

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2007–0114]

#### Imported Fire Ant; Additions to the List of Quarantined Areas

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

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

**SUMMARY:** We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 3 in North Carolina, and 3 in Tennessee, by expanding the quarantined area in 1 county in Arkansas and 15 in Tennessee, and by designating the entire State of South Carolina as a quarantined area. 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 imported fire ant to noninfested areas of the United States.

**DATES:** This interim rule is effective October 25, 2007. We will consider all comments that we receive on or before December 24, 2007.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2007–0114 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after

the close of the comment period, is available through the site’s “User Tips” link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0114, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0114.

*Reading Room:* 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.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles L. Brown, Imported Fire Ant Quarantine Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4838.

#### SUPPLEMENTARY INFORMATION:

##### Background

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

The imported fire ant (*Solenopsis invicta* Buren, *Solenopsis richteri* Forel, and hybrids of these species) is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant, which is not native to the United States, feeds on crops and builds large, hard mounds that damage farm and field machinery. The regulations are intended to prevent the imported fire ant from spreading throughout its ecological range within the country.

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

In § 301.81–3, paragraph (e) lists quarantined areas. We are amending § 301.81–3(e) by:

- Adding all of Lonoke and Yell Counties, AR, to the quarantined area;
- Expanding the quarantined area in Faulkner County, AR, to include the entirety of the county;
- Adding portions of Iredell, Lincoln, and Rutherford Counties, NC, to the list of quarantined areas;
- Expanding the quarantined areas in Cherokee, Greenville, and Spartanburg Counties, SC, to include the entirety of each county, with the result that the entire State of South Carolina is now designated as a quarantined area;
- Adding portions of Crockett, Morgan, and Warren Counties, TN, to the list of quarantined areas;
- Expanding the quarantined areas in Anderson, Coffee, Cumberland, Haywood, Knox, and Williamson Counties, TN; and
- Expanding the quarantined areas in Bedford, Benton, Bledsoe, Blount, Carroll, Grundy, Hickman, Rutherford, and Van Buren Counties, TN, to include the entirety of each county.

We are taking these actions because recent surveys conducted by APHIS and State and county agencies revealed that the imported fire ant has spread to these areas. See the regulatory text at the end of this document for specific descriptions of the new and revised quarantined areas.

**Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the spread of imported fire ant into 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.

We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 2 counties in Arkansas, 3 in North Carolina, and 3 in Tennessee, by expanding the quarantined area in 1 county in Arkansas and 15 in Tennessee, and by designating the entire State of South Carolina as a quarantined area. We are taking this action because surveys conducted by APHIS and State and county agencies revealed that imported fire ant has spread to these areas. Agricultural activities in these imported fire ant-infested areas are at risk due to the potential of imported fire ants to directly or indirectly damage crops and agricultural machinery and harm livestock.

This interim rule will affect businesses such as nurseries, landscaping operations, and timber companies that are located within the newly expanded quarantined areas and that transport regulated articles interstate.

Table 1 summarizes the 2002 Census of Agriculture data according to three commodity groups that will be affected by the interim rule. These commodity groups are: (1) Nursery, greenhouse, floriculture, and sod;<sup>1</sup> (2) other crops and hay;<sup>2</sup> and (3) cut Christmas trees and short rotation woody crops.

Since no clear-cut method exists to disaggregate these commodity groups to the specific imported fire ant-regulated articles, the entirety of these commodity groups is used to approximate the number and size of the entities that may be affected by the interim rule.

In 2002, there were 1,193 nurseries, greenhouses, floriculture producers, and sod producers, 4,098 producers of other crops and hay, and 98 producers of cut Christmas trees and short rotation woody crops in the affected counties. Sales<sup>3</sup> of all agricultural products sold in the counties were more than \$1 billion in 2002, of which about \$172 million can be attributed to the three commodity groups affected by the quarantine restrictions imposed by this rule.

