

Biosecurity (Fire Ant) Emergency Order (No 2) 2024

under the

Biosecurity Act 2015

I, Scott Charlton, Chief Invasive Species Officer, with delegated authority of the Secretary under section 379(1) of the *Biosecurity Act 2015*, make the following emergency order under Part 5 of that Act.

Dated this 14th day of February 2024

A handwritten signature in black ink, appearing to be 'S. Charlton', written in a cursive style.

SCOTT CHARLTON
Chief Invasive Species Officer
Department of Primary Industries
Department of Regional NSW

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Part 1 Preliminary

1 Name of emergency order

This emergency order is the *Biosecurity (Fire Ant) Emergency Order (No 2) 2024*.

2 Commencement

This emergency order commences at the time a copy of the order is first published on the Department's website or in the NSW Government Gazette.

3 Duration of emergency order

This emergency order has effect until 14 August 2024.

Note. The Secretary must give notice of this emergency order by causing a copy of the order to be published on the website of the Department or in the Gazette (or both).

4 Emergency zone

The emergency zone in which the measures in this emergency order are to be implemented is the whole of the State of New South Wales (*Emergency Zone*).

5 Declaration of biosecurity emergency

A biosecurity emergency is declared commencing on the date this emergency order is first published and ending on 14 August 2024.

Note. A biosecurity emergency was first declared by the Biosecurity (Fire Ant) Emergency Order 2023 dated 16 August 2023, published in NSW Government Gazette No. 358 of 16 August 2023.

6 Biosecurity matter and biosecurity risk

- (1) The biosecurity matter which is the subject of the biosecurity emergency is fire ants.
- (2) The biosecurity risk that is the subject of the biosecurity emergency is the risk of an adverse effect on the economy, environment and the community that arises from the introduction, presence and spread of fire ants within the State of New South Wales.

7 Grounds for emergency order

The basis for being satisfied that there is a current biosecurity risk that may have a significant biosecurity impact is as follows:

- (a) In July 2023 fire ants were detected in Tallebudgera, Queensland, within six kilometres of the New South Wales border. Fire ant nests (132 nests in total) have been detected at 7 locations south of the fire ant infested area in Queensland, within 18 km of the New South Wales border between November 2022 and November 2023.
- (b) Fire ants are prohibited matter throughout New South Wales, and it is an offence to deal with fire ants.
- (c) There is a current and imminent risk that fire ants will move, or be moved via fire ant carriers, from the fire ant infested area into New South Wales.

- (d) The proximity of the detection to the New South Wales border indicates an increased likelihood that fire ants could spread into New South Wales through human assisted movement of carrier materials and natural spread.
- (e) The high number of nests detected in parts of the fire ant infested area in Queensland increases the likelihood of flying mated female fire ants (new queens) contaminating fire ant carrier material being moved into New South Wales.
- (f) On 24 November 2023, fire ants were detected in South Murwillumbah in New South Wales.
- (g) On 19 January 2024, fire ants were detected in Wardell in New South Wales.
- (h) The movement of fire ant carriers into New South Wales from the fire ant infested area and from the NSW fire ant movement control area has the potential to further spread fire ants into New South Wales.
- (i) The introduction, presence and spread of fire ants in New South Wales may have a significant biosecurity impact to the economy, the environment, and the community because of the ability of fire ant colonies to harm ecosystems, reduce crop yields, harm human health, damage infrastructure, and prevent the use of outdoor and amenity areas.

8 Revocation of the Biosecurity (Fire Ant) Emergency Order (No 1) 2024

- (1) The *Biosecurity (Fire Ant) Emergency Order 2024* dated 20 January 2024, published on the Department’s website at <https://www.nsw.gov.au/departments-and-agencies/department-of-regional-nsw/our-offices-agencies/department-of-primary-industries> is revoked.

