of this rule in the **Federal Register**. 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 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 it review process required by Executive Order 12866.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

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 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. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

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

2. In § 301.45, paragraph (a) is amended by adding the word ''Illinois'' in alphabetical order.

3. In § 301.45–3, paragraph (a) is amended as follows:

a. By adding an entry for Illinois.

b. Under Indiana, by adding new counties in alphabetical order.

c. Under Maine, in the entry for Aroosktook County, by removing the word ''Aroosktook'' and adding in its place the word ''Aroostook''.

d. Under Maine, in the entry for Penobscot County, by removing the word ''LaGrange'' and adding in its place the word ''Lagrange''.

e. Under Michigan, by revising the entries to include the entire State.

f. Under Ohio, by adding counties in alphabetical order.

g. Under Virginia, in the entry for Appomatox County, by removing the word ''Appomatox'' and by adding in its place the word ''Appomattox''.

h. Under West Virginia, by adding counties in alphabetical order and by revising the entry for Brook County.

i. Under Wisconsin, by adding new counties in alphabetical order and by revising the entry for Fond du Lac.

§ 301.45–3 Generally infested areas.

(a) * * *

Illinois

Lake County. The entire county.

Indiana

* * * * *

De Kalb County. The entire county.

* * * * *

Noble County. The entire county.

* * * * *

Michigan

The entire State.

* * * * *

Ohio

* * * * *

Fairfield County. The entire county.

* * * * *

Huron County. The entire county.

* * * * *

Knox County. The entire county.

* * * * *

Morgan County. The entire county.

* * * * *

Perry County. The entire county.

* * * * *

Richland County. The entire county.

* * * * *

Washington County. The entire county.

* * * * *

West Virginia

* * * * *

Braxton County. The entire county.

Brooke County. The entire county.

Calhoun County. The entire county.

* * * * *

Gilmer County. The entire county.

* * * * *

Greenbrier County. The entire county.

* * * * *

Nicholas County. The entire county.

* * * * *

Pleasants County. The entire county.

* * * * *

Ritchie County. The entire county.

* * * * *

Wirt County. The entire county.

Wood County. The entire county.

Wisconsin

* * * * *

Fond du Lac County. The entire county.

* * * * *

Walworth County. The entire county.

* * * * *

Waupaca County. The entire county.

Waushara County. The entire county.

* * * * *

Done in Washington, DC, this 10th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–17695 Filed 7–16–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 353

[Docket No. 99–100–3]

Export Certification; Canadian Solid Wood Packing Materials Exported From the United States to China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the export certification regulations for the certification of softwood (coniferous) packing materials used with goods exported from the United States to China. Prior to this interim rule, the

packing materials had to be certified as having been heat treated in the United States. We are allowing certification of packing materials that were heat treated in Canada if that treatment is certified by the Canadian Food Inspection Agency to meet requirements established by the Government of the People's Republic of China. This change is necessary to facilitate the exportation to China of the large volume of United States goods that is shipped using Canadian-origin coniferous solid wood packing materials. This change will affect persons who use coniferous solid wood packing materials to export goods from the United States to the People's Republic of China.

DATES: This interim rule is effective July 11, 2001. We invite you to comment on this docket. We will consider all comments that we receive by September 17, 2001 .

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 99–100–3, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–100–3.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Thomas, Export Specialist, PIM, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–8367.

SUPPLEMENTARY INFORMATION:

Background

The export certification regulations contained in 7 CFR part 353 (referred to below as the regulations) set forth the procedures for obtaining certification for plants and plant products offered for export or reexport. Export certification is not required by the regulations; rather, it is provided by the Animal and Plant Health Inspection Service (APHIS) as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry. After assessing the condition of the plants or plant products intended for export relative to the receiving country's regulations, an inspector will issue an internationally recognized certificate, if warranted.

In a final rule that was effective and published in the **Federal Register** on August 17, 2000 (65 FR 50128–50131), we amended the regulations to create a new certificate of heat treatment and to establish procedures for issuing it to exporters who have heat treated their coniferous solid wood packing materials (SWPM) in order to ship goods to the People's Republic of China. We took this action in response to a new requirement imposed by the People's Republic of China that SWPM exported from the United States to China be certified as having been heat treated. As stated in that final rule, the information collection or recordkeeping requirements associated with the new certificate have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0147. One of the requirements of the final rule was that, to be certified, coniferous SWPM must be heat treated in the United States. That requirement was based on our belief that it would be extremely difficult for U.S. exporters to document that a heat treatment has been properly performed if it has been performed in a foreign country.

