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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301 [Docket No. 92–139–8]

Pine Shoot Beetle

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 Adams and Jay Counties, IN, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the pine shoot beetle, a highly destructive pest of pine trees, into noninfested areas of the United States.

DATES: Interim rule effective December 29, 1994. Consideration will be given only to comments received on or before March 10, 1995.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 92-139–8. 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. C. David McNeal, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in

Hyattsville, MD, move to Riverdale, MD, during January. Telephone: (301) 436–8247 (Hyattsville); (301) 734–8247 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

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. The "maturation feeding" of young beetles takes the form of boring 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 the wood, nursery stock, and Christmas trees they infest are often transported long distances. This pest damages urban trees, and can cause economic losses to the timber, Christmas tree, and nursery industries.

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

Surveys recently conducted by State and Federal inspectors revealed that Adams and Jay Counties, IN, are infested with the pine shoot beetle. 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 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 Adams and Jay Counties, IN, as quarantined areas, and adding them to the list of quarantined areas in § 301.50–3(c).

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency 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 interim 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.

In Adams County, IN, there are four nurseries and one logging operation; in Jay County, IN, there are four nurseries and two Christmas tree producers. All could probably be classified as small entities by Small Business Administration criteria (for nurseries, annual gross receipts of \$150,000 or less; for loggers, annual gross receipts of \$3.5 million or less; for Christmas tree producers, annual gross receipts of \$0.5 million or less). The logging operation in Adams County harvests only deciduous trees.

This action will restrict the movement of certain pine products from quarantined areas to nonquarantined areas. If inspected and found to be infested with the pine shoot beetle, these pine products can be either diverted for sale within local markets or treated in accordance with § 301.50-10 prior to shipment to a nonquarantined area. Based on information acquired from extension agents, we estimate that, in the newly quarantined counties, most producers of regulated pine products make approximately 90 percent of their sales locally or to buyers within the county or other quarantined areas in Indiana and thus will not be affected by this action. Producers can treat the small amount of regulated pine products