

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 213

RIN 3206-AJ70

#### Excepted Service—Temporary Organizations

**AGENCY:** Office of Personnel Management.

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

**SUMMARY:** The Office of Personnel Management (OPM) is issuing an interim regulation to amend the excepted service Schedule A authority for temporary organizations. This regulation will revise the definition of the term “temporary organization” to comply with recently-enacted legislation. It will also establish criteria with which temporary organizations must comply if they wish to extend an employee’s appointment.

**DATES:** *Effective Date:* Effective Date: May 8, 2003.

*Applicability Date:* A temporary organization that does not meet the new criteria must move its incumbents from the authority by August 6, 2003.

*Comments Date:* Comments must be received on or before July 7, 2003.

**ADDRESSES:** Send or deliver written comments to Ellen E. Tunstall, Deputy Associate Director for Talent and Capacity Policy, Office of Personnel Management, 1900 E Street, NW., Room 6551, Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Christina Vay by telephone on 202-606-0960, by FAX on 202-606-2329, or by TDD on 202-418-3134.

**SUPPLEMENTARY INFORMATION:** The Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106-398, October 30, 2000) added a new subchapter IV to chapter

31 of title 5, United States Code. The new subchapter:

- Defined the term “temporary organization;”
- Provided that the head of a temporary organization may make excepted service appointments to fill positions in these organizations of up to 3 years;
- Provided for appointment extensions for no more than 2 years; and
- Gave return rights to those who transfer or convert (with agency head approval) to these appointments from career or career-conditional appointments if certain conditions are met.

Because of these statutory changes, we are amending the current excepted service Schedule A appointing authority at 5 CFR 213.3199 for temporary organizations. If a temporary organization has employees currently appointed under this authority and the temporary organization meets the criteria of the revised authority at 5 CFR 213.3199, then the appointments are valid and no changes to the appointments are needed. If a temporary organization does not meet the criteria of the revised authority, it must move any incumbents from the authority within 90 days of the date of this interim regulation. The incumbents are moved to either another governmentwide excepted service authority or an agency-specific excepted service authority that has already been granted. If the temporary organization does not have another authority available to use, it may request from OPM an agency-specific excepted service authority.

We are issuing this regulation as an interim rule because the law defining temporary organizations is already in effect. Delaying the effective date of the regulation would not change the fact that the law is in place and must be applied.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

Office of Personnel Management.

**Kay Coles James,**  
*Director.*

■ Accordingly, OPM amends 5 CFR part 213 as follows:

#### PART 213—EXCEPTED SERVICE

■ 1. The authority citation for part 213 is revised to read as follows:

**Authority:** 5 U.S.C. 3161; 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; sec. 213.101 also issued under 5 U.S.C. 2103; sec. 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; Pub. L. 105-339, 112 Stat. 3182-83; and E.O. 13162.

■ 2. In subpart C § 213.3199 is revised to read as follows:

#### § 213.3199 Temporary organizations.

Positions on the staffs of temporary organizations, as defined in 5 U.S.C. 3161(a). Appointments may not exceed 3 years, but temporary organizations may extend the appointments for 2 additional years if the conditions for extension are related to the completion of the study or project.

[FR Doc. 03-11398 Filed 5-7-03; 8:45 am]

**BILLING CODE 6325-38-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 03-032-1]

#### Sapote Fruit Fly

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

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

**SUMMARY:** We are quarantining part of Hidalgo County, TX, because of the sapote fruit fly and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the sapote fruit fly to noninfested areas of the United States.

**DATES:** This interim rule was effective May 2, 2003. We will consider all comments that we receive on or before July 7, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03-032-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 03-032-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 03-032-1" on the subject line.

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. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

We are amending the "Domestic Quarantine Notices" in 7 CFR part 301 by adding a new subpart, "Sapote Fruit Fly" (§§ 301.99 through 301.99-10, referred to below as the regulations). The regulations quarantine part of Hidalgo County, TX, because of the sapote fruit fly and restrict the interstate movement of regulated articles from the quarantined area.

