AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the Act and Convention, and regulations promulgated thereunder.

Person. Any individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof or of any foreign government.

Plant. Any member of the plant kingdom, including seeds, roots and other parts thereof.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Act and Convention, and regulations promulgated thereunder.

Protected plant permit. PPQ Form 622, "Protected Plant Permit to Engage in the Business of Importing, Exporting, or Reexporting Terrestrial Plants Regulated by 50 CFR 17.12 and 23.23."

Reexport (reexported, reexportation). To export following importation.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

Terrestrial plants. Any plants (including epiphytic plants), except marine plants.

Validation. An original stamp, signature, and date of inspection placed upon documentation required by 50 CFR part 17 or part 23 by an inspector at the port where the terrestrial plants are to be imported, exported or reexported.

United States. Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

[49 FR 42912, Oct. 25, 1984, as amended at 70 FR 57995, Oct. 5, 2005]

Subpart—Permission to Engage in Business

§ 355.10 Permission to engage in business concerning nonlisted terrestrial plants.

The Secretary hereby grants permission for any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, other than terrestrial plants listed in 50 CFR 17.12 or 23.23, to engage in such business without a protected plant permit issued under § 355.11.

[49 FR 42912, Oct. 25, 1984, as amended at 70 FR 57995, Oct. 5, 2005]

§ 355.11 Protected plant permits.

(a) On or after March 26, 1985 no person shall engage in business as an importer, exporter, or reexporter of any terrestrial plants listed in 50 CFR 17.12 or 23.23 unless such person has obtained a protected plant permit for engaging in such business from Plant Protection and Quarantine.

(b) An application for a protected plant permit shall be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Services, 4700 River Road Unit 133, Riverdale, MD 20737–1236. The completed application shall include the following information:[3]

(1) Date of application;

(2) Applicant's name, mailing address, and telephone number;

(3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(4) If the applicant is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address

[3] Application forms are available on the Internet (*http://www.aphis.usda.gov/ppq/permits*), by calling (877) 770–5990, or by writing to the address in this paragraph. Application forms may also be obtained from local offices at any of the ports designated in 50 CFR part 24. Telephone numbers and addresses of local offices are listed in telephone directories.

of each partner, officer, director, holder, and owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;

(5) The address of all applicants' business locations, including but not limited to locations of nurseries, growing fields, propagating beds, holding beds and similar facilities where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;

(6) A brief and complete description of the nature of the applicant's business as it relates to engaging in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;

(8) Name, address, and telephone number of the person authorized to make records or plant inventories available for examination by inspectors or other duly authorized representatives of the Secretary; and

(9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) after the following language: "I hereby certify that the information in this application is complete and accurate to the best of my knowledge and belief."

(c) Each application for a protected plant permit must be accompanied by a check or money order for $70 made payable to Plant Protection and Quarantine. The fee shall not be refunded if the application is denied or abandoned.

(d) After receipt and review of the application by Plant Protection and Quarantine, a protected plant permit for the importation, exportation, and reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 shall be issued if the applicant has submitted an application containing all information requested in paragraph (b) of this section, if the applicant has paid the fee in accordance with paragraph (c) of this section, and if a protected plant permit of the applicant or anyone responsibly connected with the business of the applicant has not been and is not denied, suspended or revoked pursuant to paragraph (i) of this section.

(e) The applicant shall be notified in writing by Plant Protection and Quarantine of the approval or denial of any request for a protected plant permit. If a protected plant permit is denied, the notification shall state the reasons therefor. If a protected plant permit is denied, the applicant may request a hearing pursuant to paragraph (i)(1) of this section and may submit to Plant Protection and Quarantine, in writing, reasons why the permit should not have been denied. Such submissions of the applicant shall not be considered a new application if submitted within 60 days following the receipt of notification of the denial by the applicant.

(f) Upon receipt of an incomplete or improperly executed application, the applicant shall be notified by Plant Protection and Quarantine of the deficiency of the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the receipt of the notification by the applicant, the application shall be considered abandoned.

(g) Upon receipt of an application filed with an insufficient fee, or without a fee, the application and any fee submitted will be returned to the applicant.

(h) A protected plant permit shall be valid for 2 years from the date of issuance unless suspended or revoked pursuant to paragraph (i) of this section. A new application must be submitted for the renewal of the protected plant permit. A protected plant permit shall not be transferred, tampered with, amended or otherwise altered in any manner or form by any person.

(i)(1) Any application for a protected plant permit may be denied and any protected plant permit which has been issued may be suspended or revoked for a time specified by the Deputy Administrator for any of the reasons provided in paragraph (i)(2) of this section. Before such action is taken, the applicant or permittee will be informed of the reasons for the proposed action, and upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, such denial, suspension or

revocation may become effective pending final determination in the proceeding, if the permittee has been convicted or a criminal violation of the Act, or of any regulation, permit, or certificate issued under the Act. Such denial, suspension or revocation shall be effective upon oral or written notification, whichever is earlier, to the permittee. In the event of oral notification of the denial, suspension or revocation, written confirmation shall be given to the permittee as promptly as circumstances allow. This denial, suspension or revocation shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(2) An application for a protected plant permit may be denied and any protected plant permit which has been issued may be suspended or revoked if:

(i) Any requirement of this subpart is not complied with, or

(ii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been criminally convicted or had a civil penalty imposed for a violation of the Act or of any regulation, permit, or certificate issued under the Act, or

(iii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23.

(3) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the applicant or permittee if the person is a partner, officer, director, holder, or owner of 10 percent or more or its voting stock, or an employee in a managerial or executive capacity.

(Information collection requirements were approved by the Office of Management and Budget under control number 0579–0076)

[49 FR 42912, Oct. 25, 1984, as amended at 59 FR 67611, Dec. 30, 1994; 66 FR 21060, Apr. 27, 2001; 70 FR 57995, Oct. 5, 2005]

Subpart—Inspections and Related Provisions

§ 355.20 Marketing and notification requirements for plants imported, exported, or reexported by means other than mail.[4]

(a) Any terrestrial plant which is to be imported, exported, or reexported by means other than mail and which may be imported, exported, or reexported under 50 CFR part 17 or part 23 only if accompanied by documentation, shall at the time of importation, exportation, or reexportation plainly and correctly bear on the outer container or on a tag, invoice, packing list, or other document accompanying the plant, the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address (in the United States if exported or reexported) of shipper, owner or person shipping or forwarding the plants,

(4) Name and address (in the United States if imported) of consignee,

(5) Identifying shipper's mark and number, and

(6) Serial number and type (e.g., permit, certificate) of document issued for the importation, exportation, or reexportation of the plant.

(b) Promptly upon arrival at a port of import (listed in 50 CFR part 24, or, if allowed by the U.S. Department of the Interior, at a nondesignated port) of any terrestrial plant which is imported by means other than mail and which

[4] Certain terrestrial plants listed in Appendices I, II, or III of the Convention or determined by the U.S. Department of the Interior to be endangered or threatened or similar in appearance to endangered or threatened species are required to be accompanied by documentation at the time of importation, exportation, or reexportation (see 50 CFR chapter I). Plants are allowed to be imported, exported or reexported only at ports authorized for such purposes by the U.S. Department of the Interior, or, under certain circumstances as determined by the U.S. Department of the Interior, at nondesignated ports, pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)). (see 50 CFR part 24 for a list of designated ports.)