

d. Newly redesignated paragraph (n) is revised.

e. Newly redesignated paragraph (s) is amended by adding the words "public and private nonprofit" before the words "homeless meal provider" and "homeless meal providers" each time they appear. (six occurrences).

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) *Determination of authorization.*

* * *

(1) The nature and extent of the food business conducted by the applicant.

* * *

(iv) No co-located wholesale/retail food concern with 50 percent or less of its total sales in retail food sales may be authorized to redeem food stamps unless it meets the criteria applicable to all retail firms and:

(A) It is a legitimate retail food outlet. Indicators which may establish to FCS that a firm is a legitimate retail food outlet include, but are not limited to, the following:

(I) The firm's marketing structure; as may be determined by factors such as, but not limited to:

(i) A retail business license;
(ii) The existence of sales tax records documenting retail food sales; and/or separate bookkeeping records; and

(2) The way the firm holds itself out to the public as evidenced by factors such as, but not limited to:

(i) The layout of the retail sales space;
(ii) The use of retail advertisements;
(iii) The posting of retail prices;
(iv) Offering specials to attract retail customers;

(v) Hours of operation for retail business;

(vi) Parking area for retail customers; and

(B) It has total annual retail food sales of at least \$250,000; or

(C) It is a legitimate retail outlet but fails to meet the requirements in paragraph (b)(1)(iv)(B) of this section, and not authorizing such a firm would cause hardship to food stamp households. Hardship would occur in any one of the following circumstances:

(1) Program recipients would have difficulty in finding authorized firms to accept their coupons for eligible food;

(2) Special ethnic foods would not otherwise be available to recipients; or

(3) Recipients would be deprived of an opportunity to take advantage of unusually low prices offered by the firm if no other authorized firm in the area offers the same types of food items at comparable prices.

* * * * *

(c) *Wholesalers.* * * *

(5) For one or more specified authorized public or private nonprofit homeless meal providers.

* * * * *

(d) *Meal services.* * * *

(3) It is a restaurant operating under a contract with a State or local agency to prepare and serve (or deliver) low-cost meals to homeless persons, elderly persons and SSI recipients (and in the case of meal delivery services, to elderly persons or handicapped persons) and their spouses. Such a facility must have more than 50 percent of its total sales in food. The contracts of restaurants must specify the approximate prices which will be charged.

* * * * *

(i) *Private homeless meal providers.* FCS may authorize as retail food stores those restaurants which contract with the appropriate State agency to serve meals to homeless persons at "concessional" (low or reduced) prices. Restaurants shall be responsible for obtaining contracts with the appropriate State agency as defined in § 272.9 and for providing a copy of the contract to FCS at the time it applies for authorization to accept food stamp benefits. Contracts must specify the approximate prices which will be charged. Examples of reduced prices include, but are not limited to, a percentage reduction, a set dollar amount reduction, a daily special meal, or an offer of a free food item or beverage (excluding alcoholic beverages).

* * * * *

(n) *Periodic reauthorization.* At the request of FCS a retail food store or wholesale food concern will be required to undergo a periodic reauthorization determination by updating any or all of the information on the firm's application form. Failure to cooperate in the reauthorization process will result in withdrawal of the firm's approval to participate in the program.

* * * * *

§ 278.2 [Amended]

6. In § 278.2:

a. Paragraph (a) is amended by adding the words "public or private nonprofit" before the word "homeless" in the last sentence of the paragraph.

b. The third sentence of paragraph (b) is amended by adding the words "public or private nonprofit" before the words "homeless meal providers", and before the words "homeless meal provider".

c. Paragraph (c) is amended by adding the words "public or private nonprofit" before the words "homeless meal

providers" the first time they appear in the third sentence of the paragraph.

d. Paragraph (d) is amended by adding the words "public or private nonprofit" before the words "homeless meal providers" in the third sentence.

e. Paragraph (g) is amended by adding the words "public and private nonprofit" before the words "homeless meal providers" wherever they occur (two occurrences).

f. Paragraph (h) is amended by adding the words "public or private nonprofit" before the words "homeless meal providers" in the last sentence of the paragraph.

g. Paragraph (1) is amended by adding the words "public and private nonprofit" before the words "Homeless meal provider" and before the words "homeless meal providers".

§ 278.3 [Amended]

7. In § 278.3, paragraph (a) is amended by adding the words "public or private nonprofit" before the words "homeless meal providers" wherever they occur (three occurrences).

§ 278.4 [Amended]

8. In § 278.4, the second sentence of paragraph (c) is amended by adding the words "public or private nonprofit" before the words "homeless meal providers."

Dated: September 27, 1996.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 96-26067 Filed 10-11-96; 8:45 am]

BILLING CODE 3410-30-U

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96-063-1]

Imported Fire Ant; Approved Treatments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the imported fire ant regulations to lengthen the certification period for containerized nursery stock treated with a 10 parts per million dosage of the insecticide tefluthrin in its granular formulation and to remove the 15 parts per million dosage rate for granular tefluthrin. Research has demonstrated that a 10 parts per million dosage of granular tefluthrin is efficacious for 18 months, which is 12 months longer than the current certification period for that

dosage and 6 months longer than the current certification period for a 15 parts per million dosage. Lengthening the certification period for the 10 parts per million dosage and removing the 15 parts per million dosage will reduce the amount of insecticide used, which will reduce the costs incurred by persons moving containerized nursery stock interstate from areas quarantined for the imported fire ant.