9 Definitions

In this emergency order:

agitate means to spread fire ant carrier on a hard surface either by hand or machine until the layer is no more than 15cm deep and then form the fire ant carrier into a pile. However, it does not include loading the fire ant carrier onto a truck or trailer.

agricultural equipment means equipment or machinery used in agricultural production, garden maintenance, cultivation, harvesting, processing that has had contact with a fire ant or fire ant carrier.

Note. ***agricultural equipment*** includes a tractor, harvester (including a comb or front), planter, bin, and baler.

approved biosecurity certificate means any of the following:

- (a) a plant health certificate,
- (b) a plant health assurance certificate,
- (c) a BioSecure HACCP Biosecurity certificate.

approved waste facility means any of the following:

- (a) Stotts Creek Resource Recovery Centre, located at Leddays Creek Road, Stotts Creek,
- (b) Ballina Resource Recovery Centre, located at 167 Southern Cross Drive, Ballina,
- (c) Ben’s North Coast Recycling Facility, located at 19-21 Northcott Crescent, Alstonville.

APVMA means the Australian Pesticides and Veterinary Medicines Authority.

BioSecure HACCP Biosecurity Certificate means an interstate biosecurity certificate issued in accordance with the entry conditions specified in *BioSecure HACCP Entry Conditions Compliance Procedure Number: ECCPRIFA21*, published by GIA.

certification assurance arrangement means a certification assurance arrangement or an interstate certificate assurance arrangement that enables a person authorised under a corresponding law of a State or Territory to issue a plant health assurance certificate that meets certain plant health quarantine conditions for trade between New South Wales and other States or Territories.

compost means decayed organic matter used as a soil conditioner, fertiliser or growing media.

earth moving equipment means equipment and machinery used for scraping, digging, levelling, or carrying soil and other soft materials that has had contact with a fire ant or fire ant carrier.

Note. **earth moving equipment** includes a dozer, grader, excavator, dump truck, loader, trencher, compactor, scraper and backhoe.

fire ant means the red imported fire ant *Solenopsis invicta*.

fire ant carrier means any of the following carriers of fire ant:

- (a) organic mulch,
- (b) compost,
- (c) growing media,
- (d) manure
- (e) soil and anything with soil on it,
- (f) hay,
- (g) chaff,
- (h) silage,
- (i) potted plants,
- (j) turf,
- (k) agricultural equipment,
- (l) earth moving equipment,
- (m) mining and quarrying materials,
- (n) grass, or
- (o) vegetation and clippings.

fire ant infested area means the area in Queensland shown on the map in pink.

Note. The fire ant infested area is based on the Fire Ant Biosecurity Zone map published by the Queensland Government but modified for the purposes of this order. Previous iterations of this order have used the Interstate Plant Quarantine Zone map published by the Queensland Government. A copy of the Map as defined is included in the Schedule for information purposes only and can be found on the NSW Department of Primary Industries website at:
<https://www.dpi.nsw.gov.au/biosecurity/insect-pests/fire-ants>.

fire ant movement control area means the area shown on the map in red, within a 5-kilometre radius of the nests found at the points with the following GPS co-ordinates:

- (a) 28.33792 S, 153.41783 E,
- (b) 28.33783 S, 153.41768 E,
- (c) 28.33767 S, 153.41800 E,
- (d) 28.33775 S, 153.41699 E,
- (e) 28.33821 S, 153.41777 E,
- (f) 28.947275 S, 153.460581 E
- (g) 28.946964 S, 153.460423 E
- (h) 28.947106 S, 153.460714 E
- (i) 28.94714 S, 153.460741 E, and
- (j) 28.94708 S, 153.460512 E

GLA means Greenlife Industry Australia Limited (ABN 59 634 584 017).

growing media means material used to grow plants by providing physical support to the plant, facilitating root growth, and delivering aeration, nutrients and water to the plant and includes potting mixes and manufactured soil products.

hay means hay and straw.

ICA procedure means the ICA-39 *Treatment of Bulk Growing Media and Potted Plants for Red Imported Fire Ant*.

