

§ 300.1 of this chapter, "Plant Protection and Quarantine Treatment Manual." The following treatments also may be used for the regulated articles indicated:

(a) *Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.99-2(a) of this subpart.* Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to at least a depth of 1/2 inch.

(b) *Citrus fruits.* Regulated citrus fruits originating inside the quarantined area that are to be moved outside the quarantined area may be treated with methyl bromide fumigation in APHIS-approved chambers as an alternative to treating the fruits as provided in the Plant Protection and Quarantine Treatment Manual. Exposure period for this treatment is 2 hours.<sup>9</sup> Fruit pulp temperature must be between 21.1 °C and 29.4 °C (70 °F and 85 °F). This temperature requirement refers to fruit pulp only and not to air temperature within the chamber. Fruit taken from a cooling room may have to be pre-warmed before fumigation is attempted. To determine fruit pulp temperature, stab several fruit to the center with a suitable thermometer that reads at least in whole degrees (F or C). The lowest temperature should be used, not the average. The methyl bromide dosage is set at a rate of 2.5 pounds of 100 percent pure, type "Q" (for quarantine use only) methyl bromide per 1,000 cubic feet of chamber space.<sup>10</sup> However, if, prior to treatment, representative sampling reveals a level of infestation greater than 0.5 percent for the lot, then the fruit is ineligible for treatment.

(c) *Premises.* Fields, groves, or areas that are located within a quarantined area but outside the infested core area and that produce regulated articles may receive regular treatments with either malathion or spinosad bait spray as an alternative to treating the regulated articles with methyl bromide fumigation or those treatments provided in the Plant Protection and Quarantine Treatment Manual. These treatments

<sup>9</sup> To enhance equal concentrations of methyl bromide throughout the chamber, a fan should be placed near the point of gas introduction, and allowed to run for at least 15 minutes.

<sup>10</sup> Dosage is based upon chamber volume, not the volume of the fruit being treated. Fruit should be in cartons approved for fumigation. Cartons must be placed on pallets. There should be an air space of at least 1 foot between adjacent pallet loads; at least 1 foot between chamber walls and the nearest carton of fruit; and at least 2 feet between the height of the stack and the ceiling of the chamber. The compressed liquid methyl bromide inside the cylinder must be put through a volatilizer prior to injection into the chamber. Water temperature in the volatilizer must never fall below 65.6 °C (150 °F) at any time during gas injection.

must take place at 6-to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for development of sapote fruit fly egg and larvae. Determination of the time period must be based on the day degrees model for sapote fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 oz of technical grade malathion and 9.6 oz of protein hydrolysate per acre. The spinosad bait spray treatment must be applied by aircraft or ground equipment at a rate of 0.01 oz of a USDA-approved spinosad formulation and 48 oz of protein hydrolysate per acre. For ground applications, the mixture may be diluted with water to improve coverage.

Done in Washington, DC, this 2nd day of May 2003 .

**Peter Fernandez,**

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

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 02-114-2]

#### Imported Fire Ant; Additions to Quarantined Areas

**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 all or portions of six counties in South Carolina and nine counties in Tennessee and restricting the interstate movement of regulated articles from those areas. This interim rule was necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective on January 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles L. Brown, Imported Fire Ant Program Manager, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

**SUPPLEMENTARY INFORMATION:**

## Background

In an interim rule effective January 30, 2003, and published in the **Federal Register** on February 5, 2003 (68 FR 5794-5796, Docket No. 02-114-1), we amended the imported fire ant regulations contained in 7 CFR 301.81 through 301.81-10 by adding all or portions of six counties in South Carolina and nine counties in Tennessee to the list of quarantined areas in § 301.81-3(e). As a result of that interim rule, the interstate movement of regulated articles from these areas is restricted.

Comments on the interim rule were required to be received on or before April 7, 2003. We received two comments by that date. The comments were from private citizens. Both commenters generally supported the interim rule. 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 Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### 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 68 FR 5794-5796 on February 5, 2003.

**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.

Done in Washington, DC, this 2nd day of May 2003.

**Peter Fernandez,**

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

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