The sapote fruit fly (*Anastrepha serpentina*) is a destructive pest of fruits and vegetables, including apples, avocados, grapefruit, mangoes, peaches, pears, and tangerines. This pest can cause serious economic losses by lowering the yield and quality of these fruits and vegetables and, in some cases, by damaging seedlings and young

plants. Heavy infestations can result in the complete loss of these crops.

Recent trapping surveys in the lower Rio Grande valley in Texas have established that part of Hidalgo County, TX, is infested with sapote fruit fly. Officials of the Animal and Plant Health Inspection Service (APHIS) and State and county agencies in Texas have begun an intensive survey and eradication program in the infested area. Texas has restricted the intrastate movement of certain articles from the infested area to prevent the spread of the sapote fruit fly within Texas. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the infested area to prevent the spread of the sapote fruit fly to noninfested areas of the United States. This interim rule establishes those Federal regulations, which are described below.

##### *Section 301.99—Restrictions on Interstate Movement of Regulated Articles*

Section 301.99 prohibits the interstate movement of regulated articles from quarantined areas except in accordance with the regulations.

##### *Section 301.99-1—Definitions*

Section 301.99-1 contains definitions of the following terms: *Administrator, Animal and Plant Health Inspection Service, certificate, compliance agreement, core area, day degrees, departmental permit, dripline, infestation, inspector, interstate, limited permit, moved (move, movement), person, Plant Protection and Quarantine, quarantined area, regulated article, sapote fruit fly, and State.*

##### *Section 301.99-2—Regulated Articles*

Certain articles present a significant risk of spreading the sapote fruit fly if they are moved from quarantined areas without restrictions. We call these articles regulated articles. Paragraphs (a) through (e) of § 301.99-2 list the following as regulated articles:

- The sapote fruit fly;
- Fruits and vegetables that are not canned or dried or that are not frozen below -17.8 °C (0 °F);
- Soil within the dripline of plants that are producing or have produced those fruits or vegetables; and
- Any other product, article, or means of conveyance that an inspector determines to present a risk of spreading the sapote fruit fly after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations.

The last item listed above, which provides for the designation of "any other product, article, or means of conveyance" as a regulated article, is intended to address the risks presented by, for example, a truck with sapote fruit fly pupae in the cracks of its floorboards, thus enabling an inspector to designate that truck as a regulated article in order to ensure that any necessary risk-mitigating measures are carried out.

##### *Section 301.99-3—Quarantined Areas*

Paragraph (a) of § 301.99-3 provides the criteria for the inclusion of States, or portions of States, in the list of quarantined areas. Under these criteria, any State or portion of a State in which the sapote fruit fly is found by an inspector, or in which the Administrator has reason to believe that the sapote fruit fly is present, will be listed as a quarantined area. These criteria also provide that an area will be designated as a quarantined area when the Administrator considers it necessary due to the area's inseparability for quarantine enforcement purposes from localities in which the sapote fruit fly has been found.

Paragraph (a) of § 301.99-3 also provides that we will designate less than an entire State as a quarantined area only if we determine that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles and that the designation of less than an entire State as a quarantined area will prevent the interstate spread of the sapote fruit fly. These determinations would indicate that infestations are confined to the quarantined areas and eliminate the need for designating an entire State as a quarantined area.

The boundary lines that delimit the portion of a State that is designated as a quarantined area are set up approximately 4.5 miles from the locations where sapote fruit fly has been detected. The 4.5 mile radius distance for regulated areas from the trapping sites for sapote fruit fly is based upon several factors, including: Previous experience with fruit fly eradication programs, estimated efficacy of trapping grids, available data on natural dispersal, and recommendations from fruit fly experts familiar with the biology and behavior of the sapote fruit fly. The boundary lines may vary due to factors such as the location of sapote fruit fly host material, the location of transportation centers such as bus stations and airports, the pattern of persons moving in that State, the

number and patterns of distribution of the sapote fruit fly, and the use of clearly identifiable lines for the boundaries.

