

(1) A career-conditional employee, except as provided in paragraph (b)(2) of this section; or

(2) A career employee if he or she has completed 3 years of substantially continuous service in a temporary appointment under § 213.3102(u) of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS-2006-0080]

#### Imported Fire Ant; Addition of Counties in Arkansas and Tennessee 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 of 2 counties in Arkansas and all or portions of 21 counties in Tennessee. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary to prevent the artificial spread of imported fire ant to noninfested areas of the United States.

**DATES:** This interim rule is effective July 26, 2006. We will consider all comments that we receive on or before September 25, 2006.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select APHIS-2006-0080 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-2006-0080, 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-2006-0080.

**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 Perry County, AR, to the quarantined area and expanding the quarantined area in Polk County, AR; and

- Adding portions of Anderson, Davidson, Gibson, Knox, Rutherford, Tipton, Van Buren, and Williamson Counties, TN, to the quarantined area and expanding the quarantined area in Bedford, Benton, Blount, Carroll, Cumberland, Grundy, Haywood, Hickman, Humphreys, Loudon, Maury, Roane, and Sequatchie Counties, TN.

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 rule portion 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 all or portions of 2 counties in Arkansas and 21 counties in Tennessee as quarantined areas. 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. According to the 2002 Census of Agriculture, there are at least 537 nurseries and greenhouses in these 23 counties (table 1). These entities are now required to treat their regulated articles before moving them interstate.

TABLE 1.—NURSERIES AND MARKET SALES OF AGRICULTURAL PRODUCTS IN THE AFFECTED COUNTIES

Affected counties	Nurseries and greenhouses	Market sales of nurseries and greenhouses (\$1,000)	Market sales of all crops (including nurseries) (\$1,000)	Market sales of livestock and poultry and products (\$1,000)	Total sales of agricultural products (\$1,000)
Arkansas (2) .....	23	\$2,853	\$4,903	\$109,111	\$114,013
Tennessee (21) .....	532	53,298	239,554	261,441	500,995
Total .....	555	56,151	244,457	370,552	615,008

According to the 2002 Census of Agriculture, the market value of all agricultural products sold in these 23 counties was more than \$615 million, 67 percent of which were sales attributable to livestock, poultry, and animal products, and the remaining 33 percent to crop sales including nursery and greenhouse crops. Specifically, in 2002, the value of sales from nursery and greenhouse crops produced in these 23 counties was slightly more than \$56 million. Therefore, there is a large agricultural economy at risk due to the potential of the imported fire ant to damage crops and injure livestock.

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

Nurseries and greenhouses, as well as farm equipment dealers, construction companies, and those who sell, process, or move regulated articles from and through quarantined areas, will be affected by this rule. 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 0.08 percent and 2 percent of the value of the plants transported, given a treatment cost per shipment of around \$200.<sup>1</sup> The estimated annual compliance costs for these entities is small in comparison to the benefit gained through reduced human-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.

<sup>1</sup> An average nursery plant (i.e., potted) costs between \$1 and \$25, so that the value of a load for a standard tractor trailer transporting up to 10,000 plants ranges between \$10,000 and \$250,000; \$200/\$100,000 = 2 percent, and \$200/\$250,000 = 0.08 percent.

#### 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, a new entry for Perry County and by revising the entry for Polk County to read as set forth below.

■ b. Under the heading Tennessee, by adding, in alphabetical order, new entries for Anderson, Davidson, Gibson, Knox, Rutherford, Tipton, Van Buren, and Williamson Counties, and revising the entries for Bedford, Benton, Blount, Carroll, Cumberland, Grundy, Haywood, Hickman, Humphreys, Loudon, Maury, Roane, and Sequatchie Counties to read as set forth below.

§ 301.81-3 Quarantined areas.

\* \* \* \* \*
(e) \* \* \*
\* \* \* \* \*

Arkansas

\* \* \* \* \*
Perry County. The entire county.
\* \* \* \* \*
Polk County. The entire county.
\* \* \* \* \*

Tennessee

Anderson County. That portion of the county lying south of a line beginning at the intersection of the Roane/ Anderson County line and Tennessee Highway 95; then northeast on Tennessee Highway 95 to Tennessee Highway 62; then southeast on Tennessee Highway 62 to the Anderson/ Knox County line.

Bedford County. That portion of the county lying south of a line beginning at the intersection of the Marshall/ Bedford County line and Tennessee Highway 270; then southeast on Tennessee Highway 270 to U.S. Highway 41A; then northwest on U.S. Highway 41A to Hickory Hill Road; then east on Hickory Hill Road to Parson Road; then north on Parson Road to Nashville Dirt Road; then northwest on Nashville Dirt Road to Unionville- Deason Road; then east on Unionville- Deason Road to Edd Joyce Road; then east on Edd Joyce Road to Coop Road; then southeast on Coop Road to Tennessee Highway 82; then east on Tennessee Highway 82 to Tennessee Highway 269; then south on Tennessee Highway 269 to Tennessee Highway 64; then northeast on Tennessee Highway 64 to Knob Creek Road; then east on Knob Creek Road to the Bedford/Coffee County line.

