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319.77–5 Disposition of regulated articles denied entry.

AUTHORITY: 7 U.S.C. 450 and 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 24 FR 10788, Dec. 29, 1959, unless otherwise noted.

Subpart—Preemption

SOURCE: 75 FR 17292, Apr. 6, 2010, unless otherwise noted.

§ 319.1 Preemption of State and local laws.

(a) Under section 436 of the Plant Protection Act (7 U.S.C. 7756), a State or political subdivision of a State may not regulate in foreign commerce any plant or plant product in order to control, eradicate, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed within the United States.

(b) Therefore, in accordance with section 436 of the Plant Protection Act, the regulations in this part preempt all State and local laws that are inconsistent with or exceed the regulations in this part.

Subpart—Requests To Amend The Regulations

§ 319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.

(a) *Definitions.*

Commodity. A plant, plant product, or other agricultural product being moved for trade or other purpose.

(b) *Procedures for submitting requests and supporting information.* Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or plant products that are not allowed importation under the conditions of this part must file a request with the Animal and Plant Health Inspection Service (APHIS) in order for APHIS to consider whether the new commodity can be safely imported into the United States. The initial request can be formal (e.g., a letter) or informal (e.g., made during a bilateral discussion between the United States and another country), and can be made by any person. Upon APHIS confirmation that granting a person's request would require amendments to the regulations in this part, the national plant protection organization of the country from which the commodity would be exported must provide APHIS with the information listed in paragraph (d) of this section before APHIS can proceed with its consideration of the request; requests that are not supported with this information in a timely manner will be considered incomplete and APHIS may not take further action on such requests until all required information is submitted.

(c) *Addresses.* The national plant protection organization of the country

from which commodities would be exported must submit the information listed in paragraph (d) of this section to: Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

(d) *Information.* The following information must be provided to APHIS in order for APHIS to consider a request to change the regulations in part 319:

(1) *Information about the party submitting the request.* The address, telephone and fax numbers, and e-mail addresses of the national plant protection organization of the country from which commodities would be exported; or, for requests that address a multi-country region, the address, telephone and fax numbers, and e-mail addresses of the exporting countries' national and regional plant protection plant protection organizations.

(2) *Information about the commodity proposed for importation into the United States.* (i) A description and/or map of the specific location(s) of the areas in the exporting country where the plants, plant parts, or plant products are produced;

(ii) The scientific name (including genus, species, and author names), synonyms, and taxonomic classification of the commodity;

(iii) Identification of the particular plant or plant part (*i.e.*, fruit, leaf, root, entire plant, etc.) and any associated plant part proposed for importation into the United States;

(iv) The proposed end use of the imported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.); and

(v) The months of the year when the commodity would be produced, harvested, and exported.

(3) *Shipping information:* (i) Detailed information as to the projected quantity and weight/Volume of the proposed importation, broken down according to varieties, where applicable, and;

(ii) Method of shipping in international commerce and under what conditions, including type of conveyance, and type, size, and capacity of packing boxes and/or shipping containers.

(4) *Description of pests and diseases associated with the commodity*[1] (i) Scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, virus, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop;

(ii) Plant part attacked by each pest, pest life stages associated with each plant part attacked, and location of pest (in, on, or with commodity); and

(iii) References.

(5) *Current strategies for risk mitigation or management.* (i) Overview of agronomic or horticultural management practices used in production of the commodity, including methods of pest risk mitigation or control programs; and

(ii) Identification of parties responsible for pest management and control.

(e) *Additional information.* None of the additional information listed in this paragraph need be provided at the same time as information required under paragraphs (a) through (d) of this section; it is required only upon request by APHIS. If APHIS determines that additional information is required in order to complete a pest risk analysis in accordance with international standards for pest risk analysis, we will notify the party submitting the request in writing what specific additional information is required. If this information is not provided, and is not available to APHIS from other sources, a request may be considered incomplete and APHIS may be unable to take further action on the request until the necessary additional information is submitted. The additional information may include one or more of the following types of information:

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail

[1] When a change is being sought to the conditions governing the importation of a commodity that is already authorized for importation into the United States, an update to or confirmation of previously submitted pest and disease information, rather than a new, complete submission of that information, may be appropriate. Persons seeking such a change may contact APHIS for a determination as to whether an update will be appropriate in a particular case.

address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

(2) *Additional information about the commodity:* (i) Common name(s) in English and the language(s) of the exporting country;

(ii) Cultivar, variety, or group description of the commodity;

(iii) Stage of maturity at which the crop is harvested and the method of harvest;

(iv) Indication of whether the crop is grown from certified seed or nursery stock, if applicable;

(v) If grown from certified seed or stock, indication of the origin of the stock or seed (country, State); and

(vi) Color photographs of plant, plant part, or plant product itself.

(3) *Information about the area where the commodity is grown:* (i) Unique characteristics of the production area in terms of pests or diseases;

(ii) Maps of the production regions, pest-free areas, etc.;

(iii) Length of time the commodity has been grown in the production area;

(iv) Status of growth of production area (*i.e.*, acreage expanding or stable); and

(v) Physical and climatological description of the growing area.

(4) *Information about post-harvest transit and processing:* (i) Complete description of the post-harvest processing methods used; and

(ii) Description of the movement of the commodity from the field to processing to exporting port (e.g., method of conveyance, shipping containers, transit routes, especially through different pest risk areas).

(5) *Shipping methods:* (i) Photographs of the boxes and containers used to transport the commodity; and

(ii) Identification of port(s) of export and import and expected months (seasons) of shipment, including intermediate ports-of-call and time at intermediate ports-of-call, if applicable.

(6) *Additional description of all pests and diseases associated with the commodity to be imported:* (i) Common name(s) of the pest in English and local language(s);

(ii) Geographic distribution of the pest in the country, if it is a quarantine pest and it follows the pathway;

(iii) Period of attack (e.g., attacks young fruit beginning immediately after blooming) and records of pest incidence (e.g., percentage of infested plants or infested fruit) over time (e.g., during the different phenological stages of the crops and/or times of the year);

(iv) Economic losses associated with pests of concern in the country;

(v) Pest biology or disease etiology or epidemiology; and

(vi) Photocopies of literature cited in support of the information above.

(7) *Current strategies for risk mitigation or management:* (i) Description of preharvest pest management practices (including target pests, treatments [e.g., pesticides], or other control methods) as well as evidence of efficacy of pest management treatments and other control methods;

(ii) Efficacy of post-harvest processing treatments in pest control;

(iii) Culling percentage and efficacy of culling in removing pests from the commodity; and

(iv) Description of quality assurance activities, efficacy, and efficiency of monitoring implementation.

(8) *Existing documentation:* Relevant pest risk analyses, environmental assessment(s), biological assessment(s), and economic information and analyses.

(f) *Availability of additional guidance.* Information related to the processing of requests to change the import regulations contained in this part may be found on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pra/.*

(Approved by the Office of Management and Budget under control number 0579–0261)

[71 FR 30567, May 30, 2006]

Subpart—Foreign Cotton and Covers

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754), and after the public hearing required thereunder, the