**TABLE 1.—SUMMARY OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES**

Number of affected counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Subtotal of the commodity groups affected by the quarantine		All agricultural products	
	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)
3 (AR) .....	15	1,366	399	3,095	3	.....	417	4,461	2,923	231,180
3 (NC) .....	75	3,701	450	1,912	7	27	532	5,640	2,533	172,680
3 (SC) .....	130	18,946	399	1,749	18	54	547	20,749	2,751	67,410
18 (TN) .....	973	131,192	2,850	9,001	70	593	3,893	140,786	17,046	538,125
27 (total) .....	1,193	155,205	4,098	15,757	98	7,439	5,389	171,636	25,253	1,009,412

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

Table 2 summarizes the percentage shares of sales and number of farms for those 3 commodity groups relative to the total agricultural product sales and number of farms in the 27 counties. Sales shares of nursery, greenhouse, floriculture, and sod in the newly quarantined counties of South Carolina

and Tennessee are substantially higher (28 percent and 24 percent, respectively) than in the newly quarantined counties in Arkansas and North Carolina (less than 1 percent and 2 percent, respectively). An average of 16 percent of farms in the affected counties sell other crops and hay, but

these products comprise less than 2 percent of all agricultural products sold in these counties. Overall, based on 2002 Census of Agriculture data, 21 percent of the farms (5,389 out of 25,253 farms) and 17 percent of agricultural product sales in the 27 counties may be affected by this interim rule.

**TABLE 2.—PERCENTAGE SHARES OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES**

Number of counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Sum of three affected commodity groups by the quarantine		All agricultural products	
	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)
3 (AR) .....	0.5	0.6	13.7	1.3	0.1	.....	14.3	1.9	100	100
3 (NC) .....	3.0	2.1	17.8	1.1	0.3	0.0	21.0	3.3	100	100
3 (SC) .....	4.7	28.1	14.5	2.6	0.7	0.1	19.9	30.8	100	100

<sup>1</sup> In the 2002 Census, data include sales of bedding plants, bulbs, cut flowers, flower seeds, foliage plants, mushrooms, nursery potted plants, shrubbery, nursery stock, live Christmas trees, tobacco transplants, sod, etc.

<sup>2</sup> In the 2002 Census, data are for the total market value of all crops not categorized elsewhere. This includes crops such as grass seed, hay and grass silage, haylage, greenchop, hops, maple syrup, mint for oil, ginseng root, peanuts, sugarcane, sugar beets, etc.

<sup>3</sup> The value of sales represents the gross market value before taxes and production expenses of all agricultural products sold or removed from the place in 2002 regardless of who received the payment.

TABLE 2.—PERCENTAGE SHARES OF THREE COMMODITY GROUPS IN THE AFFECTED COUNTIES—Continued

Number of counties	Nursery, greenhouse, floriculture, and sod		Other crops and hay		Cut-Christmas trees and short rotation woody crops		Sum of three affected commodity groups by the quarantine		All agricultural products	
	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)	Number of farms (percent)	Sales (percent)
18 (TN) .....	5.7	24.4	16.7	1.7	0.4	0.1	22.8	26.2	100	100
27 (total) .....	4.7	15.4	16.2	1.6	0.4	0.1	21.3	17.0	100	100

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

Table 3 summarizes sales and number of farms in the 27 counties and their respective 4 States. The market value of all agricultural products sold in these counties was more than \$1 billion, about 61 percent (or \$615 million) of which were sales attributable to

livestock, poultry, and animal products, with the remaining 39 percent (or \$394 million) attributable to crop sales, including nursery and greenhouse crops. The market value of the 3 affected commodity groups sold in the 27 counties was about \$172 million, or

about 14 percent of the \$1.2 billion in total sales for the 3 affected commodity groups in the 4 States. Within these States and in neighboring States, there is a large agricultural economy at risk due to the potential of imported fire ant to damage crops and injure livestock.

