

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 94-108-1]

#### Pine Shoot Beetle; Quarantined Areas and Regulated Articles

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

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

**SUMMARY:** We are amending the pine shoot beetle regulations to add 28 counties in Illinois, New York, Ohio, Pennsylvania, Maryland, and West Virginia to the list of quarantined areas. We are also adding raw pine materials for pine wreaths and garlands and finished pine wreaths and garlands to the list of regulated articles. This action is necessary to prevent the spread of the pine shoot beetle, a highly destructive pest of pine products, into noninfested areas of the United States.

**DATES:** Interim rule effective October 27, 1995. Consideration will be given only to comments received on or before January 2, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 94-108-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 94-108-1. Comments received may be inspected 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 comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Knight, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-7935.

#### SUPPLEMENTARY INFORMATION:

##### Background

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

The pine shoot beetle is a highly destructive pest of pine trees. The 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 the "maturation feeding," the young beetles bore up the center of pine shoots (usually of the current year's growth) causing stunted and distorted growth in the host trees. The pine shoot beetle 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. This pest damages urban trees and can cause economic losses to the timber, Christmas tree, and nursery industries.

Pine shoot beetle 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 the pine shoot beetle. 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 the pine shoot beetle.

Surveys recently conducted by State and Federal inspectors revealed additional areas infested with the pine shoot beetle in four States that were previously known to contain infested areas (Illinois, New York, Ohio, and Pennsylvania) and in two States not previously known to be infested (Maryland and West Virginia). 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 APHIS will list

as a quarantined area each State, or each portion of a State, in which the pine shoot beetle has been found by an inspector, in which the Administrator has reason to believe the pine shoot beetle is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the pine shoot beetle has been found.

In accordance with these criteria, we are designating Champaign, Grundy, Vermilion, and Winnebago Counties, IL; Allegany County, MD; Stuben County, NY; Carroll, Columbiana, Crawford, Fulton, Holmes, Lucas, Ottawa, Sandusky, Seneca, Tuscarawas, Williams, Wood, and Wyandot Counties, OH; Armstrong, Cameron, Clearfield, Elk, Forest, Jefferson, McKean, and Westmoreland Counties, PA; and Hancock County, WV, as quarantined areas, and we are adding them to the list of quarantined areas provided in § 301.50-3(c).

We are also adding raw pine materials for pine wreaths and garlands and finished pine wreaths and garlands to the list of regulated articles under § 301.50-2. The pine shoot beetle quarantine does not currently regulate the movement of pine wreaths and garlands. However, a pest risk analysis determined that pine wreaths and garlands are hosts of the pine shoot beetle; their unregulated sale and transport would contribute to the spread of the pine shoot beetle.

We are also adding pine wreaths and garlands and raw pine materials for pine wreaths and garlands to the lists of regulated articles authorized for cold treatment and fumigation as specified in §§ 301.50-10(b) and (c).

#### Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that a situation exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the pine shoot beetle 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 it effective upon signature. We will consider comments that are

received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It 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.

The pine shoot beetle regulations impose restrictions on the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of the pine shoot beetle into noninfested areas of the United States. This rule amends these regulations by adding 28 counties to the list of quarantined areas. We are also adding raw pine materials for pine wreaths and garlands and finished pine wreaths and garlands to the list of regulated articles. This action is necessary to prevent the spread of the pine shoot beetle, a highly destructive pest of pine products, into noninfested areas of the United States.

Nurseries, Christmas tree producers, and logging operations in most of the 28 newly regulated counties will not be notably affected by this rule, either because pine species comprise a very minor share of their products or because they serve largely local populations. Counties included in this group are Champaign, Vermilion, Winnebago, and Grundy Counties, IL; Allegany County, MD; Stuben County, NY; Columbiana, Crawford, Fulton, Holmes, Lucas, Ottawa, Sandusky, Seneca, Williams, Wood, and Wyandot Counties, OH; Cameron, Clearfield, Elk, Forest, McKean, and Westmoreland Counties, PA; and Hancock County, WV. The four remaining counties (Carroll and Tuscarawas Counties, OH, and Armstrong and Jefferson Counties, PA) contain nurseries and Christmas tree plantations that have extensive stands of pine and whose owners rely mainly on out-of-county and out-of-State markets.

Affected businesses can maintain markets outside the regulated areas by arranging for inspections and the issuance of certificates or limited permits, or by fumigating or cold treating the regulated articles. Inspection is provided at no cost during normal business hours. However, there may be imputed costs to the businesses in preparing for the inspections and possible marketing delays. Such costs and inconveniences may be more likely

for producers of live pine nursery stock, since inspection is required of each live plant before it may be moved to a nonregulated area. For producers in these counties who already have their trees inspected for other pests, another inspection may be a relatively small burden, especially when compared to the societal benefits of minimizing the human-assisted movement of the pine shoot beetle.