IGR treatment regime means an APVMA approved insect growth regulator applied on a premises at the frequency of 3 times per year at 12-week intervals in spring, summer, and autumn.

indoor potted plant means a potted plant that has been indoors continuously in the previous 3 months.

insect growth regulator means a product containing 5 grams per kilogram of pyriproxyfen as the active ingredient and that is registered for the treatment of fire ants.

manure means bulk manure from an animal used as a soil conditioner or fertiliser.

map means the map published on the NSW Department of Primary Industries website at <https://www.dpi.nsw.gov.au/biosecurity/insect-pests/fire-ants>.

Note. The Schedule to this emergency order contains a copy of the map and is included for information purposes only.

mining and quarrying materials includes chitters, coal fines, coal stone, decomposed granite, sand, gravel and overburden.

organic mulch means mulch made from plant materials and includes bark, wood chips, sugarcane, sawdust and bagasse.

plant health assurance certificate means an interstate biosecurity certificate issued in accordance with the requirements of a certification assurance arrangement.

plant health certificate means an interstate biosecurity certificate issued by an authorised officer under a corresponding law in a State or Territory that relates to plant biosecurity.

potted plant means a plant in a container that was grown or re-potted in growing media, and includes the container, the plant and the growing media, but does not include:

- (a) bare-rooted plants,
- (b) tissue culture, or

- (c) seedlings in plugs or cells used to grow or transport plants, with a volume of no more than 0.1 litres.

premises means:

- (a) a parcel of land, or
- (b) several parcels of land which:
 - (i) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, and
 - (ii) constitute or are worked as a single property.

the Act means the *Biosecurity Act 2015*.

vigorously disturbed means agitating all parts of the material, using one of the following methods:

- (a) crushing, cutting, hammering, chipping or shredding,
- (b) screening by passing all the material through a screening bucket, grate or other sieve,
- (c) mechanised turning by a machine that creates disturbance, including by rotary hoe, trommel or windrow turner, or
- (d) washing.

10 Meaning of “preventative conditions”

In this order, a reference to ***preventative conditions*** means that to prevent fire ants from crawling into or onto a carrier, or landing on a carrier, the carrier is:

- (a) covered in a manner that prevents fire ants crawling into or landing on the carrier, such as in sealed plastic bags, or with sealed plastic wrapping, or covered with tarpaulin, or shade cloth, or insect netting, or stored inside an enclosed building, and
- (b) placed:
 - (i) high enough off the ground to prevent any part of the material from contacting the ground, or
 - (ii) on unbroken compacted ground that is not sand or gravel, the entire surface and edges of which are treated with bifenthrin to create a horizontal and perimeter pesticide barrier, or
 - (iii) on an impervious surface such as concrete, bitumen or heavy plastic sheeting where the edges are treated with bifenthrin to create a perimeter pesticide barrier.

Note. The bifenthrin treatments are in APVMA Permit Number PER14317 that expires on 29 February 2024 and the treatments must be used in accordance with all label directions and permit conditions. This permit is expected to be renewed.

Part 2 Emergency Measures – carriers entering the Emergency Zone from fire ant infested area

11 Persons to whom the emergency measures in this Part apply

The emergency measures in this Part apply to any person who deals with a fire ant carrier if, as a result of the dealing, the fire ant carrier enters the Emergency Zone from the fire ant infested area, except where that fire ant carrier is transiting through the Emergency Zone from a fire ant infested area in accordance with clause 28.

12 Movement of fire ant carriers – record of movement declaration form

- (1) If this emergency order permits a person to move a fire ant carrier into the Emergency Zone, the person must comply with this clause.
- (2) A person who initiates the movement of a fire ant carrier into the Emergency Zone must:
 - (a) provide details of the movement and, where required, a copy of the approved biosecurity certificate to the Department by completing and submitting the record of movement declaration form at <https://forms.bfs.dpi.nsw.gov.au/forms/19723> before the fire ant carrier is moved, and
 - (b) retain details of the movement for 4 years.