TABLE 3.—SALES AND NUMBER OF FARMS IN THE NEWLY QUARANTINED COUNTIES AND THEIR STATES

Number of counties	Sum of three affected commodity groups and State total		All crops, including nursery and greenhouse		Livestock, poultry, and their products		All agricultural products	
	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)	Number of farms	Sales (\$1,000)
<i>Arkansas:</i>								
3 .....	417	4,461	738	79,256	1,868	151,925	2,923	231,180
Total AR .....	6,287	81,986	12,995	1,620,384	30,956	3,330,014	47,483	4,950,397
<i>North Carolina:</i>								
3 .....	532	5,640	762	13,417	1,553	159,263	2,533	172,680
Total NC .....	12,030	566,104	24,587	2,008,634	26,948	4,953,052	53,930	6,961,686
<i>South Carolina:</i>								
3 .....	547	20,749	785	33,071	1,207	34,338	2,751	67,409
Total SC .....	6,131	244,090	7,869	593,245	10,133	896,505	24,541	1,489,750
<i>Tennessee:</i>								
18 .....	3,893	140,786	5,154	268,543	10,124	269,582	17,046	538,125
Total TN .....	17,266	333,023	29,143	1,072,548	51,367	1,127,266	87,595	2,199,814
27 newly infested counties total .....	5,389	171,636	7,439	394,287	14,752	615,108	25,253	1,009,394
Four States (AR, NC, SC, TN) total .....	41,714	1,225,203	74,594	5,294,811	119,404	10,306,837	213,549	15,601,647

Source: USDA, NASS, 2002 Census of Agriculture, State and County Level Data. Table 2. Market Value of Agricultural Products Sold Including Direct and Organic in 2002.

According to Small Business Administration criteria, a business engaged in crop production (North American Industry Classification System [NAICS] Subsector 111) is considered to be a small entity if its annual receipts are not more than \$750,000. A business engaged in support activities for agriculture and forestry (NAICS Subsector 115) is considered small if its annual receipts are not more than \$6 million. Agricultural entities in the newly quarantined areas are predominantly, if not entirely, small entities.

The aforementioned three commodity groups, as well as farm equipment dealers, construction companies, and those who sell, process, or move regulated articles from and through quarantined areas, may be affected by this rule. Such operations will now be required to treat restricted articles before moving them interstate. Only regulated articles moved interstate

outside of the quarantined areas will be affected. However, adverse economic effects of the rule on affected entities that move regulated articles interstate are mitigated by the availability of various treatments. In most cases these treatments permit the movement of regulated articles with only a small additional cost. For example, the treatment cost of an average shipment of nursery plants on a standard trailer truck ranges between 0.04 percent and 1 percent<sup>4</sup> of the value of the plants transported, given a treatment cost per shipment of around \$200. The estimated annual compliance costs for these entities is small in comparison to the benefit gained through reduced human-

<sup>4</sup> An average nursery plant (i.e., potted) costs between \$2 and \$50, so that the value of a load for a standard tractor trailer transporting up to 10,000 plants ranges between \$20,000 and \$500,000; \$200/\$20,000 = 1 percent, and \$200/\$500,000 = 0.04 percent.

assisted spread of imported fire ant to noninfested areas of the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings

before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This rule contains no new 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. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.81–3, paragraph (e) is amended as follows:

■ a. Under the heading Arkansas, by adding, in alphabetical order, new entries for Lonoke and Yell Counties, and by revising the entry for Faulkner County to read as set forth below.

■ b. Under the heading North Carolina, by adding, in alphabetical order, new entries for Iredell, Lincoln, and Rutherford Counties, as set forth below.

■ c. By revising the entry for South Carolina to read as set forth below.

■ d. Under the heading Tennessee, by adding, in alphabetical order, new entries for Crockett, Morgan, and Warren Counties, and by revising the entries for Anderson, Bedford, Benton, Bledsoe, Blount, Carroll, Coffee, Cumberland, Grundy, Haywood, Hickman, Knox, Rutherford, Van Buren, and Williamson Counties to read as set forth below.

**§ 301.81–3 Quarantined areas.**

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

Arkansas

\* \* \* \* \*

*Faulkner County.* The entire county.

\* \* \* \* \*

*Lonoke County.* The entire county.

\* \* \* \* \*

*Yell County.* The entire county.

\* \* \* \* \*

North Carolina

\* \* \* \* \*

*Iredell County.* That portion of the county lying south of State Highway 150.

\* \* \* \* \*

*Lincoln County.* That portion of the county lying east of State Highway 321.

\* \* \* \* \*

*Rutherford County.* That portion of the county lying south of State Highway 74.

\* \* \* \* \*

South Carolina

The entire State.

