

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 99-078-2]

#### Imported Fire Ant; Quarantined Areas and Treatment Dosage

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the imported fire ant regulations by designating as quarantined areas portions of two counties in California. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. The interim rule also amended the treatment provisions in the appendix to the imported fire ant regulations by lowering the dosage rate of bifenthrin wettable powder for the treatment of containerized nursery plants.

**EFFECTIVE DATE:** The interim rule became effective on November 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald P. Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5255.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective and published in the **Federal Register** on November 5, 1999 (64 FR 60333-60335, Docket No. 99-078-1), we amended the imported fire ant (IFA) regulations in 7 CFR part 301 by designating as

quarantined areas portions of Los Angeles and Riverside Counties in California. We also amended the treatment provisions in the appendix to the IFA regulations by lowering the dosage rate of bifenthrin wettable powder for the treatment of containerized nursery plants.

Comments on the interim rule were required to be received on or before January 4, 2000. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

#### Regulatory Flexibility Act

This action affirms an interim rule that amended the IFA regulations by designating as quarantined areas portions of Los Angeles and Riverside Counties in California. As a result of that action, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

There are approximately 1,219 agricultural entities in the newly regulated areas with annual sales totaling almost \$1.29 billion. We have identified approximately 706 affected entities in the newly regulated areas, including wholesale nurseries producing bedding plants and woody ornamentals, wholesale nurseries producing woody ornamentals and turf, retail nurseries, soil moving contracting companies, and landscaping and yard maintenance companies. The majority of these entities would be considered small businesses. In 1997, the market value of nursery crop sales for the affected entities was \$243,738,000. We do not know how many of the affected entities move regulated articles interstate; however, the availability of various IFA treatments, which permit the interstate movement of regulated articles with only a small additional

cost, minimizes any adverse economic effects due to the interim rule. The average cost for treating a 1 gallon container, which contains one nursery plant, is 2 cents. The average treatment cost for a standard shipment of 10,000 nursery plants, worth anywhere between \$10,000 and \$250,000, is \$200. Entities that do not move regulated articles interstate remain unaffected by the interim 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 64 FR 60333-60335.

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 4th day of May 2000.

**Bobby R. Acord,**

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

[FR Doc. 00-11829 Filed 5-10-00; 8:45 am]

**BILLING CODE 3410-34-U**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 00-007-1]

#### Imported Fire Ant; Quarantined Areas

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

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

**SUMMARY:** We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 14

counties in North Carolina, and 19 counties in Tennessee. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. We are also removing the references to the Imported Fire Ant Program Manual in the appendix to the imported fire ant regulations because there is no relevant information in the Imported Fire Ant Program Manual that is not also in the appendix.

**DATES:** This interim rule is effective May 11, 2000. We invite you to comment on this docket. We will consider all comments that we receive by July 10, 2000.

**ADDRESSES:** Please send your comment and three copies to:

Docket No. 00-007-1, 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. 00-007-1.

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. Ron Milberg, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5255.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81-10, and referred to below as the regulations) quarantine infested States or infested areas within States and restrict the interstate movement of regulated articles to prevent the artificial spread of the imported fire ant.

The imported fire ant, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and

humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations are intended to prevent the imported fire ant from spreading throughout its ecological range within the country.

The regulations in § 301.81-3 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, that is infested with the imported fire ant. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81-2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

In §§ 301.81-3, paragraph (e) lists quarantined areas. We are amending § 301.81-3(e) by adding portions of Clark and Hot Springs Counties in Arkansas; Bertie, Camden, Chatham, Chowan, Currituck, Edgecombe, Gaston, Greene, Martin, Mecklenburg, Pasquotank, Perquimans, Wake, and Wayne Counties in North Carolina; and Decatur, Fayette, Franklin, Giles, Haywood, Henderson, Lewis, Lawrence, Lincoln, Madison, Marion, Marshall, McMinn, Meigs, Monroe, Moore, Perry, Rhea, and Shelby Counties in Tennessee. We are taking this action because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new quarantined areas. Interested parties may also view a map showing the imported fire ant infested areas in the continental United States on the Internet at <http://www.aphis.usda.gov/oa/antmap.html>.