Benton County. That portion of the county lying south of a line beginning at the intersection of the Carroll/Benton County line and U.S. Highway 70; then east on U.S. Highway 70 to U.S. Highway 641; then south on U.S. Highway 641 to Shiloh Church Road; then northeast on Shiloh Church Road to Tennessee Highway 191; then northwest on Tennessee Highway 191 to the line of latitude 36° N; then east along the line of latitude 36° N to the Benton/Humphreys County line.

Blount County. That portion of the county lying south of a line beginning at the intersection of the Knox/Blount County line and U.S. Highway 129; then south on U.S. Highway 129 to U.S. Highway 321; then east on U.S.

Highway 321 to the Blount/Sevier County line.

Carroll County. That portion of the county lying southeast of a line beginning at the intersection of the Gibson/Carroll County line and U.S. Highway 79/70A; then northeast on U.S. Highway 79/70A to U.S. Highway 79; then northeast on U.S. Highway 79 to Big Buck Road; then east on Big Buck Road to Tennessee Highway 436; then north on Tennessee Highway 436 to Thompson Road; then east on Thompson Road to Tennessee Highway 22; then southeast on Tennessee Highway 22 to Tennessee Highway 364 (Huntingdon Bypass); then east on Tennessee Highway 364 to U.S. Highway 70, then east on U.S. Highway 70 to the Carroll/Benton County line.

Cumberland County. That portion of the county lying southeast of a line beginning at the intersection of the Rhea/Cumberland County line and Tennessee Highway 68; then northwest on Tennessee Highway 68 to Cox Valley Road; then northeast on Cox Valley road to 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 north on Chestnut Hill Road to the line of latitude 35°56' N; then east along the line of latitude 35°56' N to the Cumberland/Morgan County line.

Davidson County. That portion of the county lying southeast of a line beginning at the intersection of the Williamson/Davidson County line and U.S. Highway 431; then northeast on U.S. Highway 431 to Tennessee Highway 254; then east on Tennessee Highway 254 to U.S. Highway 31A/41A; then north on U.S. Highway 31A/41A to Tennessee Highway 255; then northeast on Tennessee Highway 255 to Interstate 40; then east on Interstate 40 to the Davidson/Wilson County line.

Gibson County. That portion of the county lying southeast of a line beginning at the intersection of the Madison/Gibson County line and U.S. Highway 45W; then northwest on U.S. Highway 45W to U.S. Highway 45 Bypass (Tennessee Highway 366); then north on U.S. Highway 45 Bypass to U.S. Highway 79/70A; then northeast on U.S. Highway 79/70A to the Gibson/ Carroll County line.

Grundy County. That portion of the county lying southeast of a line beginning at the intersection of the Coffee/Grundy County line and the line

of latitude 35°25' N; then continuing east along the line of latitude 35°25' N to Deer Run road; then north on Deer Run Road to Cabbage Patch Road; then east on Cabbage Patch Road to Tennessee Highway 108; then southeast on Tennessee Highway 108 to Tennessee Highway 56; then north on Tennessee Highway 56 to the Grundy/ Warren County line.

Haywood County. That portion of the county lying south of a line beginning at the intersection of the Tipton/ Haywood County line and Tennessee Highway 54; then east on Tennessee Highway 54 to U.S. Highway 70; then east on U.S. Highway 70 to Interstate 40; then northeast on Interstate 40 to the Haywood/Madison County line.

Hickman County. That portion of the county lying south of a line beginning at the intersection of the Humphreys/ Hickman County line and Interstate 40; then northeast on Interstate 40 to Tennessee Highway 230; then east on Tennessee Highway 230 to Tennessee Highway 48; then southeast on Tennessee Highway 48 to Tennessee Highway 100; then northeast on Tennessee Highway 100 to Tennessee Highway 230; then south on Tennessee Highway 230 to Tennessee Highway 50; then southeast on Tennessee Highway 50 to the Hickman/Maury County Line.

Humphreys County. That portion of the county lying south of a line beginning at the intersection of the Benton/Humphreys County line and the line of latitude 36°; then continuing east along the line of latitude 36° to Forks River Road; then south on Forks River Road to Old Highway 13; then southeast on Old Highway 13 to Tennessee Highway 13; then south on Tennessee Highway 13 to Interstate 40; then east on Interstate 40 to the Humphreys/ Hickman County line.

Knox County. That portion of the county lying south of a line beginning at the intersection of the Anderson/ Knox County line and Tennessee Highway 62; then east on Tennessee Highway 62 to Tennessee Highway 131; then south on Tennessee Highway 131 to Middlebrook Pike; then southeast on Middlebrook Pike to North Cedar Bluff Road; then south on North Cedar Bluff Road to U.S. Highway 70; then northeast on U.S. Highway 70 to U.S. Highway 129; then south on U.S. Highway 129 to the Knox/Blount County line.