We have determined that it is not necessary to designate the entire State of Texas as a quarantined area. The sapote fruit fly has not been found in any area of the State other than a portion of Hidalgo County, and Texas has adopted and is enforcing restrictions on the intrastate movement of regulated articles from that area that are equivalent to those we are imposing on the interstate movement of regulated articles. Therefore, in accordance with the criteria described in the previous paragraph, we have designated part of the lower Rio Grande valley in Hidalgo County, TX, as a quarantined area. The boundaries of the quarantined area are described in § 301.99-3(c) in the rule portion of this document.

Paragraph (b) of § 301.99-3 provides that we may temporarily designate any nonquarantined area in a State as a quarantined area when we determine that the nonquarantined area meets the criteria for designation as a quarantined area described in § 301.99-3(a). In such cases, we will give the owner or person in possession of the area a copy of the regulations along with written notice of the area's temporary designation as a quarantined area, after which time the interstate movement of any regulated article from the area will be subject to the regulations. This provision is necessary to prevent the spread of the sapote fruit fly during the time between the detection of the pest and the time a document quarantining the area can be made effective and published in the **Federal Register**. In the event that an area's designation as a temporary quarantined area is terminated, we will provide written notice of that termination to the owner or person in possession of the area as soon as practicable.

#### *Section 301.99-4—Conditions Governing the Interstate Movement of Regulated Articles From Quarantined Areas*

This section requires most regulated articles moving interstate from quarantined areas to be accompanied by a certificate or a limited permit. The U.S. Department of Agriculture (USDA or the Department) may move regulated articles interstate without a certificate or limited permit if the articles are moved for experimental or scientific purposes. However, the articles must be moved in accordance with a departmental permit issued by the Administrator, under conditions specified on the permit to

prevent the spread of the sapote fruit fly.

Except for articles moved by APHIS or the Department, only regulated articles that are moved into the quarantined area from outside the quarantined area and that are accompanied by a waybill that indicates the point of origin may be moved interstate from the quarantined area without a certificate or limited permit. Additionally, the articles must be moved in an enclosed vehicle or be completely enclosed so as to prevent access by sapote fruit flies. The regulated articles must also be moved through the quarantined area without stopping (except for refueling and for traffic conditions such as traffic lights and stop signs), and the regulated articles must not be unpacked or unloaded in the quarantined area.

#### *Section 301.99-5—Issuance and Cancellation of Certificates and Limited Permits*

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles when an inspector finds that, because of certain conditions (e.g., the article is free of sapote fruit fly), there is no pest risk before movement. Regulated articles accompanied by a certificate may be moved interstate without further restrictions. Limited permits are issued for regulated articles when an inspector finds that, because of a possible pest risk, the articles may be safely moved interstate only subject to further restrictions, such as movement to limited areas and movement for limited purposes. Section 301.99-5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.99-5(a) provides that a certificate will be issued by an inspector for the movement of a regulated article if the inspector determines that the article: (1) Is free of the sapote fruit fly, has been treated in the presence of an inspector in accordance with § 301.99-10, or comes from a premises of origin that is free of the sapote fruit fly; (2) will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of the sapote fruit fly under section 414 of the Plant Protection Act (7 U.S.C. 7714); and (3) is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to that article.

We have included a footnote (number 4) that provides an address for securing the addresses and telephone numbers of the local Plant Protection and

Quarantine (PPQ) offices at which services of inspectors may be requested. We have also included a footnote (number 5) that explains that the Secretary of Agriculture may, under the Plant Protection Act, take emergency actions to seize, quarantine, treat, destroy, or apply other remedial measures to articles that are, or that he or she has reason to believe are, infested or infected by or contain plant pests.

