

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 98-062-1]

Update of Nursery Stock Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. This action is necessary to update the existing regulations and make them easier to understand and implement.

DATES: We will consider all comments that we receive by February 26, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 98-062-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 98-062-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 98-062-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue

SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, Senior Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799; fax (301) 734-5007.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests. The regulations contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37-14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

We are proposing to make several amendments to the regulations. Our proposed amendments are discussed below by topic.

Changes in Taxonomy

Chrysanthemum

The regulations at §§ 319.37-2(a), 319.37-5(c), and 319.37-7 prohibit or restrict the importation of plants of the genus *Chrysanthemum* from several countries and localities due to a disease known as chrysanthemum white rust (CWR), which is caused by the fungus *Puccinia horiana*. The taxonomy of the genus *Chrysanthemum* has recently changed. As a result of this change, only three species of plants are now assigned to the genus *Chrysanthemum*, and none of those species are hosts of CWR. Those plants that formerly belonged to the genus *Chrysanthemum* and that are known hosts of CWR have been assigned to the genera *Ajania*, *Dendranthema*, *Leucanthemella*, and

Nipponanthemum. We are, therefore, proposing to amend the regulations in § 319.37-2(a), § 319.37-5(c), and § 319.37-7 to reflect those changes by removing restrictions on articles of the genus *Chrysanthemum*, and adding restrictions on articles of the genera *Ajania*, *Dendranthema*, *Leucanthemella*, and *Nipponanthemum*. These proposed changes are intended only to reflect changes in taxonomy and would not result in any new plant varieties being subject to restrictions on entry.

Datura from Colombia

The regulations at §§ 319.37-2(a) and 319.37-7(a)(3) prohibit or restrict the importation of plants of the genus *Datura* from Colombia because of the existence of the *Datura* Colombian virus. The taxonomy of *Datura* has recently changed, and the woody *Datura* spp. that are known to host the *Datura* Colombian virus have been assigned to the genus *Brugmansia*. We are, therefore, proposing to replace the entries for *Datura* spp. from Colombia in the list of prohibited articles in § 319.37-2(a) and the list of restricted articles in § 319.37-7(a)(3) with entries for *Brugmansia* spp. from Colombia. *Datura* spp. from India would still be prohibited importation into the United States due to the existence of *Datura* distortion (enation mosaic virus) in India.

New and Revised Treatment Conditions

Treatments Performed Outside the United States

Section 319.37-13 specifies conditions and costs associated with the application of treatments performed in the United States. We are proposing to add a new paragraph (c) to § 319.37-13 to specify conditions associated with treatments that are required by our regulations and that are performed outside the United States.

Proposed new paragraph (c) would require treatments performed outside the United States to be monitored and certified by an inspector of the Animal and Plant Health Inspection Service (APHIS) or an official of the plant protection service of the country exporting the regulated articles to the United States. If an official of the exporting country monitors and certifies treatment, paragraph (c) would also require that the official issue a

phytosanitary certificate that includes a declaration that the regulated articles have been treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1(a). (If an APHIS inspector monitors and certifies treatment, the inspector would issue a Plant Protection and Quarantine Form 203, "Foreign Site Certificate of Inspection and/or Treatment," to certify the treatment.) In addition, paragraph (c) would require the regulated articles to be stored and handled during the time between treatment and exportation to the United States in a manner that prevents infestation by pests and Federal noxious weeds. The proposed changes would provide a mechanism that allows for the certification of treatment of regulated articles by either APHIS inspectors or plant protection officials of exporting countries. The current regulations only provide for the certification of treatments by APHIS inspectors.