\* \* \* \* \*

Tennessee

*Anderson County.* That portion of the county lying east and south of a line beginning at the intersection of the Roane/Anderson County line and Tennessee Highway 330; then northeast on Tennessee Highway 330 to Tennessee Highway 116; then north on Tennessee Highway 116 to Interstate 75; then southeast on Interstate 75 to the Anderson/Knox County line.

*Bedford County.* The entire county.

*Benton County.* The entire county.

*Bledsoe County.* The entire county.

*Blount County.* The entire county.

\* \* \* \* \*

*Carroll County.* The entire county.

\* \* \* \* \*

*Coffee County.* That portion of the county lying west and south of a line beginning at the intersection of the Cannon/Coffee County line and Tennessee Highway 53; then south on Tennessee Highway 53 to Riddle Road; then southeast on Riddle Road to Keele Road; then northeast on Keele Road to Tennessee Highway 55; then northeast on Tennessee Highway 55 to Swann Road; then east on Swann Road to Wisner Road; then north on Wisner Road to Rock Road; then east on Rock Road to Pleasant Knoll Road; then north on Pleasant Knoll Road to Marcrom Road; then east on Marcrom Road to the Coffee/Warren County line.

*Crockett County.* That portion of the county lying east of a line beginning at the intersection of the Haywood/Crockett County line and U.S. Highway 70A/79; then northeast on U.S. Highway 70A/79 to Tennessee Highway 88; then north on Tennessee Highway 88 to Tennessee Highway 54; then northeast on Tennessee Highway 54 to the Crockett/Gibson County line.

*Cumberland County.* That portion of the county lying southeast of a line beginning at the intersection of the White/Cumberland County line and

U.S. Highway 70; then east on U.S. Highway 70 to Market Street (in Crab Orchard); then north on Market Street to Main Street; then west on Main Street to Chestnut Hill Road; then northeast on Chestnut Hill Road to Westchester Drive; then north on Westchester Drive to Peavine Road; then east on Peavine Road to Hebbertsburg Road; then northeast on Hebbertsburg Road to the Cumberland/Morgan County line.

\* \* \* \* \*

*Grundy County.* The entire county.

\* \* \* \* \*

*Haywood County.* That portion of the county lying southeast of Tennessee Highway 54.

\* \* \* \* \*

*Hickman County.* The entire county.

\* \* \* \* \*

*Knox County.* That portion of the county lying southwest of a line beginning at the intersection of the Union/Knox County line and Tennessee Highway 33; then south on Tennessee Highway 33 to the Tennessee River; then northeast along the Tennessee River to the French Broad River; then east along the French Broad River to the Knox/Sevier County line.

\* \* \* \* \*

*Morgan County.* That portion of the county lying south of a line beginning at the intersection of the Cumberland/Morgan County line and Tennessee Highway 298; then northeast on Tennessee Highway 298 to Tennessee Highway 62; then southeast on Tennessee Highway 62 to the Morgan/Roane County line.

\* \* \* \* \*

*Rutherford County.* The entire county.

\* \* \* \* \*

*Van Buren County.* The entire county.

*Warren County.* That portion of the county lying southeast of a line beginning at the intersection of the Coffee/Warren County line and Marcrom Road; then east on Marcrom Road to Fred Hoover Road; then north on Fred Hoover Road to Tennessee Highway 287; then northwest on Tennessee Highway 287 to Vervilla Road; then northeast on Vervilla Road to Swan Mill Road; then east on Swan Mill Road to Grove Road; then southeast on Grove Road to Tennessee Highway 108/127; then northeast on Tennessee Highway 108/127 to the split between Tennessee Highway 108 and Tennessee Highway 127; then northeast on Tennessee Highway 127 to Tennessee Highway 56; then southeast on Tennessee Highway 56 to Fairview Road; then northeast on Fairview Road to Tennessee Highway 8; then southeast on Tennessee Highway 8 to Dark

Hollow Road; then north on Dark Hollow Road to Tennessee Highway 30; then northeast on Tennessee Highway 30 to the Warren/Van Buren County line.