13 Production of certificates

A person who receives a fire ant carrier that was moved into the Emergency Zone must:

- (a) produce the approved biosecurity certificate that accompanied the fire ant carrier for inspection when requested by an authorised officer, and
- (b) retain the approved biosecurity certificate for 4 years.

14 Premises treatment

A person must not move a fire ant carrier from the fire ant infested area into the Emergency Zone from a premises where fire ants are present or have been found in the last 7 years unless the premises from which the fire ant carrier originates is subject to an IGR treatment regime, and at least 8 weeks have passed since the initial application of insect growth regulator.

15 Organic mulch, soil, compost and manure

- (1) Organic mulch, soil, compost and manure that has been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:
 - (a) the organic mulch, soil, compost or manure is treated by:
 - (i) heating all parts of the mass to a minimum temperature of 65.5° Celsius, or
 - (ii) before the organic mulch, soil, compost or manure is moved into the

Emergency Zone, vigorously disturbing all parts of the mass, and

- (b) immediately following the treatment, the organic mulch, soil, compost or manure is placed in preventative conditions and remains in preventative conditions until it arrives in the Emergency Zone, and
- (c) the organic mulch, soil, compost or manure is accompanied by one of these certificates certifying that the measures in paragraphs (a) and (b) have been met:
 - (i) a plant health certificate, or
 - (ii) a BioSecure HACCP Biosecurity Certificate.

- (2) This clause does not apply to a soil sample that has been present in the fire ant infested area.

Note. A fire ant carrier will be taken to have been present in the fire ant infested area where it has been in the area, including where the fire ant carrier has been grown, packed, sourced, stored or held in a fire ant infested area for any period of time.

16 Soil samples

A soil sample prepared for the purpose of laboratory analysis that was in the fire ant infested area must not be moved into the Emergency Zone unless:

- (a) all the soil samples are inspected to ensure that the samples are free of fire ants, and
- (b) for 48 hours before the soil samples is moved into the Emergency Zone, the soil samples are cooled so that all parts of the mass of each sample reaches a maximum temperature of -18° Celsius, and
- (c) each soil sample must be a maximum of 1 kilogram per sample.

Note: A domestic freezer is adequate to freeze the soil samples.

17 Growing media

- (1) Growing media that has been present in the fire ant infested area must not be moved into the Emergency Zone unless it satisfies the requirements of this clause.
- (2) The growing media is treated by either:
 - (a) heating all parts of the mass to a minimum temperature of 65.6° Celsius, or
 - (b) before the growing media is moved into the Emergency Zone, vigorously disturbing all parts of the mass, or
 - (c) that is treated by an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions.
- (2) For growing media that is treated in accordance with subclause (2)(a) or (b), immediately following the treatment, the growing media is:
 - (a) placed in preventative conditions and remains in preventative conditions until it arrives in the Emergency Zone, and
 - (b) accompanied by a plant health certificate.
- (3) For growing media that is treated in accordance with subclause 2(c), the growing media must be accompanied by a plant health assurance certificate.

18 Hay

Hay that has been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:

- (a) the hay is inspected and found to be dry and free of all soil,
- (b) the hay is treated with an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions,
- (c) immediately following treatment, the hay is placed in preventative conditions,
- (d) the hay remains in preventative conditions until it arrives in the Emergency Zone, and
- (e) the hay is accompanied by a plant health certificate certifying that the measures in paragraphs (a), (b) and (c) have been met.

19 Chaff

Chaff that has been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:

- (a) the chaff is hammer milled or cut by a chaff cutter,
- (b) immediately after milling or cutting, the chaff is placed in preventative conditions and remains in preventative conditions until it is moved out of the fire ant infested area,
- (c) every bag is visually checked for rips and tears, and
- (d) the chaff is accompanied by a biosecurity certificate certifying the measures in (a), (b) and (c) have been met.