Treatment of Niger Seed

Under the regulations at § 319.37–6(d), seeds of *Guizotia abyssinica* (niger) are required to be heat treated in accordance with the PPQ Treatment Manual for possible infestation with *Cuscuta* spp. (dodder) seeds at the time of arrival at the port of first arrival in the United States. *Cuscuta* spp. are Federal noxious weeds. Niger seed, however, may be contaminated with the seeds of other Federal noxious weeds, including *Asphodelus fistulosus* Linnaeus (onion weed), *Digitaria* spp. (includes African couchgrass), *Oryza* spp. (red rice), *Paspalum scrobiculatum* Linnaeus (kodo millet), *Prosopis* spp. (includes mesquites), *Solanum viarum* Dunal (tropical soda apple), *Striga* spp. (witchweed), and *Urochloa panicoides* Beauvois (liver-seed grass). The currently prescribed treatment is not effective against those additional noxious weed seeds. We are, therefore, proposing to adopt a new treatment for niger seed that has been demonstrated to be effective against these other contaminants. We would amend the PPQ Treatment Manual to provide that imported niger seed must be heat treated at 248 °F (120 °C) for 15 minutes.

We are also proposing to amend the regulations to allow niger seed to be imported into the United States if it is heat treated prior to shipment to the United States in accordance with the PPQ Treatment Manual at a facility that has been approved by APHIS. The facility would be required to operate in compliance with a written agreement with the plant protection service of the exporting country, in which the

treatment facility owner agrees to (1) comply with the applicable APHIS regulations and treatment requirements and (2) allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. We would also require that the treatment be conducted in accordance with the conditions described in proposed § 319.37–13(c) which, as noted above, would provide for the certification of treatment and the safeguarding of treated articles when treatments are performed outside the United States.

In order to be approved by APHIS as a niger seed heat treatment facility, facilities would be required to meet the following minimum standards and specifications:

- A minimum of two temperature probes must be situated in the heat treating equipment in such a way as to determine that all niger seed being treated reaches the target temperature.
- The temperature recording chart must show changes in temperature in increments of not less than 0.1 inch for each degree Fahrenheit or 5 mm for each degree Celsius.
- Temperature readings must be recorded on a chart at time intervals not to exceed 4 minutes between each reading.
- Accuracy of the total temperature recording system must be within plus or minus 0.5 °F (0.3 °C) of the actual temperatures as recorded by a certified calibrated thermometer.
- A speed indicator must be present for continuous flow systems.
- All the valves and controls that affect heat flow to the treatment system must be secured to avoid manipulation by unauthorized personnel during the treatment process.
- Heating controls must be automatic and run continuously throughout the treatment process. Manual adjustments are allowed, if necessary.
- Gear systems used to control used to control the niger seed conveyer (if applicable) must be capable of being adjusted as necessary to meet treatment requirements.
- An audible alarm or highly visible light must be installed on burners or other equipment to indicate system failure and/or when the system is not operating properly.
- An action plan must be established to address any pests that may be associated with the storage, treatment, or shipment of niger seed.
- Proper sanitation measures must be implemented to ensure that there are no potential breeding grounds for pests on

the premises, and therefore, little risk of reinfestation or cross-contamination.

- Treated seeds must be stored in a location separate from nontreated seeds. The treated and nontreated seeds must be handled in a manner to prevent cross-contamination.

- Seed processing equipment must have the capability to divert for retreatment any nontreated or treated seeds that do not meet treatment standards.

The above standards and specifications would be included in the PPQ Treatment Manual, along with additional specific information regarding treatment procedures and the certification process. We would include a footnote in § 319.37–6(d)(2) stating that the approval criteria may be found in the PPQ Treatment Manual. Interested persons may obtain this additional information by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Treatment of Lilac From The Netherlands

The regulations at § 319.37–5(i) prohibit the importation of plants of the genera *Syringa* (lilac) from The Netherlands unless, at the time of arrival in the United States, the phytosanitary certificate accompanying the plants contains a declaration stipulating that: (1) The plants' parent stock was found free of plant diseases by inspection and indexing, (2) the plants were propagated either by rooting cutting from indexed parent plants or by grafting indexed parent plant material on seedling rootstalks, and (3) the plants were grown in soil that was fumigated with methyl bromide according to certain conditions. The Government of The Netherlands has requested that APHIS provide an alternative to treating the soil with methyl bromide, since methyl bromide is no longer allowed to be used in The Netherlands.