We are also removing the references to the Imported Fire Ant Program Manual in the appendix to Subpart—Imported Fire Ant. Currently, in the appendix, under III. A., “Instructions to Inspectors” (at the beginning of the appendix), inspectors are instructed to know and follow instructions in the Imported Fire Ant Program Manual (relevant portions of which constitute the appendix), the PPQ Treatment Manual, the pesticide label, and

exemptions for the treatment or other procedures used to authorize the movement of regulated articles. There is no relevant information in the Imported Fire Ant Program Manual that is not also in these other materials.

##### **Emergency Action**

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this rule without prior opportunity for public comment. Immediate action is necessary to prevent the artificial spread of the imported fire ant into 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 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. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 14 counties in North Carolina, and 19 counties in Tennessee. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

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 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.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The assessment provides a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect 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, as amended (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.

#### 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. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended as follows:

a. By removing the entries for Hot Springs County, Arkansas; Bertie, Chowan, Greene, Martin, Mecklenburg, Perquimans, and Wayne Counties, North Carolina; and Decatur, Fayette, Franklin, Giles, Henderson, Lawrence, Lincoln, Madison, Marion, McMinn, and Shelby Counties, Tennessee.

b. By adding, in alphabetical order, entries for Clark and Hot Springs Counties, Arkansas; Bertie, Camden, Chatham, Chowan, Currituck, Edgecombe, Gaston, Greene, Martin, Mecklenburg, Pasquotank, Perquimans, Wake, and Wayne Counties, North Carolina; and Decatur, Fayette, Franklin, Giles, Haywood, Henderson, Lawrence, Lewis, Lincoln, Madison, Marion, Marshall, McMinn, Meigs, Monroe, Moore, Perry, Rhea, and Shelby Counties, Tennessee, to read as follows:

#### § 301.81–3 Quarantined areas.

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

#### Arkansas

\* \* \* \* \*

*Clark County.* The entire county.

\* \* \* \* \*

*Hot Springs County.* The entire county.

\* \* \* \* \*

#### North Carolina

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*Bertie County.* That portion of the county bounded by a line beginning at the intersection of State Highway 11/42 and the Hertford/Bertie County line; then east along the Hertford/Bertie County line to the Bertie/Chowan County line; then south along the Bertie/Chowan County line to the Bertie/Martin County line; then west along the Bertie/Martin County line to State Highway 11/42; then north along State Highway 11/42 to the point of beginning.

\* \* \* \* \*

*Camden County.* That portion of the county bounded by a line beginning at the intersection of State Road 1112 and

State Highway 343; then east along State Highway 343 to State Road 1107; then south along State Road 1107 to the Camden/Pasquotank County line; then north along the Camden/Pasquotank County line to State Road 1112; then north along State Road 1112 to the point of beginning.

\* \* \* \* \*

*Chatham County.* That portion of the county bounded by a line beginning at the intersection of the Chatham/Randolph County line and U.S. Highway 64; then east along U.S. Highway 64 to the Chatham/Wake County line; then south along the Chatham/Wake County line to the Chatham/Harnett County line; then south along the Chatham/Harnett County line to the Chatham/Lee County line; then west along the Chatham/Lee County line to the Chatham/Moore County line; then west along the Chatham/Moore County line to the Chatham/Randolph County line; then north along the Chatham/Randolph County line to the point of beginning.

*Chowan County.* That portion of the county bounded by a line beginning at the intersection of the Chowan/Gates County line and State Highway 32; then south along State Highway 32 to State Highway 37; then east along State Highway 37 to the Chowan/Perquimans County line; then south along the Chowan/Perquimans County line to the shoreline of the Albemarle Sound; then west along the shoreline of the Albemarle Sound to the Chowan/Bertie County line; then north along the Chowan/Bertie County line to the Chowan/Hertford County line; then north along the Chowan/Hertford County line to the Chowan/Gates County line; then east along the Chowan/Gates County line to the point of beginning.

\* \* \* \* \*

*Currituck County.* That portion of the county bounded by a line beginning at the intersection of the Currituck/Camden County line and State Road 1112; then east along State Road 1112 to U.S. Highway 158; then south along U.S. Highway 158 to State Road 1111; then east along State Road 1111 to the shoreline of the Atlantic Ocean; then south along the shoreline of the Atlantic Ocean to the Currituck/Duck County line; then south and west along the Currituck/Duck County line to the Currituck/Camden County line; then north along the Currituck/Camden County line to the point of beginning.