Extending the regulation to pine wreaths and garlands is important for the effectiveness of the quarantine. Should the producers decide to treat wreaths and garlands with methyl bromide, the low costs of treatment will not have a significant economic effect on small producers. Nurseries and other producers earn an average of 4 percent of their revenue from wreaths and garlands. Methyl bromide treatment of wreaths and garlands should cost approximately 1 percent of this revenue. Estimated treatment costs for small Christmas tree growers are \$15–\$20 per year, and estimated treatment costs for small nurseries are \$50–\$100 per year.

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 12778

This rule has been reviewed under Executive Order 12778, 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 information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the treatment of pine wreaths and garlands, under the

conditions specified in this rule, 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 (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.**

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

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

Accordingly, 7 CFR part 301 is amended as follows:

#### **PART 301—DOMESTIC QUARANTINE NOTICES**

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

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; pine wreaths and garlands; raw pine materials for pine wreaths and garlands; and stumps.

\* \* \* \* \*

**§ 301.50-3 [Amended]**

3. Section 301.50-3 is amended as follows:

a. Paragraph (c) is amended by adding, in alphabetical order, under Illinois, New York, Ohio, and Pennsylvania, new counties to read as set forth below.

b. In paragraph (c), new entries for Maryland and West Virginia are added in alphabetical order to read as set forth below.

c. Paragraph (d) is revised to read as set forth below.

**§ 301.50-3 Quarantined areas.**

\* \* \* \* \*

(c) \* \* \*

**ILLINOIS**

*Champaign County.* The entire county.

\* \* \* \* \*

*Grundy County.* The entire county.

\* \* \* \* \*

*Vermilion County.* The entire county.

\* \* \* \* \*

*Winnebago County.* The entire county.

\* \* \* \* \*

**MARYLAND**

*Allegany County.* The entire county.

\* \* \* \* \*

**NEW YORK**

\* \* \* \* \*

*Stuben County.* The entire county.

\* \* \* \* \*

**OHIO**

\* \* \* \* \*

*Carroll County.* The entire county.

*Columbiana County.* The entire

county.

*Crawford County.* The entire county.

\* \* \* \* \*

*Fulton County.* The entire county.

\* \* \* \* \*

*Holmes County.* The entire county.

\* \* \* \* \*

*Lucas County.* The entire county.

\* \* \* \* \*

*Ottawa County.* The entire county.

\* \* \* \* \*

*Sandusky County.* The entire county.

*Seneca County.* The entire county.

\* \* \* \* \*

*Tuscarawas County.* The entire county.

\* \* \* \* \*

*Williams County.* The entire county.

*Wood County.* The entire county.

*Wyandot County.* The entire county.

**PENNSYLVANIA**

\* \* \* \* \*

*Armstrong County.* The entire county.

\* \* \* \* \*

*Cameron County.* The entire county.

\* \* \* \* \*

*Clearfield County.* The entire county.

\* \* \* \* \*

*Elk County.* The entire county.

\* \* \* \* \*

*Forest County.* The entire county.

*Jefferson County.* The entire county.

\* \* \* \* \*

*McKean County.* The entire county.