20 Silage

Silage that has been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:

- (a) it is ensiled in at least 6 layers of stretch-wrapped silage wrap or silage film, and the wrapping remains undamaged and intact until arrival in the Emergency Zone,
- (b) every bale is ensiled for at least 6 weeks before being moved into the Emergency Zone,
- (c) every bale is checked visually for holes or tears, and bales with holes or tears excluded from movement into the Emergency Zone,
- (d) every bale checked visually and found to be free of soil stuck to the wrapping, and
- (e) the silage is accompanied by a biosecurity certificate certifying the measures in (a), (b), (c) and (d) are met.

21 Potted plants

Potted plants that have been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:

- (a) the potting media that is part of the potted plant was treated with an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions,

- (b) the treatment of the potting media of the potted plant remains effective until the potted plant arrives in the Emergency Zone, and
- (c) the plant is accompanied by an approved biosecurity certificate certifying that the measures in paragraphs (a) and (b) have been met.

22 Indoor potted plants

- (1) Indoor potted plants that have been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:
 - (a) the indoor potted plant is:
 - (i) moved directly from indoors, where it has been held for the previous 3 months, to the vehicle in which it will be moved without being placed on the ground, or
 - (ii) the indoor potted plant is uprooted prior to movement so that no soil, or other fire ant carriers are present,
 - (b) before being moved into the Emergency Zone, it is checked visually and found to be free of fire ants, and
 - (c) the indoor potted plant is placed in preventative conditions before being moved and remains in preventative conditions until it is moved out of fire ant infested area.
- (2) After the indoor potted plant has been moved into the Emergency Zone it is required to be kept indoors continuously for a period of 3 months after arrival in the Emergency Zone.

23 Turf

Turf that has been present in the fire ant infested area must not be moved into the Emergency Zone unless the following requirements have been met:

- (a) the turf was treated with an APVMA approved chemical for the control of fire ants on a commercial turf farm in accordance with all label directions and permit conditions, and
- (b) the treatment remains effective until the turf arrives in the Emergency Zone, and
- (c) the turf was harvested in accordance with all label directions and permit conditions for the APVMA approved chemical used to treat the turf,
- (d) immediately after harvesting, the turf is placed in preventative conditions,
- (e) the turf remains in preventative conditions until it arrives in the Emergency Zone, and
- (f) the turf is accompanied a plant health certificate certifying that the measures in paragraphs (a), (b), (c) and (d) have been met.

24 Turf receivers

A person in the Emergency Zone who receives turf that has been present in the fire ant infested area must either:

- (a) if the turf is laid, immediately after laying, treat the turf with an APVMA approved chemical for the control of fire ants,
- (b) if the turf is to be stored, ensure the turf is maintained in preventative conditions, or
- (c) if the turf is to be sold, maintain the turf in preventative conditions and ensure the turf is labelled with the requirements in (a) and (b).

25 Agricultural equipment and earth moving equipment

- (1) Unless otherwise provided in this order, agricultural equipment or earth moving equipment that has been present in the fire ant infested area, must not be moved into the Emergency Zone unless:
 - (a) before being moved into the Emergency Zone, the equipment was:
 - (i) cleaned so that it is free from soil and any other fire ant carrier, and
 - (ii) checked visually and found to be free of fire ants, and
 - (b) the equipment is accompanied a plant health certificate certifying that the measures in paragraph (1)(a) have been met.
- (2) The measures in this clause and clause 12 do not apply to agricultural or earth moving equipment that is new and unused.

Note. Clause 26 of this emergency order allows dump trucks or bins to return from the fire ant infested area to the Emergency Zone empty.

26 Dump trucks and bins

- (1) This clause applies to a dump truck or bin that was present in the Emergency Zone and was then moved into a fire ant infested area for the purpose of dumping or unloading material.
- (2) A dump truck or bin that has been present in the fire ant infested area must not be moved into the Emergency Zone unless:
 - (a) the dump truck or bin is empty and free of all material, and
 - (b) immediately after dumping materials and before returning to the Emergency Zone, the dump truck or bin is covered.