Paragraph (b) of § 301.99-5 provides for the issuance of a limited permit by an inspector for interstate movement of a regulated article if the inspector determines that the article is to be moved to a specified destination for specified handling, utilization, or processing, and that the movement will not result in the spread of the sapote fruit fly. A limited permit will only be issued if the regulated article will be moved in compliance with any additional emergency conditions imposed by the Administrator under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the sapote fruit fly, and if the regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Paragraph (c) of § 301.99-5 allows any person who has entered into and is operating under a compliance agreement to issue a certificate or limited permit for the interstate movement of a regulated article after an inspector has determined that the article is eligible for a certificate or limited permit under § 301.99-5(a) or (b).

Also, § 301.99-5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector if the inspector determines that the holder of the certificate or limited permit has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact in the event that the person wishes to appeal the cancellation.

#### *Section 301.99-6—Compliance Agreements and Cancellation*

Section 301.99-6 provides for the use of and cancellation of compliance agreements. Compliance agreements are provided for the convenience of persons who are involved in the growing, handling, or moving of regulated articles from quarantined areas. A person may enter into a compliance agreement when an inspector has determined that the person requesting the compliance

agreement has been made aware of the requirements of the regulations and the person has agreed to comply with the requirements of the regulations and the provisions of the compliance agreement. This section contains a footnote (number 7) that explains where compliance agreement forms may be obtained.

Section 301.99-6 also provides that an inspector may cancel the compliance agreement upon finding that a person who has entered into the agreement has failed to comply with any of the provisions of the regulations. The inspector will notify the holder of the compliance agreement of the reasons for cancellation and offer an opportunity for a hearing to resolve any conflicts of material fact in the event that the person wishes to appeal the cancellation.

#### *Section 301.99-7—Assembly and Inspection of Regulated Articles*

Section 301.99-7 provides that any person (other than a person authorized to issue certificates or limited permits under § 301.99-5(c)) who desires a certificate or limited permit to move regulated articles must request, at least 48 hours before the desired interstate movement, that an inspector issue a certificate or limited permit. The regulated articles must be assembled in a place and manner directed by the inspector.

#### *Section 301.99-8—Attachment and Disposition of Certificates and Limited Permits*

Section 301.99-8 requires the certificate or limited permit issued for movement of the regulated article to be attached, during the interstate movement, to the regulated article, or to a container carrying the regulated article, or to the consignee's copy of the accompanying waybill. Further, the section requires that the carrier or the carrier's representative must furnish the certificate or limited permit to the consignee listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

#### *Section 301.99-9—Costs and Charges*

Section 301.99-9 explains the APHIS policy that the services of an inspector that are needed to comply with the regulations are provided without cost between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, to persons requiring those services, but that we will not be responsible for any other costs or charges (such as overtime costs for inspections conducted at times other than between 8 a.m. to 4:30 p.m.,

Monday through Friday, except holidays).

#### *Section 301.99-10—Treatments*

Section 301.99-10 lists treatments that qualify soil and regulated articles for interstate movement with a certificate as provided in § 301.99-5.

The introductory text of this section provides that any person moving fruits and vegetables originating inside the quarantined area outside of the quarantined area may treat those fruits and vegetables with an applicable treatment listed in the PPQ Treatment Manual, which is incorporated by reference at 7 CFR 300.1, "Plant Protection and Quarantine Treatment Manual."

Paragraph (a) provides that soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.99-2(a) of the subpart may be treated with diazinon at the rate of 5 pounds active ingredient per acre with sufficient water to wet the soil to a depth of at least ½ inch. Research by the Department's Agricultural Research Service has determined that this diazinon treatment would destroy the sapote fruit fly in soil.

Paragraph (b) provides that 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 the treatments prescribed in the PPQ Treatment Manual. Exposure period for this treatment is 2 hours. 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. After the treatment cycle is complete, regulated articles will be eligible for interstate movement with a certificate as provided in § 301.99-5 unless, prior to treatment, representative sampling revealed a level of infestation greater than 0.5 percent for the lot.