We currently require the soil to be fumigated with methyl bromide to ensure it does not contain live viruliferous nematodes. Soil that does not contain any viruliferous nematodes also would be safe, and we believe this could be determined through microscopic inspection of the soil. Therefore, as an alternative to fumigating the soil with methyl bromide, we are proposing to allow the soil to be certified free of viruliferous nematodes and other plant pests by the plant protection service of The Netherlands. For this certification to be valid, we would require that the soil be sampled and microscopically inspected by the plant protection service of The Netherlands within 12 months

preceding the issuance of the certification. We are proposing this requirement because we believe that soil that is sampled and inspected annually would not present a significant risk of being infested with nematodes.

Changes in Pest Distributions

Peanut Stripe Virus

The regulations at § 319.37–2(a) prohibit the importation of seeds of the genus *Arachis* (peanut) from India, Indonesia, Japan, the People's Republic of China, the Philippines, Taiwan, and Thailand due to the existence of peanut stripe virus in those regions. We are proposing to remove the prohibition on the importation of peanuts from all of those regions except India because the peanut stripe virus is now reported to occur in seven of the nine peanut-producing States in the United States, and is widely prevalent in two of those States (Georgia and Virginia). The importation into the United States of peanuts from India would still be prohibited due to the existence of the Indian peanut clump virus in India.

Mango Seed Weevil

The regulations at § 319.37–2(a) prohibit the importation of seeds of *Mangifera* spp. (mango) from certain regions due to the existence of the mango seed weevil, *Sternochetus mangiferae*, in those regions. We are proposing to also prohibit the importation of mango seeds from the British Virgin Islands, Grenada, St. Vincent and the Grenadines, and Trinidad and Tobago due to recent reports that the mango seed weevil exists there. Currently, the mango seed weevil exists in Guam, Hawaii, and the Northern Mariana Islands. Since there is no program in place to control the mango seed weevil in any of those areas, we would not restrict the movement of mango seeds into Guam, Hawaii, and the Northern Mariana Islands.

We are also proposing to allow the importation of mango seeds from Guimaras Island in the Republic of the Philippines due to the fact that neither the mango seed weevil, nor any other quarantine pest of mango seeds, exists on that island.

Watermark Disease of Willow

The regulations at §§ 319.37–2(a) and 319.37–7(a)(3) prohibit or restrict the importation of plants of the genus *Salix* (willow) from the Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands due to the existence of watermark disease of willow, *Erwinia salicis*, in those regions. We are

proposing to also prohibit the importation of willow plants from Belgium and Japan due to recent reports that watermark disease of willow exists in those regions. Currently, watermark disease of willow does not exist in the United States. We are also proposing to remove references to the former East and West Germany and refer instead to Germany.

Citrus Canker

The regulations at § 319.37–6(e) provide that seeds of all species of the plant family *Rutaceae* from certain countries must be treated under certain conditions at the time of arrival at the port of first arrival in the United States for possible infection with citrus canker.

We are proposing to require the same treatment upon arrival for *Rutaceae* seeds from Gabon and Iran because citrus canker is reported to occur in each of those regions. Currently, citrus canker exists in the United States only in a portion of the State of Florida, where there is an eradication program underway.

Postentry Quarantine Regulations

Growing Agreements

The regulations at § 319.37–7(d) require that a person who wishes to grow a restricted article under postentry quarantine must enter into a postentry quarantine growing agreement with APHIS. Under the regulations, growers who enter into such growing agreements may only grow a restricted article or increase from that article on certain premises, under certain conditions, and may only move, propagate, or allow propagation of the restricted articles with the written permission of an APHIS inspector.

We are proposing to amend the regulations to require that growers obtain permission to move, propagate, or allow propagation of a restricted article not from an APHIS inspector, but from the coordinator, Postentry Quarantine Unit, APHIS. We are proposing this change in order to make it clear who gives permission to move or increase plants in postentry quarantine.