27 Mining or quarrying materials

Mining or quarrying material that has been present in the fire ant infested area must not be moved into the Emergency Zone unless:

- (a) at least once every 21 days while the material is in the fire ant infested area, the material is moved or turned,
- (b) before the material is moved from the fire ant infested area into the Emergency Zone, the material is treated by being vigorously disturbed, and
- (c) immediately following the treatment, the material is placed in preventative

conditions and remains in preventative conditions until it arrives in the Emergency Zone, and

- (d) the material is accompanied by a plant health certificate certifying that the measures in paragraphs (a) and (b) have been met.

Note. Clause 9 of this emergency order defines ‘vigorously disturbed’.

28 Transit through the fire ant infested area

The emergency measures in this Part do not apply to a fire ant carrier that has been grown, packed or sourced from an area outside the fire ant infested area and moved through, stored or held in the fire ant infested area prior to being moved into the Emergency Zone from the fire ant infested area if the fire ant carrier:

- (a) is kept in preventative conditions while it is in the fire ant infested area and until the carrier leaves the fire ant infested area.

Part 3 Emergency Measures – movements out of fire ant movement control area

29 Persons to whom the emergency measures in this part apply

The emergency measures in this Part apply to any person who deals with a fire ant carrier unless another person or class of person is specified.

30 Movement of a fire ant carrier out of the fire ant movement control area

Unless otherwise permitted by this Part, a person must not move a fire ant carrier out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area.

31 Movement of fire ant carriers – record of movement declaration form

- (1) This clause only applies to a person who:
 - (a) owns or is employed by a business that moves fire ant carriers in the course of its business activities, or
 - (b) is employed by an organisation that moves fire ant carriers in the exercise of its responsibilities or functions.
 - (c) is employed by a council.
- (2) If this Part permits the person to move a fire ant carrier out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area., the person must:
 - (a) provide details of the movement to the Department by completing and submitting the record of movement declaration form at <https://forms.bfs.dpi.nsw.gov.au/forms/19723> before the fire ant carrier is moved, and
 - (b) retain details of the movement for 4 years.
- (3) Despite subclause (2), a person who moves the following fire ant carriers into the

Emergency Zone is not required to provide details of the movement to the Department:

- (a) agricultural equipment or earth moving equipment in accordance with clause 41, or
- (b) grass, vegetation or clippings in accordance with clause 42.

Note. Clause 41 provides that agricultural equipment or earth moving equipment can be moved out of the NSW fire ant movement control area if it is new and unused, or has been cleaned so it is free from any fire ant carrier (including soil) and has been visually checked and found free of fire ants. Clause 42 provides for the movement of green waste to an approved waste facility if certain requirements are met, and by council for waste management services.

32 Organic mulch, soil, compost and manure

- (1) A person may move organic mulch, soil, compost and manure out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:
 - (a) the organic mulch, soil, compost or manure is treated by:
 - (i) heating all parts of the mass to a minimum temperature of 65.5° Celsius, or
 - (ii) agitating or vigorously disturb all parts of the mass before the organic mulch, soil, compost, or manure is moved out of the fire ant movement control area, and
 - (b) immediately following the treatment, the organic mulch, soil, compost or manure is placed in preventative conditions and remains in preventative conditions until it is moved in out of the fire ant movement control area.
- (2) A person may move small amounts of residual soil that is attached to waste, in a large waste container such as a skip bin, ute tray or trailer, out of the fire ant movement control area into any part of the Emergency zone that is not in the fire ant movement control area, if:
 - (a) while being moved, residual soil attached to waste is covered in a manner that prevents fire ants crawling into or landing on it, and

Note. For example, residual soil may be in sealed plastic bags, or sealed in plastic wrapping, or covered with a tarpaulin, shade cloth, or insect netting.

 - (b) it is moved directly to an approved waste facility.
- (3) Despite subclause (1), a council (within the meaning of the Local Government Act 1993), or a person on behalf of the council, may also move residual soil attached to waste out of the NSW fire ant movement control area into the rest of the Emergency Zone as part of the council's waste management services.
- (4) This clause does not apply to a soil sample moved out of the fire ant movement control area.

