

found in the 35 affected counties are small. We do not know how many of these entities move regulated articles interstate; however, the availability of various treatments for imported fire ant, which permit the interstate movement of regulated articles with only a small additional cost, minimizes any adverse economic effects due to this rule. For example, the value of a standard shipment of nursery plants is between \$10,000 to \$250,000, and the cost of treating a standard shipment of plants is only around \$200. Entities that do not move regulated articles interstate remain unaffected by the rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant 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 30337–30341 on May 11, 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 18th day of August 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–21649 Filed 8–23–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–082–2]

Pine Shoot Beetle; Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending 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 will eliminate restrictions on the movement of pine wreaths and garlands from areas quarantined because of pine shoot beetle.

EFFECTIVE DATE: August 24, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Markham, Regional Program Manager, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606–5202; (919) 716–5582; or Ms. Coanne E. O'Hern, National Survey Coordinator, 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.

On December 21, 1999, we published in the **Federal Register** (64 FR 71322–71323, Docket No. 99–082–1) a proposal to amend the regulations by removing pine wreaths and garlands from the list of regulated articles in § 301.50–2. We proposed this action to allow pine wreaths and garlands to move without restriction from a quarantined area.

We solicited comments on our proposal for 60 days, ending February 22, 2000. We received three comments by that date. They were from State departments of agriculture and a regional plant board. One commenter supported the proposed rule. The remaining commenters expressed concerns about the possible presence of pine shoot beetle in pine wreaths and garlands moving out of a quarantined area.

The commenters noted that the growing location of pine used to create wreaths and garlands, local temperature and weather patterns at time of harvest,

and storage conditions of pine materials affect when pine shoot beetles move from tree shoots to overwintering sites. This means that pine materials used to make wreaths and garlands could be harvested while pine shoot beetles are still present in tree shoots. The commenters asked that we maintain measures to mitigate the risk of spreading this pest when materials for pine wreaths and garlands are harvested while pine shoot beetles are in tree shoots.

We believe that the way in which pine wreaths and garlands are manufactured greatly reduces the risk that these commodities will carry pine shoot beetles. 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 pine shoot beetles have moved to the base of the tree for overwintering. Second, this means that producers do not include any brown, thinning, or damaged pine shoots in wreaths and garlands. Pine shoots that have been attacked by pine shoot beetles droop, are discolored, and break easily. Therefore, selection of the healthiest and most attractive pine material helps ensure that no matter the time of year, producers are excluding material that could be infested with pine shoot beetles.

In addition, 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 beetles will feed on the shoots of, and breed in, eastern white pine and other pine species, pine shoot beetles prefer 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 precludes the presence of pine shoot beetles.

Therefore, for the reasons given in the proposed rule and in this document, we

are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Producers of pine wreaths and garlands are in the process of taking orders and planning for this year's shipping season. Making this rule effective immediately will allow affected producers and others in the marketing chain to plan more effectively for the approaching shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

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 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 will 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 four 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 will eliminate treatment and certification requirements for pine wreaths and garlands. This will save affected producers time and money and will facilitate the movement of these commodities. Specifically, the elimination of treatment requirements for pine wreaths and garlands moving out of quarantined areas will 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 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 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 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: 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.

2. In § 301.50–2, paragraph (a) is 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, the first sentence of paragraph (b) and the text only of paragraph (c) are 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 18th day of August 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–21648 Filed 8–23–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–030–2]

Change in Disease Status in Denmark Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding Denmark to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in a native-born animal in that region. Denmark has been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into