\* \* \* \* \*

*Edgecombe County.* That portion of the county bounded by a line beginning at the intersection of State Highway 33

and State Highway 111; then east along State Highway 111 to State Highway 142; then east along State Highway 142 to the Edgecombe/Martin County line; then south along the Edgecombe/Martin County line to the Edgecombe/Pitt County line; then west along the Edgecombe/Pitt County line to State Highway 33; then north along State Highway 33 to the point of beginning.

*Gaston County.* That portion of the county bounded by a line beginning at the intersection of the Gaston/Cleveland County line and Interstate Highway 85; then north and east along Interstate Highway 85 to the Gaston/Mecklenburg County line; then south along the Gaston/Mecklenburg County line to the North Carolina/South Carolina State line; then west along the North Carolina/South Carolina State line to the Gaston/Cleveland County line; then north along the Gaston/Cleveland County line to the point of beginning.

*Greene County.* The entire county.

\* \* \* \* \*

*Martin County.* That portion of the county bounded by a line beginning at the intersection of the Martin/Edgecombe County line and State Highway 142; then east along State Highway 142 to State Highway 125; then north along State Highway 125 to State Road 1429; then east along State Road 1429 to the Martin/Bertie County line; then south along the Martin/Bertie County line to the Martin/Washington County line; then south along the Martin/Washington County line to the Martin/Beaufort County line; then west along the Martin/Beaufort County line to the Martin/Pitt County line; then north along the Martin/Pitt County line to the Martin/Edgecombe County line; then north along the Martin/Edgecombe County line to the point of beginning.

*Mecklenburg County.* The entire county.

\* \* \* \* \*

*Pasquotank County.* That portion of the county bounded by a line beginning at the intersection of the Pasquotank/Perquimans County line and U.S. Highway 17; then east along U.S. Highway 17 to the Pasquotank/Camden County line; then south along the Pasquotank/Camden County line to the shoreline of the Albemarle Sound; then west along the shoreline of the Albemarle Sound to the Pasquotank/Perquimans County line; then north along the Pasquotank/Perquimans County line to the point of beginning.

\* \* \* \* \*

*Perquimans County.* That portion of the county bounded by a line beginning at the intersection of the Perquimans/Chowan County line and State Road

1118; then east along State Road 1118 to State Road 1200; then north along State Road 1200 to State Road 1213; then east along State Road 1213 to State Road 1214; then southeast along State Road 1214 to State Road 1221; then northeast along State Road 1221 to the Perquimans/Pasquotank County line; then south along the Perquimans/Pasquotank County line to the shoreline of the Albemarle Sound; then west along the shoreline of the Albemarle Sound to the Perquimans/Chowan County line; then north along the Perquimans/Chowan County line to the point of beginning.

\* \* \* \* \*

*Wake County.* That portion of the county bounded by a line beginning at the intersection of State Highway 55 and the Wake/Durham County line; then south along the Wake/Durham County line to U.S. Highway 1; then north along U.S. Highway 1 to U.S. Highway 70; then north along U.S. Highway 70 to the Wake/Durham County line; then south and west along the Wake/Durham County line to the point of beginning.

\* \* \* \* \*

*Wayne County.* That portion of the county bounded by a line beginning at the intersection of the Wayne/Johnston County line and U.S. Highway 70; then east along U.S. Highway 70 to State Highway 111; then north along State Highway 111 to State Road 1572; then southeast along State Road 1572 to U.S. Highway 13; then east along U.S. Highway 13 to the Wayne/Greene County line; then south along the Wayne/Greene County line to the Wayne/Lenoir County line; then south along the Wayne/Lenoir County line to the Wayne/Duplin County line; then west along the Wayne/Duplin County line to the Wayne/Sampson County line; then west along the Wayne/Sampson County line to the Wayne/Johnston County line; then north along the Wayne/Johnston County line to the point of beginning.