33 Soil samples

A person may move a soil sample prepared for the purpose of laboratory analysis out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) all of the soil samples are inspected to ensure that the samples are free of fire ants, and
- (b) for 48 hours before the soil samples is moved out of the NSW fire ant movement control area, the soil samples are cooled so that all parts of the mass of each sample reaches a maximum temperature of -18° Celsius, and
- (c) each soil sample is a maximum of 1 kilogram per sample.

Note. A domestic freezer is adequate to freeze the soil samples.

34 Growing media

- (1) A person may move growing media out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if the growing media is:
 - (a) treated by:
 - (i) heating all parts of the mass to a minimum temperature of 65.6° Celsius, or
 - (ii) agitating all parts of the mass before the growing media is moved out of the fire ant movement control area, and
 - (b) placed in preventative conditions and remains in preventative conditions until it is moved out of the fire ant movement control area.
- (2) A person may move growing media out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if the growing media is treated by an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions.

35 Hay

A person may move hay out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) the hay is inspected and found to be dry and free of all soil, and
- (b) the hay is:
 - (i) baled more than 8 weeks after the first application of insect growth regulator on the premises as part of the IGR treatment regime where the hay is grown, or
 - (ii) treated with an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions, or
 - (iii) vigorously disturbed and kept in preventative conditions.

36 Chaff

A person may move chaff out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) the chaff is hammer milled or cut by a chaff cutter,
- (b) immediately after milling or cutting, the chaff is placed in preventative conditions and remains in preventative conditions until it is moved out of the fire ant movement control area, and

- (c) every bag is visually checked for rips and tears.

37 Silage

A person may move silage out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- a) silage is ensiled in at least 6 layers of stretch-wrapped silage wrap or silage film, and the wrapping remains undamaged and intact until arrival in the Emergency Zone,
- b) every bale is ensiled for at least 6 weeks before being moved into the Emergency Zone,
- c) every bale is checked visually for holes or tears, and bales with holes or tears excluded from movement into the Emergency Zone, and
- d) every bale checked visually and found to be free of soil stuck to the wrapping.

38 Potted plants

(1) A person may move a potted plant out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) the potting media that is part of the potted plant was treated with an APVMA approved chemical for the control of fire ants in accordance with all label directions and permit conditions, and
- (b) the treatment of the potting media of the potted plant remains effective until the potted plant is moved out of the fire ant movement control area.

(2) This clause does not apply to:

- (a) a movement of 5 or less potted plants by a person who is not required to complete a record of movement under clause 31, or
- (b) a potted plant kept in preventative conditions.

39 Indoor potted plants

(1) A person may move an indoor potted plant out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) the indoor potted plant is:
 - (i) moved directly from indoors, where it has been held for the previous 3 months, to the vehicle in which it will be moved without being placed on the ground, or
 - (ii) the indoor potted plant is uprooted prior to movement so that no soil, or other fire ant carriers are present, and
- (b) before being moved into the Emergency Zone, it is checked visually and found to be free of fire ants, and
- (c) the indoor potted plant is placed in preventative conditions before being moved and remains in preventative conditions until it is moved out of the fire ant movement control area.

- (2) After the indoor potted plant has been moved into the Emergency Zone it is required to be kept indoors continuously for a period of 3 months after arrival in the Emergency Zone.

40 Turf

A person may move turf out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) the turf was treated with an APVMA approved chemical for the control of fire ants on a commercial turf farm in accordance with all label directions and permit conditions,
- (b) the turf was harvested in accordance with all label directions and permit conditions for the APVMA approved chemical used to treat the turf,
- (c) immediately after harvesting, the turf is placed in preventative conditions, and
- (d) the turf remains in preventative conditions until it is moved out of the fire ant movement control area.

