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Exempt Action Final Regulation Agency Background Document

Agency name	Commissioner of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-315
Regulation title(s)	Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law
Action title	Expansion of <i>Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law</i> to include the counties of Brunswick, Greensville, Isle of Wight, Mecklenburg, and Southampton and the cities of Emporia and Franklin
Final agency action date	December 5, 2019
Date this document prepared	December 5, 2019

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Section 3.2-703 of the *Code of Virginia* authorizes the Commissioner of Agriculture and Consumer Services (Commissioner) to extend or reduce areas currently regulated for plant pests. Pursuant to this authority, the Commissioner has expanded the *Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law*, 2 VAC 5-315 *et seq.*, to include the counties of Brunswick, Greensville, Isle of Wight, Mecklenburg, and Southampton and the cities of Emporia and Franklin due to an increase in imported fire ant populations in these localities. Expansion of the quarantine became necessary after

surveys conducted by the Virginia Department of Agriculture and Consumer Services (VDACS) indicated that imported fire ant populations had become established in these localities and eradication was no longer feasible.

Once established, the imported fire ant has the potential to spread to non-infested areas, either through natural means or through the movement of infested articles (artificial spread). The quarantine is intended to prevent the artificial spread of this pest. Under the terms of the quarantine, articles at risk for transporting imported fire ants (regulated articles) are prohibited from moving out of the quarantined area unless certified as free of imported fire ant. Imported fire ant free certification can be obtained through (i) inspections conducted by VDACS or (ii) compliance agreements between businesses and VDACS, which stipulate steps businesses must take to ensure regulated articles transported out of the quarantine are free of imported fire ants.

Section 3.2-703 of the *Code of Virginia* requires that, prior to extension or reduction of a quarantine, the Commissioner must provide notice in a newspaper with general circulation in the affected area. Legal notices were published in local newspapers in the counties of Brunswick, Greensville, Isle of Wight, Mecklenburg, and Southampton on November 27, 2019.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Expansion of the quarantine is intended to prevent the artificial spread of the imported fire ant from infested areas of the Commonwealth to non-infested areas, thereby reducing the impact of the imported fire ant on citizens and businesses, and protecting the public's health and welfare in non-infested areas.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On December 5, 2019, the Commissioner of Agriculture and Consumer Services adopted amendments expanding the *Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law*, 2 VAC 5-315 *et seq.*