

§ 340.6

7 CFR Ch. III (1–1–21 Edition)

writing or electronically that he or she and his or her agents will comply with the conditions of the amended permit. If the responsible person does not agree to the conditions, the amendment will be denied.

(2) *Amendment initiated by APHIS.* APHIS may amend any permit and its conditions at any time, upon determining that the amendment is needed to address plant pest risks presented by the organism or the activities allowed under the permit. APHIS will notify the responsible person of the amendment to the permit and, as soon as circumstances allow, the reason(s) for it. The responsible person may have to agree in writing or electronically that he or she and his or her agents will comply with the conditions of the amended permit before APHIS will issue it. If APHIS requests such an agreement, and the responsible person does not accept it, the existing permit will be withdrawn.

(m) *Shipping under a permit.* (1) All shipments of organisms under permit must be secure shipments. Organisms under permit must be shipped in accordance with the regulations in 49 CFR part 178.

(2) The container must be accompanied by a document that includes the names and contact details for the sender and recipient.

(3) For any organism to be imported into the United States, the outmost container must bear information regarding the nature and quantity of the contents; the country (or countries) and locality (localities) where collected, developed, manufactured, reared, cultivated, and cultured (as applicable); the name and address of the shipper, owner, or person shipping or forwarding the organism; the name, address, and telephone number of the consignee; the identifying shipper's mark and number; and the permit number authorizing the importation. For organisms imported under permits by mail, the container must also be addressed to a plant inspection station listed in the USDA Plants for Planting Manual, which can be accessed at: https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf. All imported containers of organisms

under permits must be accompanied by an invoice or packing list indicating the contents of the shipment.

(4) Following the completion of the shipment, all packaging material, shipping containers, and any other material accompanying the organism will be devitalized consistent with supplemental permit conditions, or disposed of to prevent unauthorized release.

(n) *Applicability date:* This section is applicable beginning April 5, 2021.

(Approved by the Office of Management and Budget under control number 0579–0471)

§ 340.6 Record retention, compliance, and enforcement.

(a) *Recordkeeping.* Responsible persons and their agents are required to establish, keep, and make available to APHIS the following records:

(1) Records and reports required under § 340.5(i);

(2) Addresses and any other information (e.g., GPS coordinates, maps) needed to identify all locations where the organism under permit was stored or used, including all contained facilities and environmental release locations;

(3) A copy of the APHIS permit authorizing the permitted activity; and

(4) Legible copies of contracts (including amendments to contracts) between the responsible person and agents that conduct activities subject to this part for the responsible person, and copies of documents relating to agreements made without a written contract.

(b) *Record retention.* Records indicating that an organism under permit that was imported or moved interstate reached its intended destination must be retained for at least 2 years. All other records related to a permit must be retained for 5 years following the expiration of the permit, unless a longer retention period is determined to be needed by the Administrator and is documented in the supplemental permit conditions.

(c) *Compliance and enforcement.* (1) Responsible persons and their agents must comply with all of the requirements of this part. Failure to comply with any of the requirements of this

part may result in any or all of the following:

- (i) Denial of a permit application or withdrawal of a permit in accordance with § 340.5(j);
- (ii) Application of remedial measures in accordance with the Plant Protection Act (7 U.S.C. 7701 *et seq.*); and
- (iii) Criminal and/or civil penalties in accordance with the Plant Protection Act (7 U.S.C. 7701 *et seq.*).

(2) Prior to the issuance of a complaint seeking a civil penalty, the Administrator may enter into a stipulation, in accordance with § 380.10 of this chapter.

(d) *Liability for acts of an agent.* For purposes of enforcing this part, the act, omission, or failure of any agent for a responsible person may be deemed also to be the act, omission, or failure of the responsible person.

(Approved by the Office of Management and Budget under control number 0579-0471)

§ 340.7 Confidential business information.

Persons including confidential business information (CBI) in any document submitted to APHIS under this part should do so in the following manner. If there are portions of a document deemed to contain confidential business information, those portions must be identified, and each page containing such information must be marked "CBI Copy." A second copy of the document must be submitted with all such CBI deleted, and each page where the CBI was deleted must be marked "CBI Deleted." In addition, any person submitting CBI must justify how each piece of information requested to be treated as CBI is a trade secret or, if not a trade secret, is either commercial or financial information that is privileged or confidential.

§ 340.8 Costs and charges.

The services of the inspector related to carrying out this part and provided during regularly assigned hours of duty and at the usual places of duty will be furnished by APHIS without cost to

the responsible person.¹ The U.S. Department of Agriculture will not be responsible for any costs or charges incidental to inspections or compliance with the provisions of this part, other than for the services of the inspector.

PART 351—IMPORTATION OF PLANTS OR PLANT PRODUCTS BY MAIL

AUTHORITY: 7 U.S.C. 7711-7714, 7721, 7754, and 7755; 7 CFR 2.22, 2.80, and 371.3.

Sec.

- 351.1 Joint treatment generally.
- 351.2 Location of inspectors.
- 351.3 Procedure on arrival.
- 351.4 Records.
- 351.5 Return or destruction.
- 351.6 Packages in closed mail dispatches.
- 351.7 Regulations governing importation by mail of plant material for immediate export.

CROSS REFERENCE: For customs regulations governing importation of plants and plant products, see 19 CFR part 12.

AUTHORITY: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

§ 351.1 Joint treatment generally.

The entry into the United States of certain plants, plant products, and soil is prohibited or restricted through various orders, quarantines, and regulations promulgated by the Administrator of the Animal and Plant Health Inspection Service (APHIS) under the authority of the Plant Protection Act (7 U.S.C. 7701-7772). To assist in enforcing the aforementioned orders, quarantines, and regulations, the Plant Protection and Quarantine Programs of APHIS have made provisions with the U.S. Postal and Customs Services to ensure closer inspection of prohibited or restricted imported articles.

[66 FR 21059, Apr. 27, 2001]

§ 351.2 Location of inspectors.

Inspectors of the Plant Protection and Quarantine Programs and customs officers are stationed at the following locations:

¹The Department's provisions relating to overtime charges for an inspector's services are set forth in part 354 of this chapter.