DATES: This rule will be effective on December 16, 1996 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before November 14, 1996.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Docket No. 96-063-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your submission refers to Docket No. 96-063-1. Submissions received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-5255; or E-mail: rmilberg@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Imported fire ants, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive, stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery.

The regulations in "Subpart—Imported Fire Ant" (7 CFR 301.81 through 301.81-10, referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of certain regulated articles from those quarantined States or areas for the purpose of preventing the artificial spread of the imported fire ant.

Sections 301.81-4 and 301.81-5 of the regulations provide, among other things, that regulated articles requiring treatment prior to interstate movement must be treated in accordance with the

methods and procedures prescribed in the appendix to the subpart, which sets forth the treatment provisions of the "Imported Fire Ant Program Manual."

Currently, the appendix offers three dosage rate/certification period options for granular tefluthrin: 0 to 6 months for a 10 parts per million (ppm) dosage, 0 to 12 months for a 15 ppm dosage, and a continuous certification period for a 25 ppm dosage.

Tests conducted by the Animal and Plant Health Inspection Service's Imported Fire Ant Methods Development Station in Gulfport, MS, have demonstrated that granular tefluthrin incorporated at a dosage rate of 10 ppm into soil or potting media for containerized nursery stock is efficacious for 18 months. This is 12 months longer than the current certification period for a 10 ppm dosage and 6 months longer than the current certification period for a 15 ppm dosage. Based on that efficacy data, we have determined that containerized nursery stock can be certified for interstate movement for 18 months after treatment with granular tefluthrin at a dosage rate of 10 ppm.

Therefore, this direct final rule will amend the appendix to the regulations by increasing the certification period for the 10 ppm dosage of granular tefluthrin from 0-6 months to 0-18 months. In light of that longer certification period for the lower 10 ppm dosage, the 15 ppm dosage, which has a certification period of 0 to 12 months, is no longer necessary and will be removed. The dosage rate of 25 ppm will be required for certification of containerized nursery stock for interstate movement from quarantined areas for more than 18 months.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the Federal Register unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the Federal Register.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the Federal Register withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the Federal Register, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

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 process required by Executive Order 12866.

This direct final rule amends the regulations by lengthening the certification period for containerized nursery stock treated with a 10 ppm dosage of granular tefluthrin and by removing the 15 ppm dosage rate for granular tefluthrin. Lengthening the certification period for the 10 ppm dosage and removing the 15 ppm dosage will reduce the amount of insecticide used, which will reduce the costs incurred by persons moving containerized nursery stock interstate from areas quarantined for the imported fire ant.

The number of current users of granular tefluthrin—and the number of potential new users that may result from this rule change—is not known, but most are assumed to be small entities (wholesalers of nursery stock having fewer than 100 employees, and retail nurseries having less than \$5 million in annual revenue). Several thousand nursery wholesalers and retailers have signed compliance agreements under the imported fire ant regulations, but not all of these are necessarily shipping restricted products requiring the application of granular tefluthrin or alternative chemicals out of the regulated areas. Moreover, most nurseries under compliance agreements currently use treatments other than tefluthrin. Therefore, an estimate of how many small entities will be affected by this rule change is difficult, but they may number in the hundreds.

Costs for most users of granular tefluthrin will be reduced because of the increased period of certification. Under the current regulations, a dose rate of 15 ppm is required for a certification period up to 12 months and a dose rate of 25 ppm is required for a certification

period greater than 12 months. Thus, a cost savings of from 33 to 60 percent will be realized by purchasers of granular tefluthrin who ship their products out of the restricted areas between 12 and 18 months after treatment. The current retail price of granular tefluthrin is about \$4.00 per pound, but prices can vary considerably depending upon whether or not it is purchased in bulk. A 33 to 60 percent cost savings realized by applying tefluthrin at a 10 ppm dose rate rather than a 15 or 25 ppm dose rate could mean a savings of about \$1.33 to \$2.40 in the application of one pound of granular tefluthrin.

We do not anticipate that there will be a noticeable impact on small entities that distribute agricultural chemicals. Distributors of agricultural chemicals are diversified businesses that sell a wide variety of chemicals, fertilizers, and other farm and nursery supplies. We do not expect any significant economic impact on any other small entities.

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 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, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In part 301, Subpart—Imported Fire Ant, in the appendix to the subpart, paragraph III.C.3.c. is amended by revising the dosage table to read as follows:

Subpart—Imported Fire Ant

* * * * *

Appendix to Subpart “Imported Fire Ant”—Portion of “Imported Fire Ant Program Manual”⁸

III. Regulatory Procedures

* * * * *

C. Approved Treatments.

* * * * *

3. Plants—Balled or in Containers

* * * * *

c. Tefluthrin: Granular Formulation.

* * * * *

Dosage: * * *

Granular tefluthrin dosage (parts per million)	Certification period (months after treatment)
10 ppm	0–18 months.
25 ppm	Continuous.

* * * * *

Done in Washington, DC, this 8th day of October 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–26348 Filed 10–11–96; 8:45 am]

BILLING CODE 3410–34–P

7 CFR Part 354

[Docket No. 95–049–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by removing

⁸ A copy of the entire “Imported Fire Ant Program Manual” may be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, MD 20737–1236.

and adding commuted traveltime allowances for travel between various locations in Canada, Louisiana, Michigan, and Washington. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: October 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. James Smith, Operations Officer, Port Operations, PPQ, APHIS, Suite 4A34, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8415.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in Canada, Louisiana, Michigan, and Washington. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.