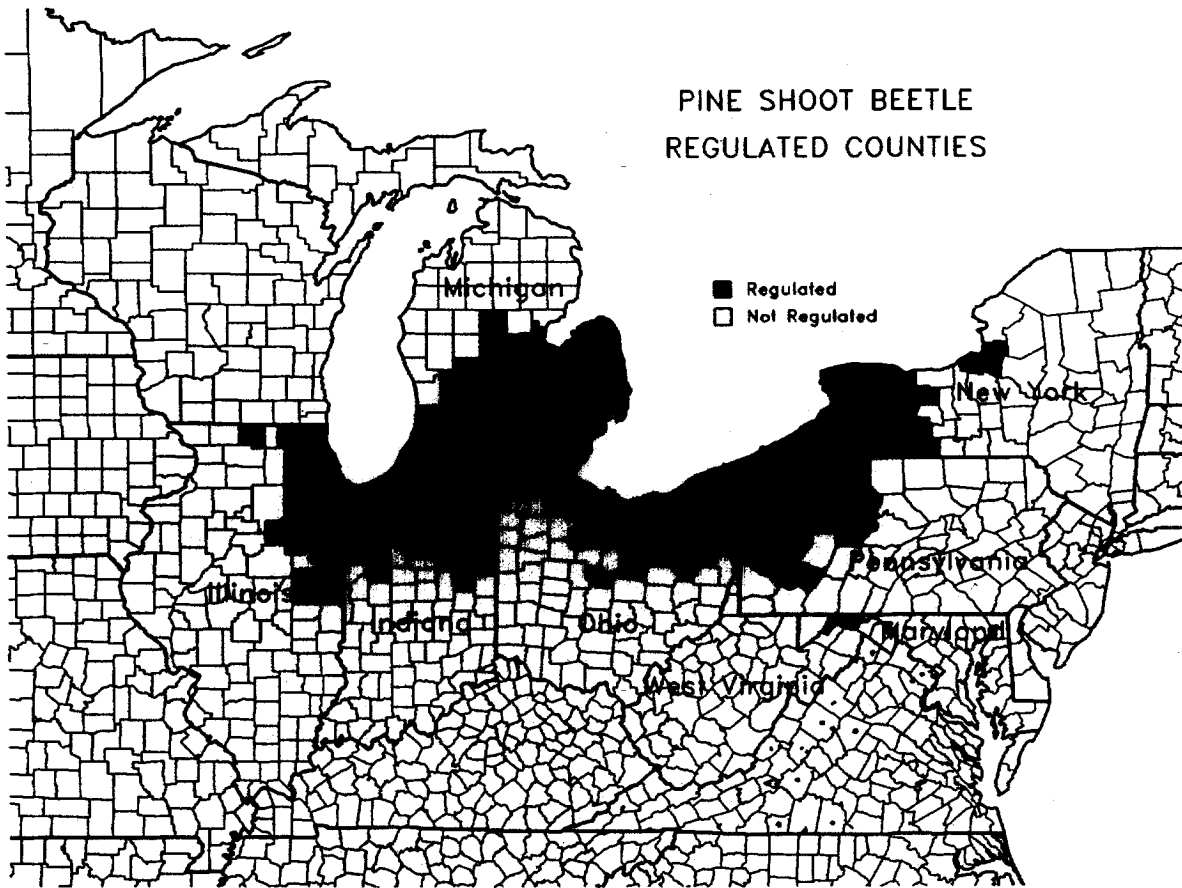
\* \* \* \* \*

*Westmoreland County.* The entire county.

**WEST VIRGINIA**

*Hancock County.* The entire county.

(d) A map of the quarantined areas follows:



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4. In § 301.50-10, paragraph (b) is amended by removing “cut pine Christmas trees and pine nursery stock”

and adding in its place “cut pine Christmas trees, pine nursery stock, pine wreaths and garlands, and raw

pine materials for pine wreaths and garlands”.

5. In § 301.50-10, paragraph (c), the introductory text is revised to read as follows:

**§ 301.50-10 Treatments.**

\* \* \* \* \*

(c) Any one of these fumigation treatments is authorized for use on cut pine Christmas trees, pine wreaths and garlands, and raw pine materials for pine wreaths and garlands. Cut pine Christmas trees, pine wreaths and garlands, 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 27th day of October 1995.

Terry L. Medley,

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

[FR Doc. 95-27284 Filed 11-2-95; 8:45 am]

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**Federal Crop Insurance Corporation**

**7 CFR Part 443**

**RIN 0563-AA78**

**Hybrid Seed Crop Insurance Regulations**

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) hereby adopts regulations for specific crop provisions to insure hybrid seed effective for the 1994 and succeeding crop years. The intended effect of this action is to incorporate the late and prevented planting coverage into the hybrid seed crop insurance policy.

**EFFECTIVE DATE:** November 30, 1993.

**FOR FURTHER INFORMATION CONTACT:** Diana Moslak, Federal Crop Insurance Corporation, Regulatory and Procedural Development Staff, Suite 500, 2101 L Street, N.W., Washington, D.C., 20037. Telephone (202) 254-8314.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1997.

This rule has been determined to be "exempt" for the purposes of Executive

Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget ("OMB").

The provisions set forth in this rule do not impose burdensome information collection requirements that require clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. The amount of work required of the insurance companies delivering these policies and the procedures therein will not increase from the amount required to deliver previous policies. This action, in fact, reduces the paperwork burden on the insured farmer and insurance providers. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule are retroactively effective as of November 30, 1993, and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions promulgated by the National Appeals Division under Pub. L. No. 103-354 must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Wednesday, December 22, 1993, FCIC published an interim rule in the Federal Register at 58 FR 67644, to amend the Hybrid Seed Crop Insurance Regulations (7 CFR part 443) by incorporating late and prevented planting provisions into that policy, effective for the 1994 and succeeding crop years. Because this rule benefited the insured by improving coverage for policyholders, good cause was found to make the interim rule retroactively effective as of November 30, 1993.

Following publication of the interim rule, the public was afforded 60 days to submit written comments, data and opinions, but none were received. Therefore, the interim rule as published on December 22, 1993, at 58 FR 67644 is hereby adopted as a final rule.

List of Subjects in 7 CFR Part 443

Crop insurance, Hybrid seed.

**Final Rule**

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) and for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby adopts as a final rule, the interim rule as published at 58 FR 67644 on December 22, 1993.

Done in Washington, D.C., on October 25, 1995.

Kenneth D. Ackerman,

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 95-27334 Filed 11-2-95; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 94-ANE-31; Amendment 39-9408; AD 95-22-01]**

**Airworthiness Directives; Aerospace Lighting Corporation Power Units and Power Supplies**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Aerospace Lighting Corporation (ALC) lamp connectors and fluorescent lamps, that currently requires an inspection, and adjustment or replacement of improperly installed, damaged, or improperly configured lamp connectors and fluorescent lamps used in cabin fluorescent lighting