Paragraph (d) provides that premises that are located within the regulated area but outside the infested core area, and that produce regulated articles, may receive regular treatments with

malathion or spinosad bait spray as an alternative to treating fruits and vegetables with methyl bromide fumigation as described above or with treatments prescribed in the PPQ Treatment Manual. These treatments 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 completion of egg and larvae development of the sapote fruit fly. Determination of the time period must be based on the day degrees model for sapote fruit fly. Since the length of fruit fly life cycles vary according to the temperature of their environment, the day degrees model is used to project the duration of the life cycle of the 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. Spinosad bait spray 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 of spinosad, the mixture may be diluted with water to improve coverage. After the treatment cycle is complete, regulated articles produced on the premises will be eligible for interstate movement with a certificate as provided in § 301.99-5.

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the sapote fruit fly from spreading to noninfested areas of the United States. 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 rule 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.

#### **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 under Executive Order 12866.

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 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 the Sapote Fruit Fly Cooperative Eradication Program. The assessment provides a basis for the conclusion that the implementation of this interim rule will not have a significant impact on human health and the natural 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 (NEPA), as amended (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 in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning

of this document). Copies may also be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**. In addition, copies are available on the Internet at <http://www.aphis.usda.gov/ppd/es/sapff.htm>.

#### Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0222 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03–032–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 03–032–1 and send your comments within 60 days of publication of this rule.

This interim rule quarantines a part of Hidalgo County, TX, because of the sapote fruit fly and restricts the interstate movement of regulated articles from the quarantined area. Its implementation will require us to engage in certain information collection activities, in that certain articles may not be moved interstate from the quarantined area unless they are accompanied by a certificate or limited permit. A certificate or limited permit may be issued by an inspector (*i.e.*, an APHIS employee or other person authorized by the APHIS Administrator to enforce the regulations) or by a person who has entered into a written compliance agreement with APHIS. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.16 hours per response.

*Respondents:* Growers, State plant regulatory officials.

*Estimated annual number of respondents:* 700.

*Estimated annual number of responses per respondent:* 1.

*Estimated annual number of responses:* 700.

*Estimated total annual burden on respondents:* 112 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS Information Collection Coordinator, at (301) 734–7477.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS Information Collection Coordinator, at (301) 734–7477.

#### 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 is revised to read as follows:

**Authority:** 7 U.S.C. 7701–7772; 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. Part 301 is amended by adding a new "Subpart—Sapote Fruit Fly," §§ 301.99 through 301.99-10, to read as follows:

#### Subpart—Sapote Fruit Fly

Sec.

301.99 Restrictions on interstate movement of regulated articles.

301.99-1 Definitions.

301.99-2 Regulated articles.

301.99-3 Quarantined areas.

301.99-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

301.99-5 Issuance and cancellation of certificates and limited permits.

301.99-6 Compliance agreements and cancellation.

301.99-7 Assembly and inspection of regulated articles.

301.99-8 Attachment and disposition of certificates and limited permits.

301.99-9 Costs and charges.

301.99-10 Treatments.

#### Subpart—Sapote Fruit Fly

##### § 301.99 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.<sup>1</sup>

##### § 301.99-1 Definitions.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

*Certificate.* A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of sapote fruit fly and may be moved interstate to any destination.

*Compliance agreement.* A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

*Core area.* The 1-square-mile area surrounding each property where sapote fruit fly has been detected.

*Day degrees.* A mathematical construct combining average

temperature over time that is used to calculate the length of a sapote fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F:

(Minimum Daily Temp + Maximum Daily Temp)/2) – 54 = Day Degrees.

*Departmental permit.* A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.99-4(c) of this subpart.

*Dripline.* The line around the canopy of a plant.

*Infestation.* The presence of the sapote fruit fly or the existence of circumstances that makes it reasonable to believe that the sapote fruit fly is present.

*Inspector.* Any employee of APHIS or other person authorized by the Administrator to perform the duties required under this subpart.

*Interstate.* From any State into or through any other State.

*Limited permit.* A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.99-5(b) only to a specified destination and only in accordance with specified conditions.

