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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-101-2]

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 nine counties in Arkansas. This action expands the areas quarantined for imported fire ant and imposes certain restrictions on the interstate movement of regulated articles from those areas. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: Interim rule effective July 2, 1998. Consideration will be given only to comments received on or before August 31, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-101-2, 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. 97-101-2. 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. Ron Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700

River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-5255; or e-mail: ron.p.milberg@usda.gov.

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 impose restrictions on the interstate movement of certain regulated articles for the purpose of preventing 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 or 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 prevent the imported fire ant from spreading throughout its ecological range within this 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 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.

We are amending § 301.81-3(e) by designating the following entire counties in Arkansas as quarantined areas: Desha, Garland, Howard, Jefferson, Lincoln, Pike, Pulaski, Saline, and Sevier Counties. 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.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim 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 it effective upon publication in the **Federal Register**. 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.

This interim rule affects the interstate movement of regulated articles from all of nine counties in Arkansas. Affected entities include nurserymen, sod and hay growers, farm equipment dealers, construction companies, and others who sell, process, or move regulated articles interstate. There are approximately 260 establishments within the newly regulated areas that could be affected by this interim rule; nearly 99 percent of these are small entities. However, most of the sales for these entities are local intrastate or within the regulated area, and would not be affected by this rule.

The effect on those entities that do move regulated articles interstate is minimized by the availability of various treatments that, in most cases, will permit the movement of regulated articles with very little additional cost. Treatment costs range between \$30 and \$50 per shipment. The total projected annual cost of treatment required as a result of this rule is approximately \$1,200. In 1992, the sales of nursery

stock, sod, hay, and other regulated articles in the newly regulated areas had a market value of approximately \$4.06 million. The potential costs to affected entities of treatments required as a result of this rule are minimal compared to the total value of regulated articles sold in these areas.

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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this program. 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 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, Incorporation by reference, 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 by adding, in alphabetical order, entries for Garland, Pike, Pulaski, Saline, and Sevier Counties in Arkansas and by revising the entries for Desha, Howard, Jefferson, and Lincoln Counties in Arkansas to read as set forth below.

§ 301.81–3 Quarantined areas.

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(e) * * *

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ARKANSAS

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Desha County. The entire county.

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Garland County. The entire county.

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Howard County. The entire county.

Jefferson County. The entire county.

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Lincoln County. The entire county.

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Pike County. The entire county.

Pulaski County. The entire county.

Saline County. The entire county.

Sevier County. The entire county.

* * * * *

Done in Washington, DC, this 26th day of June 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–17634 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Guaranteed Production Plan of Fresh Market Tomato; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulation which was published in the **Federal Register** on Thursday, May 1, 1997 (62 FR 23628–23634), and subsequently corrected on June 20, 1997 (62 FR 33539). The regulation pertains to the Guaranteed Production Plan of Fresh Market Tomato Regulations.

EFFECTIVE DATE: June 21, 1997.

FOR FURTHER INFORMATION CONTACT:

Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to provide policy changes to better meet the needs of the insured and include the current Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of terms.

Need for Correction

As published, the final regulation and the subsequent final rule correction contain errors which may prove to be misleading and need to be clarified. The calendar dates for the end of the insurance period are being further corrected to designate November 10 instead of September 20 as the correct calendar date for the end of the insurance period in the states of Florida and Georgia. As currently stated in policy, the insurance period is only 31 days. Fall tomatoes require approximately 70 days from planting to maturity.

List of Subjects in 7 CFR Part 457

Crop insurance, Fresh market tomato (guaranteed production plan).

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendment: