

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 98-125-1]

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

**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 three counties in California, two counties in Georgia, one county in New Mexico, four counties in North Carolina, and one county 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 amending the treatment provisions in the Appendix to the imported fire ant regulations by removing all references to the granular formulation of chlorpyrifos because this formulation is no longer marketed for treating grass sod or woody ornamentals.

**DATES:** This interim rule is effective May 21, 1999. We invite you to comment on this docket. We will consider all comments that we receive by July 20, 1999.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 98-125-1, 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. 98-125-1.

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 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 rules, are available on the Internet at <http://www.aphis.usda.gov/rad/webrepor.html>.

**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; or e-mail: [ron.p.milberg@usda.gov](mailto: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 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 purpose of the regulations is to 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 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 artificial 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 all or portions of the following counties as quarantined areas: Los Angeles, Orange, and Riverside Counties in California; Habersham and White Counties in Georgia; Dona Ana County in New Mexico; Bertie, Chowan, Martin, and Perquimans Counties in North Carolina; and Madison County 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.

We are also revising one of the treatments described in the regulations. Sections 301.81-4 and 301.81-5 of the regulations provide, among other things, that regulated articles requiring treatment before interstate movement must be treated in accordance with the methods and procedures prescribed in the Appendix to the imported fire ant regulations. The Appendix sets forth the treatment provisions of the "Imported Fire Ant Program Manual." We are amending paragraphs III.C.5. and III.C.8. of the Appendix by removing all references to the word "granular" before the word "chlorpyrifos." This is necessary because the granular formulation of chlorpyrifos is no longer marketed for treating grass sod and woody ornamentals.

#### 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 this action 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**. 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 three counties in California, two counties in Georgia, one county in New Mexico, four counties in North Carolina, and one county in Tennessee. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary on an emergency basis to prevent the artificial spread of the imported fire ant to noninfested areas of the United States. We are also amending the Appendix to the imported fire ant regulations by removing all references to the word "granular" before the word "chlorpyrifos" because the granular formulation is no longer marketed for treating grass sod or woody ornamentals.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our 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 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, 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 adding an entry for California and a list of quarantined areas, in alphabetical order, for Los Angeles, Orange, and Riverside Counties to read as set forth below;

b. By adding, in alphabetical order, entries for Habersham and White Counties in Georgia to read as set forth below;

c. By adding, in alphabetical order, an entry for New Mexico and Dona Ana County to read as set forth below;

d. By adding, in alphabetical order, entries for Bertie, Chowan, and Perquimans Counties in North Carolina and by revising the entry for Martin County in North Carolina to read as set forth below; and

e. By adding, in alphabetical order, an entry for Madison County in Tennessee to read as set forth below.

#### **§ 301.81–3 Quarantined areas.**

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

#### **California**

*Los Angeles County.* That portion of Los Angeles County in the Cerritos area bounded by a line beginning at the intersection of Artesia Boulevard and Marquardt Avenue; then south along Marquardt Avenue to the Los Angeles/Orange County Line; then south and west along the Los Angeles/Orange County Line to Carson Street; then west along Carson Street to Norwalk Boulevard; then north along Norwalk Boulevard to Centralia Street; then west along Centralia Street to Pioneer Boulevard; then north along Pioneer Boulevard to South Street; then east along South Street to Norwalk Boulevard; then north along Norwalk Boulevard to 183rd Street; then east along 183rd Street to Bloomfield Avenue; then north along Bloomfield Avenue to Artesia Boulevard; then east along Artesia Boulevard to the point of beginning.

*Orange County.* The entire county.

*Riverside County.* That portion of Riverside County in the Indio area bounded by a line beginning at the intersection of Avenue 50 and Jackson Street; then south along Jackson Street to 54th Avenue; then west along 54th Avenue to Madison Street; then north along Madison Street to Avenue 50; then east along Avenue 50 to the point of beginning.

That portion of Riverside County in the Moreno Valley area bounded by a line beginning at the intersection of Reche Vista Drive and Canyon Ranch

Road; then southeast along Canyon Ranch Road to Valley Ranch Road; then east along Valley Ranch Road to Michael Way; then south along Michael Way to Casey Court; then east along Casey Court to the Moreno Valley City Limits; then south and east along the Moreno Valley City Limits to Pico Vista Way; then southwest along Pico Vista Way to Los Olivos Drive; then south along Los Olivos Drive to Jaclyn Avenue; then west along Jaclyn Avenue to Perris Boulevard; then south along Perris Boulevard to Kalmia Avenue; then west along Kalmia Avenue to Hubbard Street; then north along Hubbard Street to Nightfall Way; then west and south along Nightfall Way to Sundial Way; then west along Sundial Way to Indian Avenue; then south along Indian Avenue to Ebbtide Lane; then west along Ebbtide Lane to Ridgcrest Lane; then south along Ridgcrest Lane to Moonraker Lane; then west along Moonraker Lane to Davis Street; then south along Davis Street to Gregory Lane; then west along Gregory Lane to Heacock Street; then northwest along an imaginary line to the intersection of Lake Valley Drive and Breezy Meadow Drive; then north along Breezy Meadow Drive to its intersection with Stony Creek; then north along an imaginary line to the intersection of Old Lake Drive and Sunnymead Ranch Parkway; then northwest along Sunnymead Ranch Parkway to El Granito Street; then east along El Granito Street to Lawless Road; then east along an imaginary line to the intersection of Heacock Street and Reche Vista Drive; then north along Reche Vista Drive to the point of beginning.

That portion of Riverside County in the Bermuda Dunes, Palm Desert, and Rancho Mirage areas bounded by a line beginning at the intersection of Ramon Road and Bob Hope Drive; then south along Bob Hope Drive to Dinah Shore Drive; then east along Dinah Shore Drive to Key Largo Avenue; then south along Key Largo Avenue to Gerald Ford Drive; then west along Gerald Ford Drive to Bob Hope Drive; then south along Bob Hope Drive to Frank Sinatra Drive; then east along Frank Sinatra Drive to Vista Del Sol; then south along Vista Del Sol to Country Club Drive; then east along Country Club Drive to Adams Street; then south along Adams Street to 42nd Avenue; then east along 42nd Avenue to Tranquillo Place; then south along Tranquillo Place to its intersection with Harbour Court; then southwest along an imaginary line to the intersection of Granada Drive and Caballeros Drive; then southeast along Caballeros Drive to Kingston Drive; then

west along Kingston Drive to Mandeville Road; then east along Mandeville Road to Port Maria Road; then south along Port Maria Road to Fred Waring Drive; then west along Fred Waring Drive to its intersection with Dune Palms Road; then southwest along an imaginary line to the intersection of Adams Street and Miles Avenue; then west along Miles Avenue to Washington Street; then northwest along Washington Street to Fred Waring Drive; then west along Fred Waring Drive to Joshua Road; then north along Joshua Road to Park View Drive; then west along Park View Drive to State Highway 111; then northwest along State Highway 111 to Magnesia Fall Drive; then west along Magnesia Fall Drive to Gardess Road; then northwest along Gardess Road to Dunes View Road; then northeast along Dunes View Road to Halgar Road; then northwest along Halgar Road to Indian Trail Road; then northeast along Indian Trail Road to Mirage Road; then north along Mirage Road to State Highway 111; then northwest along State Highway 111 to Frank Sinatra Drive; then west along Frank Sinatra Drive to Da Vall Drive; then north along Da Vall Drive to Ramon Road; then east along Ramon Road to the point of beginning.

\* \* \* \* \*

**Georgia**

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*Habersham County.* The entire county.

\* \* \* \* \*

*White County.* The entire county.

\* \* \* \* \*

**New Mexico**

*Dona Ana County.* The entire county.

**North Carolina**

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*Bertie County.* That portion of the county beginning at the intersection of U.S. Highway 17 North by-pass and the Bertie/Martin County line; then north along U.S. Highway 17 North by-pass to U.S. Highway 13 Business; then north along U.S. Highway 13 Business to State Road 1301; then northeast along State Road 1301 to State Highway 45; then east along State Highway 45 to State Road 1360; then east along State Road 1360 to the Bertie/Chowan County line; then south along the Bertie/Chowan County line to the Bertie/Washington County line; then southwest along the Bertie/Washington County line to the Bertie/Martin County line; then west along the Bertie/Martin County line to the point of beginning.

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*Chowan County.* That portion of the county lying south of U.S. Highway 17.

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*Martin County.* That portion of the county beginning at the intersection of the Martin/Pitt County line and U.S. Highway 64 (new); then east along U.S. Highway 64 (new) to State Road 1407; then northeast along State Road 1407 to State Road 1409; then east along State Road 1409 to State Road 1423; then north along State Road 1423 to its end; then north along an imaginary line to the Roanoke River; then east along the shoreline of the Roanoke River 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 northwest along the Martin/Pitt County line to the point of beginning.

\* \* \* \* \*

*Perquimans County.* That portion of the county beginning at the intersection of the Perquimans/Chowan County line and U.S. Highway 17 North; then northeast along U.S. Highway 17 North to U.S. Highway 17 North by-pass; then northeast along U.S. Highway 17 North by-pass to the Perquimans River; then southeast along the shoreline of the Perquimans River to the Albemarle Sound; then west and north along the shoreline of the Albemarle Sound to the Perquimans/Chowan County line; then northwest along the Perquimans/Chowan County line to the point of beginning.

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**Tennessee**

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*Madison County.* That portion of the county lying south of Interstate Highway 40.