Since the final rule was published, we have received numerous requests to amend it to provide a means to certify coniferous SWPM that originated and was heat treated in Canada, but is later used to export U.S. goods to China. A great deal of the coniferous SWPM used in the United States is of Canadian origin. According to USDA's Foreign Agricultural Service (FAS), about 21 percent of coniferous SWPM used in the United States in 1999 was of Canadian origin. In that year—the last full year in which U.S. exporters could effectively use Canadian-origin coniferous SWPM in shipments to China—about 35 million pallets were imported from Canada, compared to a total U.S. inventory of about 168 million reusable pallets. The final rule's requirement that only coniferous SWPM treated in the United States may be certified causes adverse impacts on large and small U.S. exporters by denying them continued access to Canadian origin coniferous SWPM that is readily available at attractive prices for use in shipments to China.

We have examined this problem to determine whether there is a way for APHIS to certify that coniferous SWPM from Canada has been properly heat treated in accordance with the requirements of the People's Republic of China. Before issuing such certificates, APHIS must be confident that the required treatment was actually performed, and there must be sufficient documentation of the treatment. As discussed in the final rule of August 17, 2000, it is not practical for APHIS to coordinate or rely on records maintained by a multitude of foreign heat treatment facilities. However, the Canadian Food Inspection Agency (CFIA) is willing to provide U.S. exporters who use coniferous SWPM treated in Canada with a certificate documenting that the SWPM has been heat treated. CFIA has developed a heat treatment certification process for coniferous SWPM that meets the requirements of both APHIS and China. CFIA will issue a certificate only for coniferous SWPM that has been heat treated in accordance with the requirements of the People's Republic of China—*i.e.,* a treatment process that increases the minimum core wood temperature to 56 degrees Celsius for 30 minutes. This CFIA certificate would provide the U.S. exporter with the necessary ''documentation showing that heat treatment was performed on packing materials,'' as required by § 353.7(e)(4). With this documentation on file, the exporter could apply for the APHIS heat treatment certificate required by the People's Republic of China. This Canadian heat treatment certification process for coniferous SWPM would enable U.S. exporters to use Canadian-origin heat treated SWPM in shipments to China.

To accomplish this change, we are amending the definition of *certificate of heat treatment* in § 353.1 of the regulations. In the part of the definition that states that the certificate endorses ''the statement of an exporter that the coniferous packing materials associated with a shipment for export have been heat treated in the United States,'' we are adding the phrase ''or in Canada.'' We are also amending § 353.7(e)(4), which deals with the records an exporter must keep on file at his office, by adding the following: ''If the coniferous solid wood packing materials were heat treated in Canada, this documentation must include a certificate issued by the Canadian Food Inspection Agency stating that the packing materials have been heat treated through a treatment process that increased the minimum core wood

temperature to 56 degrees Celsius for 30 minutes.''

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to relieve a restriction that prevents U.S. exporters from obtaining certificates that the Government of the People's Republic of China requires to accompany shipments of U.S. goods to China that are packaged with Canadian-origin SWPM.

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 this action effective less than 30 days after publication. 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**. The document 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. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Effective January 1, 2000, the People's Republic of China required that SWPM exported from the United States to China be certified as having been heat treated. To be certified, coniferous SWPM must be heat treated in the United States. This rule changes that requirement to allow Canadian-origin coniferous SWPM to be heat treated in Canada.[1]

This rule affects U.S. exporters—primarily manufacturers and freight forwarders who act on their behalf—who ship goods to China using coniferous SWPM. It is estimated that there are about 125,000 such shipments per year, spread among approximately 5,000 exporters. A wide variety of products are shipped to China using coniferous SWPM, such as pharmaceuticals, auto parts, diapers, and fruits and vegetables.

This rule restores U.S. exporters' ability to use Canadian-origin coniferous SWPM in shipments to China. At the present time, their ability to use that SWPM is effectively precluded, because it is not cost effective to heat treat Canadian-origin SWPM in the United States. In addition to giving them another, perhaps less costly, source of coniferous SWPM for their shipments to China, the rule change enables affected exporters to avoid separating their U.S. and Canadian-treated coniferous SWPM so as to ensure that only the former is used in shipments to China.[2] The dollar impact of this rule on U.S. exporters is unknown, but the rule is likely to benefit exporters, though the benefits will not constitute a significant economic impact on a substantial number of exporters.

U.S. producers of coniferous SWPM could also be affected by this change, to the extent that it causes exporters to switch to Canadian producers for their supply of SWPM for shipments to China. The number of U.S. exporters who would switch to Canadian producers is unknown. However, it seems unlikely that allowing the use of Canadian SWPM to be resumed for U.S. shipments to China would create significant harm to U.S. coniferous SWPM producers. (During the period from September through December, 2000—the first 4 full months that the current exclusion on Canadian SWPM was in effect—U.S. imports of pallets from Canada declined by about 3 million, or 27 percent, from the level for same 4-month period in 1999. However, that decline appears to be due more to competitive pressures faced by Canada in the U.S. market than to the current exclusion itself, as U.S. imports of pallets from all countries other than Canada showed an increase of about 4 million pallets during the same 4-month period.[3] In effect, Canadian exports of pallets to the United States were supplanted by exports from other countries. Since non-Canadian exports to the United States are also subject to the current exclusion, the decline in Canadian exports, therefore, would seem to be largely unrelated to the rule that became effective August 17, 2000.)