\* \* \* \* \*

*Williamson County.* That portion of the county lying northeast of a line beginning at the intersection of the Davidson/Williamson County line and U.S. Highway 31; then southwest on U.S. Highway 31 to U.S. Highway Business 431; then southeast on U.S. Highway Business 431 to Mack Hatcher Parkway; then north on Mack Hatcher Parkway to South Royal Oaks Boulevard; then northeast on South Royal Oaks Boulevard to Tennessee Highway 96; then east on Tennessee Highway 96 to Clovercroft Road; then northeast on Clovercroft Road to Wilson Pike; then north on Wilson Pike to Clovercroft Road; then northeast on Clovercroft Road to Rocky Fork Road; then east on Rocky Fork Road to the Rutherford/Williamson County line. Also, that portion of the county enclosed by a line beginning at the intersection of the Maury/Williamson County line and Tennessee Highway 246; then north on Tennessee Highway 246 to Thompson Station Road West; then east on Thompson Station Road West to Thompson Station Road East; then east on Thompson Station Road East to Interstate 65; then south on Interstate 65 to the Williamson/Maury County line.

\* \* \* \* \*

Done in Washington, DC, this 19th day of October 2007.

**Kevin Shea,**

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

[FR Doc. E7-21003 Filed 10-24-07; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2006-0133]

RIN 0579-AC20

#### Importation of Unshu Oranges From the Republic of Korea Into Alaska

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of citrus fruit to allow fresh Unshu oranges from the Republic of Korea to be

imported into the State of Alaska under certain conditions. As a condition of entry, the oranges will have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and cleaning with high-pressure air or water in combination with brushing. In addition, the oranges will have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv. *citri* and *Unaspis yanonensis*. The individual cartons or boxes in which the Unshu oranges are shipped will also have to be marked with a statement restricting their importation and distribution to the State of Alaska. This action will allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

**DATES:** Effective Date: November 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-8765.

#### SUPPLEMENTARY INFORMATION:

##### Background

Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas axonopodis* pv. *citri* (also known as *Xanthomonas campestris* pv. *citri* and *Xanthomonas citri*). Currently, the regulations in 7 CFR 319.28 (referred to below as the regulations) allow the importation of Unshu oranges (*Citrus reticulata* var. *unshu*) from certain areas in the Republic of Korea (South Korea) into certain areas of the United States under a permit and after the specified safeguards of a preclearance program have been met to prevent the introduction of citrus canker. However, the importation of Unshu oranges from South Korea was administratively suspended in 2002 due to the increased number of interceptions of the causal agent of citrus canker at various packinghouses in South Korea.

In 2005, the national plant protection organization (NPPO) of South Korea requested that the Animal and Plant Health Inspection Service (APHIS) allow the shipment of Unshu oranges into the State of Alaska until the pest risk of citrus canker from South Korea could be adequately mitigated for the rest of the United States.

On December 4, 2006, we published in the **Federal Register** (71 FR 70330-70335, Docket No. APHIS-2006-0133) a proposal<sup>1</sup> to allow the importation of fresh Unshu oranges from the Republic of Korea into the State of Alaska under certain conditions. As a condition of entry, we proposed that the oranges would have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and washing in a water bath. In addition, we proposed that the oranges would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv. *citri* and *Unaspis yanonensis*. The individual cartons or boxes in which the Unshu oranges are shipped would also have to be marked with a statement restricting their importation and distribution to the State of Alaska. This action was intended to allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

We solicited comments concerning our proposal for 60 days ending February 2, 2007. We received two comments by that date, both from domestic citrus industry groups. One of the commenters expressed concern that a pesticide not approved for use in the United States could be imported on fruit from South Korea. While the United States does not have direct control over pesticides that are used on food commodities such as Unshu oranges in other countries, there are regulations in the United States concerning the importation of food to ensure that commodities do not enter the United States containing illegal pesticide residues. Through section 408 of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) has the authority to establish, change, or cancel tolerances for food commodities. These tolerances are the maximum levels of pesticide residues that have been determined, through comprehensive safety evaluations, to be safe for human consumption. Tolerances apply to both food commodities that are grown in the United States and food commodities that are grown in other countries and imported into the United States. While EPA has no authority in a foreign country, the tolerance levels are enforced once the commodity enters the

<sup>1</sup> To view the proposed rule and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0133>.