

Carolina and the 17 farms in South Carolina that we are designating as suppressive areas. The entire regulated area is described in the rule portion of this document.

#### Immediate Action

Immediate action is necessary to update the list of areas in order to: (1) Relieve restrictions on the interstate movement of regulated articles from areas that are no longer infested with witchweed, and (2) prevent the spread of witchweed from newly infested areas into uninfested areas. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see DATES* above). 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 its review process required by Executive Order 12866.

We are amending the witchweed quarantine and regulations by adding and removing areas in North Carolina and South Carolina from the list of regulated areas. These changes affect five counties in North Carolina and two counties in South Carolina. These actions are necessary in order to prevent the artificial spread of witchweed from areas where the weed has been detected and to remove restrictions that are no longer necessary on the interstate movement of regulated articles from areas where witchweed has been eradicated.

Preventing the spread of witchweed has been an important goal for decades. Since 1951, witchweed has been found in a total of 38 counties in North Carolina and South Carolina, but currently, only portions of 8 counties are listed as suppressive areas. No areas are listed as generally infested.

Witchweed affects U.S. corn, sorghum, and sugar cane producers. During 1999–2001, the average annual value of those crops was \$201.5 million in North Carolina and South Carolina. If allowed

to spread throughout the United States, witchweed could cost an estimated \$1 billion in annual control costs in addition to an estimated 10 percent loss in yields for U.S. corn producers alone. U.S. sorghum and sugar cane producers would likewise bear additional costs. Using these figures, preventing the further spread of witchweed prevents an estimated \$36.49 million in costs for North Carolina and South Carolina and an estimated \$3.45 billion in costs for the entire United States.

In comparison, the costs of controlling witchweed are relatively low. Estimates for costs in 2002 are \$1.32 million. Control activities include the use of herbicides to kill witchweed and its hosts. Producers with active witchweed infestations receive free herbicide applications, which provide the added benefit of controlling other weeds. Hence, the benefits of the witchweed control program clearly outweigh its costs.

The U.S. Small Business Administration (SBA) defines a small agricultural producer as one with annual sales receipts of \$750,000 or less. In the suppressive areas of North Carolina, most producers grow corn, soybeans, cotton, tobacco, sweet potatoes, or peanuts. It can be assumed that a similar variety of crops is grown in South Carolina. During 1997–2001, 83 percent of North Carolina's producers had annual sales of \$99,999 or less and 17 percent had annual sales of \$100,000 or more. It is, therefore, reasonable to assume that the majority of producers potentially affected by the witchweed quarantine are small entities under SBA standards.

Agricultural producers in suppressive areas bear costs associated with the movement of regulated articles into or through non-suppressive areas. For example, sweet potatoes and other crops that are harvested with attached soil must be cleaned in order to remove any witchweed seeds. Additionally, producers moving articles must arrange for their inspection, obtain a certificate or limited permit, or enter into a compliance agreement. Agricultural machinery must also be cleaned prior to movement; however, all costs of machinery cleaning are paid for by the Federal government. Although specific data are unavailable, we estimate that the annual costs borne directly by agricultural producers in witchweed regulated areas are very low.

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 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. 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, 7754, and 7760; 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. Section 301.80–2a is revised to read as follows:

#### § 301.80–2a Regulated areas; generally infested and suppressive areas.

The civil divisions and parts of civil divisions described below are designated as witchweed regulated areas within the meaning of this subpart.

#### North Carolina

- (1) *Generally infested areas.* None.
- (2) *Suppressive areas.*

*Bladen County.* That area north of a line beginning at the intersection of the Robeson-Bladen County line and State Highway 211, then east along State Highway 211 Bypass to State Highway 242, then northeast along State Highway 242 to U.S. Highway 701, then north along U.S. Highway 701 to the Cape