*Moved (move, movement).* Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

*Person.* Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

*Plant Protection and Quarantine.* The Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

*Quarantined area.* Any State, or any portion of a State, listed in § 301.99-3(c) or otherwise designated as a quarantined area in accordance with § 301.99-3(b).

*Regulated article.* Any article listed in § 301.99-2 or otherwise designated as a regulated article in accordance with § 301.99-2(d).

*Sapote fruit fly.* The insect known as the sapote fruit fly, *Anastrepha serpentina*, in any stage of development.

*State.* The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

##### § 301.99-2 Regulated articles.

The following are regulated articles:

(a) Sapote fruit flies.<sup>2</sup>  
(b) The following fruits and vegetables:

Abiu (*Pouteria caimito*)  
Apple (*Malus domestica*)  
Avocado (*Persea americana*)  
Black sapote (*Diospyros digyna*)  
Citrus (*Citrus* spp.)  
Egg-fruit tree (*Pouteria campechiana*)  
Green sapote (*Pouteria viridis*)  
Guava (*Psidium guajava*)  
Hog-plum (*Spondias mombin*)  
Ketembilla (*Dovyalis hebecarpa*)  
Lucmo (*Pouteria obovata*)  
Mammy apple (*Mammea americana*)  
Mango (*Mangifera indica*)  
Nance (*Byrsonima crassifolia*)  
Panama orange (*Citrofortunella x mitis*)  
Peach (*Prunus persica*)  
Pear (*Pyrus communis*)  
Pond-apple (*Annona glabra*)  
Quince (*Cydonia oblonga*)  
Red mombin (*Spondias purpurea*)  
Sapodilla (*Manilkara zapota*)  
Sapote (*Diospyros* spp.)  
Star-apple (*Chrysophyllum Cainito*)

Any fruits or vegetables that are not canned or dried or frozen below –17.8 °C. (0 °F.).

(c) Soil within the dripline of plants that are producing or have produced the fruits or vegetables listed in paragraph (b) of this section.

(d) Any other product, article, or means of conveyance not listed in paragraphs (a) through (c) of this section that an inspector determines presents a risk of spreading the sapote fruit fly, after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

##### § 301.99-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the sapote fruit fly has been found by an inspector, in which the Administrator has reason to believe that the sapote fruit fly is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which the sapote fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate

<sup>1</sup> Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 414 of the Plant Protection Act (7 U.S.C. 7714).

<sup>2</sup> Permit and other requirements for the interstate movement of sapote fruit flies are contained in part 330 of this chapter.

movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the sapote fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, the area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described in this paragraph are designated as quarantined areas:

#### Texas

*Hidalgo County.* That portion of Hidalgo County bounded by a line as follows: Beginning at the intersection of South Cage Boulevard and the Rio Grande River; then northwest along the Rio Grande River for 17.11 miles; then north along an imaginary line to the intersection of Aloe Vera and Sunrise Street; then northeast along an imaginary line to the intersection of Victoria and Davina Street; then northwest along an imaginary line to the intersection of Farm Road 495 and North Stewart Road; then northeast along an imaginary line to the intersection of North Ware Road and Mile 4 North Road; then east on Mile 4 North Road (also known as West Alberta Road) to South I Road; then south on South I Road to West Earling Road; then east on West Earling Road to North San Juan Road; then south on North San Juan Road to East Ferguson Avenue; then east on East Ferguson Avenue to East Gasline Road; then south on East Gasline Road to East Nebraska Road; then east on East Nebraska Road to North Morningside Road; then south on North Morningside Road to Expressway 83; then east on Expressway 83 to North Alamo Road; then north on North Alamo Road to Earling Road; then west on Earling Road to North Morningside Road; then north on North Morningside