States With Growing Agreements

Under the regulations at § 319.37–7(c), articles required to undergo postentry quarantine under § 319.37–7 may only be imported into a State that has entered into a written agreement with APHIS. Paragraph (c)(1)(i) of § 319.37–7 is established as the location for the list of States that have entered into such agreements with APHIS, but does not currently list any States. As of

the drafting of this proposed rule, all U.S. States and Territories except the District of Columbia, Guam, Hawaii, and the Northern Mariana Islands have entered into written postentry quarantine agreements with APHIS. Therefore, we are proposing to amend § 319.37–7(c)(1)(i) to indicate that all U.S. States and Territories except those cited in the previous sentence have entered into written postentry quarantine agreements with APHIS.

Requirements for the Importation of Hops

The regulations at § 319.37–7(a) restrict the entry of plants of the genus *Humulus* (hops) from all foreign countries due to the existence of several foreign plant diseases known to affect hops. One such disease is the hops powdery mildew (HPM), which is caused by the fungus *Sphaerotheca macularis*. HPM currently exists in the United States in Idaho, Oregon, and Washington.

We are proposing to add a requirement in § 319.37–7(d)(7)(iii) that a meristem culture of any imported hops plant must be grown and observed for 6 months in an isolated growth chamber in postentry quarantine. After 6 months, once the meristem culture has been established, the original plant would have to be destroyed, and the meristem culture would have to be grown in postentry quarantine for an additional year. This requirement would provide time for any symptoms of disease to become visible to inspectors. We are proposing this action to protect against the introduction of additional strains or biotypes of HPM into the United States.

Arrangement of Plants

The regulations at § 319.37–7(d)(4) require restricted articles that are grown in postentry quarantine to be kept 3 meters (approximately 10 feet) apart from: (1) Any domestic plant or plant product of the same genus and (2) any other imported plant or plant product.

We are proposing to require restricted articles that are grown in postentry quarantine to be kept 3 meters apart from any other plant or plant product, whether domestic or imported, regardless of genus, unless the plants or plant products: (1) Are of the same genus, (2) enter postentry quarantine together, and (3) arrived together in a single shipment from a foreign region. This change would protect against the possibility that pests could spread from one shipment of plants under postentry quarantine to other plants or plant products, regardless of genera, that could host such pests.

Prohibited Articles Listed as Subject to Postentry Quarantine

The regulations in § 319.37–7 require articles of the genus *Ribes* from New Zealand to be grown in postentry quarantine upon entry into the United States. Since the regulations in § 319.37–2(a) currently prohibit the importation of articles of the genus *Ribes* from New Zealand due to the black currant reversion agent, we are proposing to correct the error in § 319.37–7.

Also, the regulations at § 319.37–7(b) list fruits and nuts, including articles of the genus *Phoenix* (date), as articles subject to postentry quarantine. However, *Phoenix* spp. articles are currently listed as prohibited articles in § 319.37–2(a) of the regulations and should not be listed as articles subject to postentry quarantine. Therefore, we are proposing to remove the entry for *Phoenix* from the list in § 319.37–7(b) of fruits and nut articles subject to postentry quarantine.

Labeling Requirements for Greenhouse-Grown Plants From Canada

The regulations at § 319.37–4(c) govern the importation of greenhouse-grown plants from Canada. Among other things, § 319.37–4(c) requires that the Plant Protection Division, Agriculture Canada, issue labels to each grower participating in the program. The labels must bear a unique number identifying the grower and bear the following statement: “This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by the Plant Protection Division, Agriculture Canada.” Under § 319.37–4(c), growers must apply these labels to each carton of plants to be shipped to the United States and to an airway bill, bill of lading, or delivery ticket. Paragraph (c) of § 319.37–4 also requires that the Plant Protection Division of Agriculture Canada ensure that the label is placed on the outside of each container of plants and that the grower’s label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles.

We are proposing to remove the requirement that the label be applied to each carton or container of plants. We believe that it is sufficient to place the label containing that information on the airway bill, bill of lading, or delivery ticket accompanying the shipment of plants. We are also proposing to update references to the Plant Protection Division of Agriculture Canada in § 319.37–4(c) to reflect the

reorganization of the agency. Agriculture Canada is now the Canadian Food Inspection Agency and the Plant Protection Division is now the Plant Health and Production Division.