\* \* \* \* \*

Tennessee

\* \* \* \* \*

*Decatur County.* That portion of the county bounded by a line beginning at the intersection of the Decatur/Henderson County line and Interstate Highway 40; then east along Interstate Highway 40 to the Decatur/Benton County line; then southeast along the Decatur/Benton County line to the Decatur/Perry County line; then south along the Decatur/Perry County line to the Decatur/Wayne County line; then south along the Decatur/Wayne County line to the Decatur/Hardin County line;

then west along the Decatur/Hardin County line to the Decatur/Henderson County line; then north along the Decatur/Henderson County line to the point of beginning.

*Fayette County.* The entire county.

*Franklin County.* That portion of the county bounded by a line beginning at the intersection of the Franklin/Moore County line and State Highway 50; then east along State Highway 50 to U.S. Highway 64 going east to U.S. Highway Alternate 41 to the Grundy/Marion County line; then south along the Franklin/Marion County line to the Tennessee/Alabama State line; then west along the Tennessee/Alabama State line to the Franklin/Lincoln County line; then north along the Franklin/Lincoln County line to the Franklin/Moore County line; then north along the Franklin/Moore County line to the point of beginning.

*Giles County.* That portion of the county bounded by a line beginning at the intersection of the Giles/Lawrence County line and U.S. Highway 64; then east along U.S. Highway 64 to U.S. Highway 31; then north along U.S. Highway 31 to State Highway 129; then east along State Highway 129 to the Giles/Marshall County line; then south along the Giles/Marshall County line to the Giles/Lincoln County line; then south along the Giles/Lincoln County line to the Tennessee/Alabama State line; then west along the Tennessee/Alabama State line to the Giles/Lawrence County line; then north along the Giles/Lawrence County line to the point of beginning.

\* \* \* \* \*

*Haywood County.* That portion of the county bounded by a line beginning at the intersection of the Haywood/Fayette County line and Interstate Highway 40; then east along Interstate Highway 40 to the Haywood/Madison County line; then south along the Haywood/Madison County line to the Haywood/Hardeman County line; then west along the Haywood/Hardeman County line to the Haywood/Fayette County line; then west along the Haywood/Fayette County line to the point of beginning.

*Henderson County.* That portion of the county bounded by a line beginning at the intersection of the Henderson/Madison County line and Interstate Highway 40; then east along Interstate Highway 40 to the Henderson/Decatur County line; then south along the Henderson/Decatur County line to the Henderson/Hardin County line; then west along the Henderson/Hardin County line to the Henderson/Chester County line; then north along the Henderson/Chester County line to the

Henderson/Madison County line; then north along the Henderson/Madison County line to the point of beginning.

*Lawrence County.* The entire county.

*Lewis County.* That portion of the county bounded by a line beginning at the intersection of the Lewis/Perry County line and State Highway 48; then east along State Highway 48 to State Highway 20; then southeast along State Highway 20 to the Lewis/Lawrence County line; then west along the Lewis/Lawrence County line to the Lewis/Wayne County line; then north along the Lewis/Wayne County line to the Lewis/Perry County line; then north along the Lewis/Perry County line to the point of beginning.

*Lincoln County.* That portion of the county bounded by a line beginning at the intersection of the Lincoln/Marshall County line and State Highway 50; then east along State Highway 50 to the Lincoln/Moore County line; then south along the Lincoln/Moore County line to the Lincoln/Franklin County line; then south along the Lincoln/Franklin County line to the Tennessee/Alabama State Line; then west along the Tennessee/Alabama State line to the Lincoln/Giles County line; then north along the Lincoln/Giles County line to the point of beginning.

*Madison County.* The entire county.

*Marion County.* The entire county.

*Marshall County.* That portion of the county bounded by a line beginning at the intersection of the Marshall/Giles County line and State Highway 129; then east along State Highway 129 to U.S. Highway Alternate 31; then north along U.S. Highway Alternate 31 to State Highway 50; then southeast along State Highway 50 to the Marshall/Lincoln County line; then west along the Marshall/Lincoln County line to the Marshall/Giles County line; then north along the Marshall/Giles County line to the point of beginning.

*McMinn County.* The entire county.

\* \* \* \* \*

*Meigs County.* The entire county.