The Regulatory Flexibility Act (RFA) requires that agencies consider the economic impact of rule changes on small entities (i.e., businesses, organizations, and governmental jurisdictions). This rule potentially affects the approximately 5,000 U.S. exporters—primarily manufacturers and freight forwarders who act on their behalf—who ship goods to China using coniferous SWPM. However, for the reasons discussed above, there is no reason to believe that the rule change will have a significant economic impact on a substantial number of entities, large or small.

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 interim 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 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 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 353 is amended as follows:

PART 353—EXPORT CERTIFICATION

1. The authority citation for part 353 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7718, 7751, and 7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 353.1 [Amended]

2. In § 353.1, the definition of *Certificate of heat treatment* is amended by adding the phrase ''or in Canada'' immediately after the phrase ''in the United States''.

3. In § 353.7, paragraph (e)(4) is revised to read as follows:

§ 353.7 Certificates.

* * * * *

(e) * * *

[1] The Canadian Food Inspection Agency has developed a heat treatment process that meets the requirements of the People's Republic of China and USDA.

[2] U.S. exporters can use Canadian-origin coniferous SWPM for shipments to countries other than the People's Republic of China.

[3] Foreign Agricultural Service data.

(4) The exporter or his or her representative must keep on file at his or her office a copy of each certificate issued in his or her name and documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate. If the coniferous solid wood packing materials were heat treated in Canada, this documentation must include a certificate issued by the Canadian Food Inspection Agency stating that the packing materials have been heat treated through a treatment process that increased the minimum core wood temperature to 56 degrees Celsius for 30 minutes. The exporter must make these documents available to an inspector upon request for a period of 1 year following the date of issuance of the certificate.

(Approved by the Office of Management and Budget under control numbers 0579–0052 and 0579–0147)

Done in Washington, DC, this 11th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–17840 Filed 7–16–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1218

[FV–00–706–FR]

Blueberry Promotion, Research, and Information Order; Amendment No. 1

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the title of the U.S.A. Blueberry Council to the ''U.S.A. Cultivated Blueberry Council'' (Council). The purpose of this change is to avoid confusion in the industry and to clarify that only cultivated blueberries are covered by this program.

EFFECTIVE DATE: August 16, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel Rafael Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535-S, Washington, D.C. 20250–0244; telephone (202) 720–5951, fax (202) 205–2800, or e-mail *daniel.manzoni@usda.gov.*

SUPPLEMENTARY INFORMATION: *Legal authority.* The Blueberry Promotion, Research, and Consumer Information Order (Order) [7 CFR Part 1218] became effective on August 16, 2000 [65 FR 43961, July 17, 2000]. It was issued under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7401–7425].

Question and Answer Overview

Why Is the U.S. Department of Agriculture (USDA or the Department) Changing the Name of the Council?

The wild blueberry industry requested that USDA change the title of the Council in order to avoid confusion in the industry and to clarify that the program covers only cultivated blueberries.

Will Anything Else Change About the Program?

No. The program as published on July 17, 2000 in the **Federal Register** remains the same.

Executive Orders 12866 and 12988

This rule has been determined ''not significant'' for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

In addition, this rule has been reviewed under E.O. 12988, Civil Justice Reform. The rule is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

Final Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], AMS has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

There are approximately 2,000 producers, 200 first handlers, 50 importers, and 4 exporters of blueberries subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. Most importers and first handlers would not be classified as small businesses, and, while most exporters are large, we assume that some are small. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

This rule will amend the Order to revise the title of the U.S.A. Blueberry Council to the ''U.S.A. Cultivated Blueberry Council'' (Council). All other provisions of the Order as published on July 17, 2000, in the **Federal Register** will remain the same. The amendment is not considered a substantial change that will impact the cultivated blueberry industry. The purpose of this change is to avoid confusion in the industry and clarify that only cultivated blueberries are covered by this program.

The amendment will not impose additional recordkeeping requirements on first handlers, producers, or importers or exporters of cultivated blueberries. Therefore, recordkeeping and reporting requirements for the promotion, research, and information program for cultivated blueberries will remain unchanged by this final rule.

There are no relevant federal rules that duplicate, overlap, or conflict with this final rule.

Background

The Order became effective on August 16, 2000. Under the Order, producers and importers pay an assessment of $12 per ton on the cultivated blueberries they produce in or import into the United States. The Secretary will appoint an industry group to administer the program under USDA supervision.

Although the Order states that the program covers only cultivated blueberries and not wild blueberries, the