Risk Assessments for Plants Established in Growing Media

The regulations at § 319.37–8(g) provide pest risk evaluation standards to be used by APHIS to evaluate requests to allow additional taxa of plants established in growing media to be allowed importation into the United States. These guidelines generally follow the pest risk analysis guidelines established by the International Plant Protection Convention (IPPC) of the United Nations’ Food and Agricultural Organization. The IPPC pest risk analysis guidelines are the international standards for conducting pest risk analyses. As an IPPC member country, the United States is obligated to conduct pest risk analyses in accordance with IPPC guidelines.

The existing standards were made effective in February 1995, and have been amended since. Therefore, in order to bring the regulations up to date with current procedure, we are proposing to remove the existing standards in § 319.37–8(g) and add in their place a statement that APHIS will evaluate requests to allow the importation of additional taxa of plants in growing media in accordance with IPPC pest risk analysis guidelines. These guidelines are available by writing to USDA, APHIS, PPQ, Permits and Risk Assessment, Commodity Risk Analysis Branch, 4700 River Road Unit 133, Riverdale, MD 20737, or on the Internet at: <http://www.aphis.usda.gov/ppq/pracommodity/cpraguide.pdf>.

Commercial Shipments of Bulbs

The regulations at § 319.37–2(a) prohibit the importation of plants of the genera *Crocasmia*, *Gladiolus*, and *Watsonia* from Africa, Brazil, France, Italy, Malta, Mauritius, and Portugal because of *Uromyces transversalis* (Theum.), commonly known as gladiolus rust, which is known to exist in those countries. However, recent research evaluated by APHIS shows that bulbs of *Crocasmia* spp., *Gladiolus* spp., and *Watsonia* spp. that are commercially packaged and processed prior to shipment to the United States present a low risk of carrying *U. transversalis*. We are, therefore, proposing to remove the prohibition in § 319.37–2(a) on the importation of bulbs of *Crocasmia* spp., *Gladiolus* spp., and *Watsonia* spp. in commercial shipments from Brazil, France, Italy, Malta, Mauritius, and Portugal. The

importation into the United States of commercial shipments of bulbs of *Crocasmia* spp., *Gladiolus* spp., and *Watsonia* spp. from Africa would still be prohibited due to the existence of several other varieties of rust in Africa.

Approved Growing Media

The regulations at § 319.37–8(e)(1) list approved growing media for plants that are allowed to be imported in growing media. We are proposing to add coal cinder, coir, Stockosorb superabsorbent polymer, and zeolite to the list of approved growing media in § 319.37–8(e)(1). We have inspected each of these types of growing media and reviewed their respective manufacturers’ specifications. Based on our inspection and review of the media’s specifications, we have determined that the media are sterile and would not present new pathways for plant pests to enter the United States.

Approved Packing Material

The regulations at § 319.37–9 list approved packing material for imported plants. We are proposing to add stockosorb superabsorbent polymer to the list of approved packing material in § 319.37–9. We have inspected the material and reviewed its manufacturers’ specifications. Based on our inspection and review of the material’s specifications, we have determined that the material is sterile and would not present a new pathway for plant pests to enter the United States.

Ports of Entry

The regulations at § 319.37–14 list Federal plant inspection stations and ports of entry for plants offered for importation into the United States. Federal plant inspection stations are ports that have the capacity to process importations of restricted articles that are required to be accompanied by a written permit under the regulations in § 319.37–3(a)(1) through (6), as well as any other imported plants or plant products. Other ports of entry cannot process shipments of plants or plant products that are imported under permit as specified above.

We are proposing to remove El Paso, TX, from the list of ports of entry designated as plant inspection stations because the port of El Paso no longer has the facilities or resources necessary to operate as a Federal plant inspection station. The port of El Paso would continue to operate as a port of entry.