*Monroe County.* That portion of the county bounded by a line beginning at the intersection of the Monroe/McMinn County line and State Highway 68 (including the entire city limits of Tellico Plains); then south along State Highway 68 to the Monroe/Polk County line; then west along the Monroe/Polk County line to the Monroe/McMinn County line; then north along the Monroe/McMinn County line to the point of beginning.

*Moore County.* That portion of the county bounded by a line beginning at the intersection of the Moore/Lincoln County line and State Highway 50; then

east along State Highway 50 to the Moore/Franklin County line; then south along the Moore/Franklin County line to the Moore/Lincoln County line; then west and north along the Moore/Lincoln County line to the point of beginning.

*Perry County.* That portion of the county lying south of latitude 35°45'.

\* \* \* \* \*

*Rhea County.* The entire county.

*Shelby County.* The entire county.

\* \* \* \* \*

3. In part 301, Subpart—Imported Fire Ant (§§ 301.81–301.81–10), the appendix is amended as follows:

a. By revising the title of the appendix and removing footnote 8.

b. Under III. A., by revising the first paragraph.

c. Under III. C. 4. *Exclusion*, *Bifenthrin*, by revising paragraph (b).

d. Under III. C. 4. *Enforcement*, by revising the second, third, and sixth paragraphs.

#### Appendix to Subpart “Imported Fire Ant”

#### III. Regulatory Procedures

A. *Instructions to Inspectors.* Inspectors must know and follow instructions in the PPQ Treatment Manual, the pesticide label, and exemptions (Section 18 or 24 (c) of FIFRA) for the treatment or other procedures used to authorize the movement of regulated articles. These will serve as a basis for explaining such procedures to persons interested in moving articles affected by the quarantine. Inspectors shall furnish completed information to anyone interested in moving regulated articles.

\* \* \* \* \*

#### C. *Approved Treatments.*

\* \* \* \* \*

#### 4. Imported-Fire-Ant-Free Nursery—Containerized Plants Only

\* \* \* \* \*

#### *Exclusion*

##### *Bifenthrin*

\* \* \* \* \*

(b) Treated with bifenthrin drench upon delivery in accordance with this appendix (III.C.3.b), and within 180 days be either:

\* \* \* \* \*

#### *Enforcement*

\* \* \* \* \*

If imported fire ants are detected in nursery stock during an inspection by a Federal or State inspector, issuance of certificates for movement shall be suspended until necessary treatments are applied and the plants and nursery premises are determined to be free of the imported fire ant. A Federal or State inspector may declare a nursery to be free of the imported fire ant upon reinspection of the premises. This inspection must be conducted no sooner than 30 days after treatment to ensure its effectiveness. During this period, certification may be based

upon the drench or immersion treatment provided in paragraph III.C.3. of this appendix, titled “Plants—Balled or in Containers.”

Upon notification by the department of agriculture in any State of destination that a confirmed imported fire ant infestation was found on a shipment from a nursery considered free of the imported fire ant, the department of agriculture in the State of origin shall cease its certification of shipments from that nursery. An investigation by Federal or State inspectors will commence immediately to determine the probable source of the problem and to ensure that the problem is resolved. If the problem is an infestation, issuance of certification for movement on the basis of imported-fire-ant-free premises will be suspended until treatment and elimination of the infestation is completed. Reinstatement into the program will be granted upon determination that the nursery premises are free of the imported fire ant, and that all other provisions of this subpart are being followed.

\* \* \* \* \*

This imported-fire-ant-free nursery program is not mandatory for movement of regulated articles. Plants, balled or in containers, may otherwise be certified for movement using the chlorpyrifos, bifenthrin, or tefluthrin treatments described in paragraph III.C.3 of this appendix, titled “Plants, Balled or in Containers.” However, certification for movement under the imported-fire-ant-free nursery program will be granted only if all of the provisions of this subpart are followed.

\* \* \* \* \*

Done in Washington, DC, this 4th day of May 2000.

**Bobby R. Acord,**

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

[FR Doc. 00–11830 Filed 5–10–00; 8:45 am]

BILLING CODE 3410–34–U

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Docket No. FV–00–985–2 FR]

### Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of Administrative Rules and Regulations Governing Issuance of Additional Allotment Base to New Producers

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule reduces the number of regions established for issuing additional allotment base to new producers from three regions to two regions and revises the procedure used for determining the distribution of