Road to East Curve Road; then east on East Curve Road to Alamo Road; then north on Alamo Road to Mile 17 Road North; then west on Mile 17 Road North to Sharp Road; then northeast on Sharp Road to Mile 18 Road North; then east on Mile 18 Road North continuing along an imaginary line to Mile 17 Road North and Mile 6 Road West; then south on Mile 6 Road West to Mile 17 Road North; then east on Mile 17 Road North to West Broadway Street; then south on West Broadway Street to State Highway 107; then east on State Highway 107 to Mile 4 Road West; then south on Mile 4 Road West to Mile 13 Road North; then east on Mile 13 Road North to Farm Road 1015; then south on Farm Road 1015 to Expressway 83; then west on Expressway 83 to South Bridge Avenue; then south on South Bridge Avenue to East Eighth Street; then west on East Eighth Street to South Border Avenue; then south on South Border Avenue to Mile 6 Road North; then west on Mile 6 Road North to Midway Road; then south on Midway Road to Lott Road; then west on Lott Road, continuing along an imaginary line to the intersection of FM 907 and Resaca Road; then south on FM 907 to Balli Road; then west on Balli Road to FM 2557; then south on FM 2557 to Las Milpas Road; then east on Las Milpas Road to South I Road; then south on South I Road to Hi Line Road; then west on Hi Line Road to South Cage Boulevard; then south on South Cage Boulevard to the point of beginning.

#### § 301.99-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area<sup>3</sup> only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.99-5 and 301.99-8;

(b) Without a certificate or limited permit if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by sapote fruit flies (such as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not

<sup>3</sup> Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

opened, unpacked, or unloaded in the quarantined area; and

(3) The regulated article is moved through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs.

(c) Without a certificate or limited permit if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the departmental permit and found by the Administrator to be adequate to prevent the spread of the sapote fruit fly; and

(4) With a tag or label bearing the number of the departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

(Approved by the Office of Management and Budget under control number 0579-0222)

#### § 301.99-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate may be issued by an inspector<sup>4</sup> for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with § 301.99-10; or

(ii) Based on inspection of the premises of origin, the premises are free from the sapote fruit fly; or

(iii) Based on inspection of the regulated article, the regulated article is free of sapote fruit flies; and

(2) The regulated article will be moved through the quarantined area in an enclosed vehicle or will be completely enclosed by a covering adequate to prevent access by the sapote fruit fly; and

(3) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>5</sup> to prevent the spread of the sapote fruit fly; and

<sup>4</sup> Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the McAllen Work Station, Federal Building Suite 119, 320 North Main, McAllen, TX 78501-4699, or the APHIS Web site at <http://www.aphis.usda.gov/travel/ajq.html>.

<sup>5</sup> Section 414 of the Plant Protection Act (7 U.S.C. 7714) provides that the Secretary of Agriculture

(4) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector<sup>6</sup> will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the sapote fruit fly because life stages of the sapote fruit fly will be destroyed by the specified handling, processing, or utilization;

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the sapote fruit fly; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for the interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article after an inspector has determined that the regulated article is eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article after an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or limited permit has not complied with all conditions in this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be

may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to destroy or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United States or interstate if the Secretary has reason to believe the article is a plant pest or is infested with a plant pest at the time of movement.

<sup>6</sup> See footnote 4 to § 301.99-5(a).

confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0222)

#### § 301.99-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person is aware of this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.<sup>7</sup>

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Administrator, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

<sup>7</sup> Compliance agreement forms are available without charge from the McAllen Work Station, Federal Building Suite 119, 320 North Main, McAllen, TX 78501-4699, and from local Plant Protection and Quarantine offices, which are listed in telephone directories.

#### § 301.99-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.99-5(c)) who desires a certificate or limited permit to move a regulated article interstate must notify an inspector<sup>8</sup> as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

#### § 301.99-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier or the carrier's representative to the consignee listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

(Approved by the Office of Management and Budget under control number 0579-0222)

#### § 301.99-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

#### § 301.99-10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the sapote fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see

<sup>8</sup> See footnote 4 to § 301.99-5(a).

§ 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.*

[FR Doc. 03-11438 Filed 5-7-03; 8:45 am]

**BILLING CODE 3410-34-P**

## 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.*

[FR Doc. 03-11437 Filed 5-7-03; 8:45 am]

**BILLING CODE 3410-34-P**