Editorial Changes

We are proposing to replace all references to the former “Burma,”

“Ivory Coast,” and “Upper Volta” that are contained in the regulations with references to “Myanmar,” “Cote d’Ivoire,” and “Burkina Faso,” respectively. We would also correct several typographical errors in the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential economic effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

We are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. The potential effects of the changes proposed in this document are discussed below, by topic.

Treatment of Niger Seed

We are proposing to amend the regulations to allow niger seed to be imported into the United States if it is treated at a treatment facility that has been approved by APHIS. Under this proposed amendment, niger seed could be treated: (1) At the time of arrival at the port of first arrival in the United States or (2) prior to shipment to the United States at a treatment facility that has been approved by APHIS. Currently, the regulations in § 319.37–6(d) state that imported niger seed must be heat treated upon arrival in the United States.

This proposed change could potentially affect U.S. firms that import and treat niger seed. The treatment firms could suffer a loss in revenue, but we believe that there are only two such firms in the United States, and at least one of those firms is not small in size according to Small Business Administration (SBA) criteria. It is likely that the other treatment firm, whose size is unknown, may not be significantly affected, because niger seed treatment likely accounts for only a small portion of the firm’s overall revenues. However, since we are unable to estimate the amount of niger seed that would be treated prior to shipment to the United States, we cannot determine the effect this proposed rule would have on domestic firms that treat niger seed.

As a group, importers in the United States would likely be unaffected by this proposed change, since it would not likely affect the overall volume of niger seed imported into the United States. However, the proposed change could result in new marketing and distribution channels that could benefit some importers at the expense of others. We estimate that there are fewer than 20 importers of niger seed in the United States. However, data on the importers’ size are not available, although we expect at least some of the importers are likely to be small according to SBA criteria.

We are also proposing to amend the regulations to revise the heat treatment required for imported niger seed. However, since the revised treatment would only involve a change in the required treatment temperature, and no change in the type or duration of the treatment, we anticipate that existing treatment facilities would not be affected by the proposed new treatment.

Lilac From The Netherlands

This proposed rule would allow the importation of lilac from The Netherlands under new conditions due to The Netherlands’ request for an alternative to the use of methyl bromide as a fumigant of soil for lilac to be exported to the United States. This change should have no effect on the volume of lilac imported from the Netherlands since it simply provides a new mechanism for Dutch exporters to ship lilac without fumigating the soil in which it is grown with methyl bromide and, therefore, should have no effect on U.S. entities, whether small or large.

Peanuts From Certain Countries

This proposed rule would allow the importation of peanuts from Indonesia, Japan, the People’s Republic of China, the Philippines, Taiwan, and Thailand.

The importation of peanuts from those countries has been prohibited due to the existence of the peanut stripe virus. Because the peanut stripe virus is now known to exist in several U.S. peanut-producing States, and is widely prevalent in Georgia and Virginia, we are proposing to remove the restrictions on the entry of peanuts from those countries.

China is the world’s largest peanut producer. In the 1996 to 1997 harvest season, China produced about 6 times more peanuts than the United States, which was the world’s fourth largest peanut producer during that period (India and Nigeria were the second and third largest producers, respectively). For the year beginning October 1, 1997, the United States imported 141 million pounds of peanuts, equivalent to only 4 percent of domestic peanut production. The United States is a net exporter of peanuts, exporting almost five times as many peanuts as it imports.

This proposed change should have little or no effect on U.S. consumers, producers, or importers because it is unlikely that a significant volume of peanuts would be imported into the United States, since the imported peanuts likely cannot compete with higher quality peanuts produced in the United States.