41 Agricultural equipment and earth moving equipment

- (1) A person may move agricultural equipment or earth moving equipment out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if before being moved out of the fire ant movement control area, the equipment was:
 - (a) cleaned so that it is free from soil and any other fire ant carrier, and
 - (b) checked visually and found to be free of fire ants.
- (2) A person may move agricultural equipment or earth moving equipment out of the fire ant movement control area into any part of the Emergency zone that is not in the fire ant movement control area that is new and unused.

42 Grass, vegetation or clippings

- (1) A person may move grass, vegetation or clippings out of the fire ant movement control area into any part of the Emergency zone that is not in the fire ant movement control area if:
 - (a) while being moved, the grass, vegetation or clippings are covered in a manner that prevents fire ants crawling into or landing on it, and
 - Note.** For example, the grass, vegetation or clippings may be in sealed plastic bags, or sealed in plastic wrapping, or covered with a tarpaulin, shade cloth, or insect netting.
 - (b) it is moved directly to an approved waste facility.
- (2) Despite subclause (1), a council (within the meaning of the *Local Government Act 1993*), or a person on behalf of the council, may also move grass or vegetation or clippings out of the NSW fire ant movement control area into the rest of the Emergency Zone as part of the council's waste management services.

43 Mining or quarrying materials

A person may move mining or quarrying material out of the fire ant movement control area into any part of the Emergency Zone that is not in the fire ant movement control area if:

- (a) before the material is moved from the fire ant movement control area into the Emergency Zone, the material is agitated, and
- (b) immediately after agitation, the material is kept in preventative conditions.

44 Carriers maintained in preventative conditions

The emergency measures in this Part do not apply to a fire ant carrier that has constantly been maintained in preventative conditions whilst in the fire ant movement control area and since the fire ant carrier was grown or made.

45 Transit through the fire ant movement control area

The emergency measures in this Part do not apply to a fire ant carrier that has been grown, packed or sourced from an area outside the fire ant movement control area and moved through, stored or held in the fire ant movement control area prior to being moved out of the fire ant movement control area into any part of the Emergency zone that is not in the fire ant movement control area if the fire ant carrier:

- (a) is kept in preventative conditions while it is in the fire ant movement control area until it leaves the fire ant movement control area.

Part 4 Authorised officer powers

46 Persons to whom the emergency measures in this Part apply

The emergency measures in this Part apply to authorised officers.

47 Authorised officer authorisations

- (1) An authorised officer is authorised to destroy a fire ant carrier.
- (2) An authorised officer is authorised to direct a person to destroy a fire ant carrier.
- (3) An authorised officer is authorised to move a fire ant carrier out of a fire ant movement control area for the purpose of undertaking diagnostic testing or any other testing.
- (4) At any place within the Emergency Zone an authorised officer is authorised to issue an individual biosecurity direction in the case of an emergency to direct a person to:
 - (a) stop a vehicle so that the authorised officer may inspect the vehicle and anything in it or on it, and
 - (b) permit the authorised officer to inspect the vehicle and any thing in or on that vehicle.
- (5) However, an authorised officer is only authorised to exercise the powers set out in subclause (4) with respect to the fire ant biosecurity emergency to which this emergency order relates.

Note. Section 122(1)(a) of the Act provides that an authorised officer can include certain directions

in an individual biosecurity direction in the case of an emergency. The directions that can be included in the case of an emergency are set out in section 131 of the Act and include, directing a person to stop a vehicle and permit the vehicle to be inspected for biosecurity matter or a carrier.

Section 128 of the Act sets out the circumstances in which an authorised officer can issue an individual biosecurity direction. The authorised officer can give a direction if the officer reasonably believes the direction is necessary for a number of purposes, including:

- (a) to prevent eliminate or minimise a biosecurity risk,
- (b) to prevent, manage or control a biosecurity impact that has occurred, is occurring or is likely to occur,
- (c) to prevent, eliminate, minimise or manage a biosecurity risk posed by a dealing of the person, or suspected dealing of the person, with biosecurity matter, a carrier or a potential carrier,
- (d) to enforce, administer or execute the Act and any instrument made under the Act (such as this emergency order).

Schedule – Map – Fire Ant Emergency Zones