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3. In part 301, Subpart—Imported Fire Ant, the Appendix to the subpart is amended as follows:

a. In paragraph III.C.5., in the “Material” paragraph, the phrase “Granular chlorpyrifos (any granular formulation that is EPA registered)” is removed and the word “Chlorpyrifos” is added in its place.

b. In paragraph III.C.5., in the “Method” paragraph, third sentence, the word “granular” is removed.

c. In paragraph III.C.5., in the “Special Information” paragraph, first sentence, the word “granular” is removed.

d. In paragraph III.C.8., the “Material” paragraph is revised to read as set forth below.

e. In paragraph III.C.8.1., under the heading "Method", the word "granular" is removed.

**Subpart—Imported Fire Ant**

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**Appendix to Subpart "Imported Fire Ant"—Portion of "Imported Fire Ant Program Manual" <sup>8</sup>**

III. Regulatory Procedures  
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C. Approved Treatments.

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8. Grass—Sod

Material

Chlorpyrifos.

Material	Amount and dosage of material	Certification period
Chlorpyrifos .....	4.0 lb (1.8 kg) a.i./acre .....	4 weeks (after exposure period has been completed).
Chlorpyrifos .....	6.0 lb (2.7 kg) a.i./acre .....	10 weeks (after exposure period has been completed).

Exposure Period: 48 hours.

\* \* \* \* \*

Done in Washington, DC, this 17th day of May, 1999.

**Craig A. Reed,**

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-12884 Filed 5-20-99; 8:45 am]

BILLING CODE 3410-34-P

**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**8 CFR Part 207**

[INS No. 1999-99]

RIN 1115-AF49

**Application for Refugee Status; Acceptable Sponsorship Agreement and Guaranty of Transportation**

**AGENCY:** Immigration and Naturalization Service, Justice.

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

**SUMMARY:** Section 207 of the Immigration and Nationality Act (Act) authorizes the Attorney General to admit refugees to the United States under certain conditions, including those provided for by regulation. The Immigration and Naturalization Service (Service) regulations require that sponsorship agreements be secured before an applicant is granted admission as a refugee at a U.S. port-of-entry (POE). The determination of whether or not someone is classified as a refugee is described in the Act as a separate decision from whether a refugee may be admitted to the United States in refugee status. This rule amends the Service regulations by removing language that erroneously implies that the Service requires a sponsorship agreement and guaranty of transportation prior to determining whether an applicant is a refugee. This rule is necessary to clarify issues that may appear ambiguous in the

existing regulation, and provides more advantageous treatment for the limited number of applicants for refugee status who have their Service interviews before sponsorship agreements have been secured.

**DATES: Effective date:** This interim rule is effective May 21, 1999.

**Comment date:** Written comments must be submitted on or before July 20, 1999.

**ADDRESSES:** Please submit written comments in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1999-99 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Thompson, Office of International Affairs, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, Telephone (202) 305-2662.

**SUPPLEMENTARY INFORMATION:** Section 207 of the Act authorizes the Attorney General to admit refugees to the United States under certain conditions. By regulation, sponsorship is required before a refugee can be admitted to the United States. Sponsorship ensures refugees who are admitted to the United States transportation, housing, and assistance in this country. Sponsorship is a requirement separate and apart from the determination that an applicant is classified as a refugee. The current regulations at 8 CFR 207.2(d), states that: "[t]he application for refugee status will not be approved until the Service receives an acceptable sponsorship agreement and guaranty of transportation in [sic] behalf of the applicant."

This sentence may inappropriately imply that there is a requirement to

have secured sponsorship in advance of a determination to be classified as a refugee, which is not the case. The Service has never required the sponsorship assurance before determining whether an applicant meets the definition of refugee under section 101(a)(42) of the Act.

All refugees seeking admission to the United States must satisfy the statutory and regulatory requirements before the Service can admit them to the United States. For example, a refugee must have a sponsor at the time he or she appears at a U.S. POE with an approved Form I-590, Registration for Classification as Refugee, in order to be admitted as a refugee. If the required sponsorship has not been secured or the required medical screening has not been completed, and the refugee arrives at a U.S. POE, the immigration inspector cannot admit the refugee.

**Good Cause Exception**

This interim rule is effective upon date of publication in the **Federal Register**, although the Service invites post-promulgation comments within a 60-day comment period and will address any such comments in a final rule. For the following reasons, the Service finds that good cause exists under 5 U.S.C. 553(b)(B) and (d)(3) for implementing this rule as an interim rule without the prior notice and comment period ordinarily required under this provision. This rule simply clarifies issues that may appear ambiguous in the existing regulation, and provides more advantageous treatment for the limited number of applicants for refugee status who have their Service interviews before sponsorship agreements have been secured. Early implementation will be advantageous to the intended beneficiaries of this rule. Therefore, it is unnecessary and contrary to the public

<sup>8</sup> A copy of the entire "Imported Fire Ant Program Manual" may be obtained from the Animal and

Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency

Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.