Loudon County. The entire county.

Maury County. That portion of the county lying south of a line beginning

at the intersection of the Hickman/Maury County line and Jones Valley Road; then east on Jones Valley Road to Leipers Creek Road; then south on Leipers Creek Road to Tennessee Highway 247; then northeast on Tennessee Highway 247 to Tennessee Highway 246; then north on Tennessee Highway 246 to the Maury/Williamson County line.

\* \* \* \* \*

*Roane County.* The entire county.

*Rutherford County.* That portion of the county lying northwest of a line beginning at the intersection of the Williamson/Rutherford County line and Rocky Fork Road; then northeast on Rocky Fork Road to Old Nashville Highway; then southeast on Old Nashville Highway to Tennessee Highway 102; then northeast on Tennessee Highway 102 to Weakley Lane; then north on Weakley Lane to Couchville Pike; then northwest on Couchville Pike to Corinth Road; then north on Corinth Road to the Rutherford/Wilson County line.

*Sequatchie County.* The entire county.

\* \* \* \* \*

*Tipton County.* That portion of the county lying south of a line beginning at the intersection of the Shelby/Tipton County line and Tennessee Highway 14; then northeast on Tennessee Highway 14 to Tennessee Highway 179; then southeast on Tennessee Highway 179 to the Tipton/Haywood County line.

*Van Buren County.* That portion of the county lying south of Tennessee Highway 30.

\* \* \* \* \*

*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 Williamson/Rutherford County line.

\* \* \* \* \*

Done in Washington, DC, this 20th day of July 2006.

**Kevin Shea,**

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

[FR Doc. E6-11938 Filed 7-25-06; 8:45 am]

**BILLING CODE 3410-34-P**

## **NATIONAL CREDIT UNION ADMINISTRATION**

### **12 CFR Part 701**

**RIN 3133-AD26**

#### **Loan Interest Rates**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** NCUA is amending its lending rule to include the criteria the NCUA Board considers in setting a permissible interest rate for federal credit unions exceeding 15 percent and to establish procedures regarding publication of its determination. The amendment will allow NCUA to notify federal credit unions of any increase in the interest rate ceiling through a *Letter to Federal Credit Unions*, other NCUA publications, and a press release, instead of issuing an amendment to the regulation every 18 months as it has previously done. The amendment will eliminate unnecessary, periodic regulatory amendments and provides a more efficient and effective means of informing federal credit unions of the permissible interest rate.

**DATES:** This final rule is effective September 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Moissette I. Green, Staff Attorney, at Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6540.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Federal Credit Union Act (the Act) sets a 15 percent ceiling on the interest rate federal credit unions may charge on loans to members unless, in 18-month intervals, the NCUA Board establishes a higher rate. 12 U.S.C. 1757(5)(A)(vi)(I). The Act authorizes the NCUA Board to establish a higher interest rate ceiling for periods of no more than 18 months based on consideration of certain economic criteria and after consulting with congressional committees, the Department of Treasury, and federal financial institution regulatory agencies.

*Id.* The Board's practice has been to exercise this authority by amending the general lending regulation. 12 CFR 701.21(c)(7). In the past, when the Board increased the interest rate ceiling, it has issued a final rule under the Administrative Procedure Act (APA) and published it in the **Federal Register**. 5 U.S.C. 553(b). Most recently, on January 13, 2005, the Board issued a final rule setting a higher maximum interest rate of 18 percent until September 8, 2006. 70 FR 3861 (January 27, 2005).

The NCUA Board is amending its general lending rule regarding permissible interest rates to address the procedures for publication of a temporary increase in the maximum interest rate. This amendment provides that the Board, at least every 18 months, will make a determination in accordance with the requirements of the Act as to whether federal credit unions will be permitted to charge interest in excess of 15 percent and will provide notice of its determination through a *Letter to Federal Credit Unions*, other official NCUA publications, and in a press release.

This new procedure for providing notice to federal credit unions regarding the Board's determination on the permissible interest rate parallels the Board's long-standing procedure in providing notice to federal credit unions of its determination of the annual operating fee charged to federal credit unions. The operating fee is charged to federal credit unions under a specific provision in the Act. 12 U.S.C. 1755(a). The Act provides for the Board to assess an annual operating fee on federal credit unions "[i]n accordance with rules prescribed by the Board." *Id.* The regulation implementing the statutory operating fee provision is 12 CFR 701.6. This regulation does not set a particular operating fee, but describes the basis for assessment, coverage, the requirement of notice to credit unions, and so forth. The Board establishes the annual operating fee as part of adopting its annual budget at the end of each year, sets the operating fee as a sliding scale based on asset size for federal credit unions, and provides notice to federal credit unions. The Board provides notice, by regular or electronic mail, to all federal credit unions through a *Letter to Federal Credit Unions* that sets out the operating fee scale. In addition, the operating fee is itemized for federal credit unions in the individual invoice sent annually to all federally insured credit unions regarding their capitalization deposit that supports share account insurance.