

Information paragraph, but such a reference appears only in the first and third sentences of the paragraph. We would correct that omission.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 proposed rule would amend the appendix to the imported fire ant regulations to allow the use of the insecticide methoprene (Extinguish®) against the imported fire ant. Methoprene is registered by the EPA for use against the imported fire ant in containerized plants and field-grown woody ornamentals and has been found to be efficacious against imported fire ant based on testing by the Gulfport Plant Methods Center in Mississippi.

Determining the cost to treat for imported fire ant in nursery operations is complicated because of the large number of insecticide products, varying soil conditions, and various types of nursery crops. For example, in two surveys conducted by Hall and Holloway (1994 and 1995) of 37 nursery crop growers in Texas, which represented more than half of all nursery crops produced in that State, chemical cost per treatment per acre for imported fire ant control averaged \$12.10, with treatment costs representing up to 4 percent of their production cost. Almost half (47 percent) of those growers reported treating for imported fire ant and most of them reported using more than one pesticide in their operations (range=1 to 3; average=1.5) making the average cost per acre for insecticides to control imported fire ants \$18.15 (*i.e.*, $1.5 \times \$12.10$).

Methoprene (Extinguish®) would be the latest insecticide to be added to the regulations for the treatment of imported fire ant. The currently approved treatments—Fipronil (Chipco®), Pyriproxyfen (Distance®), Fenoxycarb (AWARD®), Hydramethylnon (AMDRO®), and Bifenthrin (Talstar®)—cost approximately the same in the bulk market, \$5 to \$12 per pound, with each pound treating 17 colonies (*i.e.*, mounds) of imported fire ant. However, any insecticide's retail price depends on the price charged by its local distributor and may vary from State to State. Although the insecticides generally do not differ greatly in price, at least some consumers can be expected to benefit from inclusion of methoprene as an alternative treatment.

Impact on Small Entities

Businesses such as nurseries that work with regulated articles are the entities most likely to be affected by this proposed rule. This proposed rule would result in a wider selection of treatment options for imported fire ant. The economic effect on affected entities would either be positive, since a wider selection of insecticides will provide greater choice, or would have no effect, if they choose not to use methoprene.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses. Based on data from the 1997 Census of Agriculture, there were 14,762 nurseries and greenhouses in the 13 States that have been affected by imported fire ant plus Puerto Rico, of which 82 to 99 percent were small entities, according to the Small Business Administration criterion of annual sales of \$750,000 or less.

It is expected that the economic effect of this proposed rule on these businesses would either be positive (a wider selection of insecticides will provide greater choice) or neutral (if they choose not to use methoprene). The majority (82 to 99 percent) of firms that may potentially be affected by this proposed rule are small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Accordingly, we propose to amend 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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.

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. In part 301, Subpart-Imported Fire Ant (§§ 301.81 through 301.81–10), the appendix to the subpart would be amended as follows:

a. In paragraph III.B., under the heading INSECTICIDES, by adding, in alphabetical order, an entry for “Methoprene (Extinguish®)”.

b. In paragraph III.C.4., under the heading *Control*, by removing the word “or” immediately following the word “(AWARD®),” and by adding the words “, or methoprene (Extinguish®)” immediately following the word “(Distance®)”.

c. In paragraph III.C.5., in the paragraph titled *Material*, by removing the word “or” immediately following the word “(AMDRO®),” and by adding the words “, or methoprene (Extinguish®)” immediately following the word “(Distance®)”.

d. In paragraph III.C.5., in the paragraph titled *Dosage*, by removing the word “or” immediately following the word “(AMDRO®),” and by adding the words “, or methoprene (Extinguish®)” immediately following the word “(Distance®)”.

e. In paragraph III.C.5., in the paragraph titled *Method*, in the first and third sentences, by removing the word “or” immediately following the word “(AMDRO®),” and by adding the words “, or methoprene (Extinguish®)” immediately following the word “(Distance®)”.

f. In paragraph III.C.5., by amending the paragraph titled *Special Information* as follows: (i) In the first and third sentences, by removing the word “or” immediately following the word “(AMDRO®),” and by adding the words “, or methoprene (Extinguish®)” immediately following the word “(Distance®)”.

(ii) In the second sentence, by removing the word “or” immediately following the word “(AWARD®)” and by adding the words “, pyriproxyfen (Distance®), or methoprene (Extinguish®)” immediately following the word “(AMDRO®)”.