Mango Seeds From the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines

This proposed rule would prohibit the importation of mango seeds from the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines due to the risk of introducing the mango seed weevil, *Sternonchetus mangiferae*, into the United States. This proposed change should have little or no effect on U.S. consumers, importers, or producers, due to the fact that the United States has historically imported a very small volume of mangoes and mango seeds from those countries. Between September 1, 1997, and May 31, 1998, the value of U.S. imports of fresh mangoes (with seeds intact) from Trinidad and Tobago and Grenada was approximately \$20,000, or approximately 1 percent of the value of U.S. fresh mango imports from all countries combined during that period. During the same period, the United States imported no mangoes or mango seeds from St. Vincent and the Grenadines. Data on imports of mango seeds or fruit from the British Virgin Islands are not available. Furthermore, the United States imported no seeds,

fruit, or spores for propagation from Trinidad and Tobago in 1997.

Willow From Belgium and Japan

This proposed rule would prohibit the importation of willow plants and plant parts from Belgium and Japan due to the risk of introducing the watermark disease of willow into the United States.

The United States has historically imported a very small volume of willow plants and plant parts from Belgium and Japan. The value of live trees and plants, including willow plants, imported into the United States from Belgium and Japan in 1997 totaled only \$3 million, or less than 1 percent of the value of U.S. live tree and plant imports from all countries combined that year. Since willow plants compose only a small fraction of the plants imported from Belgium and Japan, this proposed change should have little or no effect on U.S. consumers, importers, or producers.

Citrus Seeds From Gabon and Iran

This proposed rule would require that seeds of all species of the plant family Rutaceae (citrus) from Gabon and Iran be treated for citrus canker upon arrival in the United States. This proposed change should have no effect on U.S. consumers, producers, or importers, since imports of Rutaceae (citrus) from the two affected countries are nonexistent. Trade data for 1995 to 1997 show no U.S. imports of citrus fruit (fresh or dried) or seeds, fruit, or spores for propagation from either of the two regions.

Growing Requirements for Hops

This proposed rule would require that imported hops plants and plant parts be grown and observed in postentry quarantine in an isolated growth chamber for 6 months, and then transferred to a greenhouse to be grown for an additional year.

Researchers and universities comprise the overwhelming bulk of entities in the United States that grow imported hop plants and plant parts. The proposed change should have little or no effect on researchers, since most already have the equipment and facilities to comply with the proposed rule's requirements. Accordingly, for most of the affected entities, the cost to comply with the proposed requirements should be minimal.

Commercial Shipments of Bulbs

This proposed rule would allow the importation of bulbs of the genera *Crocossia*, *Gladiolus*, and *Watsonia* in commercial shipments from Brazil,

France, Italy, Malta, Mauritius, and Portugal.

In 1998, the United States imported over \$175 million worth of bulbs and tubers. Imports from Brazil, France, Italy, Malta, Mauritius, and Portugal together accounted for less than 1 percent of the total bulb and tuber imports. Data on potential imports of bulbs that would result from this proposed change are not available. However, given the export history of the countries affected, it is unlikely that this change would have a significant impact on domestic bulb producers or bulb importers.

Additional Approved Growing Media and Packing Material

This proposed rule would add stockosorb superabsorbent polymer, zeolite, coir, and coal cinder to the list of growing media approved for the importation of certain plants.

This proposed change is not expected to result in increased U.S. imports of plants in growing media; the expected result is a redistribution of the existing volume of plant imports among a larger number of approved growing media. Accordingly, the proposed addition of these types of growing media should have no economic effect on U.S. consumers, producers, or importers.

This rule would also add stockosorb superabsorbent polymer to the list of approved packing material. We cannot determine what entities could be affected by this proposed change, but we believe that it would not likely have a significant economic effect on any U.S. entities.

List of Ports of Entry

This rule would amend the regulations to reflect that the port of El Paso, TX, no longer operates as a Federal plant inspection station. This port no longer operates as a plant inspection station because it does not have the capacity to perform treatments and provide the other services that are available at Federal plant inspection stations. We believe that this change would not have any significant impact on any U.S. entities, whether small or large.

Other Proposed Changes

We are also proposing to make several other amendments to the regulations, including changes in plant taxonomy, postentry quarantine protocol, labeling requirements, and risk assessment policy, as well as other editorial changes, which would not have any economic effects on U.S. entities, whether small or large.

