

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 354

[Docket No. 03-098-1]

#### 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 adding commuted traveltime allowances for travel between Hilo, HI, and five new locations in Hawaii. 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:** December 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Caporaletti, Program Analyst, PPQ, APHIS, 4700 River Road Unit 120, Riverdale, MD 20737-1238; (301) 734-5781.

#### 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 products, 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 adding commuted traveltime allowances for travel between Hilo, HI, and five new locations in Hawaii. 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.

##### Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

##### Executive Order 12866 and Regulatory Flexibility Act

This final 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.

The number of requests for overtime services of a PPQ employee at the locations affected by this rule represents an insignificant portion of the total number of requests for these services in 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 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

##### 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 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

■ Accordingly, we are amending 7 CFR part 354 as follows:

#### PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

■ 1. The authority citation for part 354 continues to read as follows:

**Authority:** 7 U.S.C. 8301-8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 354.2 is amended by adding in the table, in alphabetical order, under Hawaii, the following entries to read as follows:

**§ 354.2 Administrative instructions prescribing commuted traveltime.**

\* \* \* \* \*

**COMMUTED TRAVELTIME ALLOWANCES**  
[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Hawaii:			
Hakalau	Hilo		2
Kurtistown	Hilo		2
Mt. View	Hilo		2
Pepeekeo	Hilo		2
Umauma	Hilo		2

Done in Washington, DC, this 2nd day of December 2003.

**Kevin Shea,**

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

[FR Doc. 03-30230 Filed 12-4-03; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR parts 1412 and 1421**

**RIN 0560-AG71 and 0560-AG72**

**Direct and Counter Cyclical Program; Marketing Assistance Loans and Loan Deficiency Payments for Peanuts, Pulse Crops, Wheat, Feed Grains, Soybeans and Other Oilseeds; Correction**

**AGENCIES:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule (correcting amendments).

**SUMMARY:** This document also corrects the regulations published by the Commodity Credit Corporation (CCC) entitled “Direct and Counter Cyclical Program” and “Marketing Assistance Loans and Loan Deficiency Payments.” Corrections are necessary for provisions that conflict with statute or other program requirements and are intended to ensure that Agency regulations are properly written and implemented. These changes will apply retroactively to actions taken under the subject regulations since their effective date.

**DATES:** The revisions to part 1412 are effective as of October 16, 2002; the

revisions to part 1421 are effective as of October 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Sharon Biastock at 720-6336, or Kimberly Graham, at 202-720-9154.

**SUPPLEMENTARY INFORMATION:**

**Discussion of Corrections**

(1) *Interstate transfer of peanut acreage.* This document also corrects 7 CFR part 1412, published in the **Federal Register** on October 21, 2002, 67 FR 64751, by authority of the Farm Security and Rural Investment Act of 2002 (“2002 Act”). Part 1412 is entitled “Direct and Counter-Cyclical Program and Peanut Quota Buyout Program,” and provides for direct and counter-cyclical payments for the crop years 2002 through 2007 for a number of crops to provide income support to producers of eligible commodities. The error is in the introductory language in section 1412.703(b) of part 1412, which states, “Notwithstanding paragraph (a) of this section, the average acreage determined under § 1412.701 for a farm may be assigned to a farm in a contiguous county only if either of the following apply:” This correction substitutes the word “state” for “county” in that sentence, as the provisions are directed to special allowance for interstate transfers for peanuts as reflected elsewhere and in the authorizing statute.

(2) *Penalties for erroneous certification.* This document corrects the regulations for CCC Marketing Assistance Loans and Loan Deficiency Payments for Peanuts, Pulse Crops, Wheat, Feed Grains, Soybeans and Other Oilseeds at 7 CFR Part 1421. The current provisions of Part 1421 were

published in the **Federal Register** on Friday, October 11, 2002 (67 FR 63511). Marketing assistance loans and loan deficiency payments are authorized by title I of the 2002 Act.

This document corrects sections 1421.109 of 7 CFR part 1421 relating to a producer’s violation of a loan agreement, and the resulting administrative remedies. Specifically, § 1421.109(e) is corrected so that the amount due for a violation of this provision is based only on the quantity of the commodity “removed or disposed of” and not the “quantity incorrectly certified or the loan quantity removed or disposed.” As to the reference to “quantity incorrectly certified” there can never be less than a full loan repayment as is clear from the circumstances and other provisions in the regulations. Accordingly, this section is corrected by removing that reference. Also, a clarifying comma is added after the word “interest” in § 1421.109(e)(1)(i).

Section 1421.109 is also corrected in paragraph (g) so that, “The county committee may waive the liquidated damages if it determines that the violation was inadvertent, accidental, or unintentional.” instead of “\* \* \* and unintentional.” The word “or” was used here instead of “and” to comport fully with the original and continuing intent of this provision.

These changes are to clarify and correct regulations, and delaying their publication to request public comment is contrary to the public interest. Further, section 1601 of the 2002 Act exempts these changes from notice and comment rulemaking. So that they may apply equally with existing regulations,