 2001.

**Bobby R. Acord,**

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

[FR Doc. 01–9791 Filed 4–19–01; 8:45 am]

BILLING CODE 3410–34–P

#### DEPARTMENT OF AGRICULTURE

##### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 00–076–2]

##### Imported Fire Ant; Addition 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 imported fire ant regulations by adding additional areas in Tennessee to the list of quarantined areas. As a result of that action, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. In the interim rule, we also made nonsubstantive changes to the descriptions of some of the quarantined areas in Tennessee to make them easier to understand.

**EFFECTIVE DATE:** The interim rule became effective on November 6, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Milberg, Operations Officer, PPQ, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–5255.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective and published in the **Federal Register** on November 6, 2000 (65 FR 66487–66489, Docket No. 00–076–1), we amended the imported fire ant regulations in 7 CFR 301.81–3(e) by adding portions of Maury and Sequatchie Counties, TN, to the list of quarantined areas; changing the status of Lewis County, TN, from partially to completely infested; and by revising the quarantine boundaries in Giles, Lincoln, and Monroe Counties, TN, to incorporate additional infested areas. In the interim rule, we also made nonsubstantive changes to the descriptions of some of the quarantined areas in Tennessee to make them easier to understand.

Comments on the interim rule were required to be received on or before January 5, 2001. 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 Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

#### 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 65 FR 66487–66489 on November 6, 2000.

**Authority:** Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 16th day of April 2001.

**Bobby R. Acord,**

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

[FR Doc. 01–9793 Filed 4–19–01; 8:45 am]

BILLING CODE 3410–34–U

#### DEPARTMENT OF AGRICULTURE

##### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 00–110–2]

##### West Indian Fruit Fly; Correction

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

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

**SUMMARY:** We are correcting an error in the rule portion of an interim rule that quarantined a part of Cameron County, TX, because of the West Indian fruit fly and restricted the interstate movement of regulated articles from the quarantined area. The interim rule was published in the **Federal Register** on January 22, 2001, and was effective on January 12, 2001.

**EFFECTIVE DATE:** January 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Spaide, Assistant Director, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

**SUPPLEMENTARY INFORMATION:** On January 22, 2001, we published in the **Federal Register** (66 FR 6429–6436, Docket No. 00–110–1) an interim rule that quarantined a part of Cameron County, TX, because of the West Indian fruit fly and restricted the interstate movement of regulated articles from the quarantined area.

In the rule portion of the interim rule, § 301.98–1, in the definition for *Day degrees*, the formula used to establish day degrees was listed as:

(Minimum Daily Temp + Maximum Daily Temp)/2 – 54° = Day Degrees. The formula should have read:

(Minimum Daily Temp + Maximum Daily Temp)/2 – 59° = Day Degrees. This document corrects that error.

In FR Doc. 01–1618, published on January 22, 2001 (66 FR 6429–6436), make the following correction: On page 6434, in the first column, in § 301.98–1, the definition for *Day degrees*, correct “54°” to read “59°”.

Done in Washington, DC, this 16th day of April 2001.

**Bobby R. Acord,**

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

[FR Doc. 01–9796 Filed 4–19–01; 8:45 am]

BILLING CODE 3410–34–U