This proposed rule contains information collection requirements, which have been submitted for approval to the Office of Management and Budget (see "Paperwork Reduction Act" below).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98-062-1. Please send a copy of your comments to: (1) Docket No. 98-062-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. This action is necessary to update the existing regulations and make them easier to understand and implement.

These changes will necessitate the use of certain information collection activities, including the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Importers of nursery stock and foreign governments.

Estimated annual number of respondents: 20.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 20.

Estimated total annual burden on respondents: 10 hours.

Copies of this information collection can be obtained from Mrs. Celeste

Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 300 and 319 as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

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

2. In § 300.1, paragraph (a), the introductory text would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [date], has been approved for

incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 166, 450, 7711-7714, 7718, 7731, 7732, and 7751-7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. In § 319.37-2(a), the table would be amended as follows:

a. By adding, in alphabetical order, entries for "Ajania spp.", "Brugmansia spp.", "Chrysanthemum", "Crococsmia spp.", "Datura spp. (woody species)", "Gladiolus spp.", "Leucanthemum spp.", "Nipponanthemum spp.", and "Watsonia spp." to read as set forth below.

b. By removing the entry for "Chrysanthemum spp."

c. By revising the entries for "Abelmoschus spp.", "Aesculus spp.", "Arachis spp.", "Blighia sapida", "Crococsmia spp.", "Datura spp.", "Gladiolus spp.", "Jasminum spp.", "Mangifera spp.", "Salix spp.", "Sorbus spp.", and "Watsonia spp." to read as set forth below.

d. In the entry for "Hydragea spp.", the word "Hydragea" would be corrected to read "Hydrangea".

§ 319.37-2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Abelmoschus</i> spp. (okra)	Africa Brazil Bangladesh, India, Sri Lanka Cote d'Ivoire, Nigeria Iraq Papua New Guinea, Trinidad and Tobago	Cotton leaf curl agent. Cotton Anthocyanosis agent. Bhendi yellow vein mosaic agent. Okra mosaic virus. Okra yellow leaf curl agent. Okra mosaic agents.
* * *	* * *	* * *
<i>Aesculus</i> spp. (horsechestnut)	Czechoslovakia, Germany, Romania, United Kingdom..	Horsechestnut variegation or yellow mosaic diseases.
* * *	* * *	* * *
<i>Ajania</i> spp	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Arachis</i> spp. (peanut) seed only (all other <i>Arachis</i> articles are included under Fabaceae).	Burkina Faso, Cote d'Ivoire, Senegal	Peanut clump virus.
	India	Indian peanut clump virus.
<i>Blighia sapida</i> (akee)	Cote d'Ivoire, Nigeria	Okra mosaic virus.
<i>Brugmansia</i> spp.	Columbia	Datura Columbia virus.
Chrysanthemum	(See § 319.37–5(c)).	
<i>Crocoshmia</i> spp. (montebretia)	Africa	<i>Puccinia mccleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Crocoshmia</i> spp. (montebretia), except bulbs in commercial shipments.	Argentina, Uruguay	<i>U. gladioli</i> P. Henn. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	<i>U. transversalis</i> (Thuem.) Wint. (rust).
<i>Datura</i> spp.	India	Datura distortion or enation mosaic virus.
<i>Datura</i> spp. (woody species)	(See <i>Brugmansia</i> spp.).	
<i>Gladiolus</i> spp. (gladiolus)	Africa	<i>Puccinia mccleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Gladiolus</i> spp. (gladiolus), except bulbs in commercial shipments.	Argentina, Uruguay	<i>U. gladioli</i> P. Henn. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	<i>U. transversalis</i> (Thuem.) Wint. (rust).
<i>Jasminum</i> spp. (jasmine)	Belgium, Germany, Great Britain	Jasmine variegation diseases.
	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
	Philippines	Sampaguita yellow ringspot mosaic diseases.
<i>Leucanthemella</i> spp.	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Mangifera</i> spp. (mango) seed only. (Prohibition not applicable to seeds imported into Guam, Hawaii, and the Northern Mariana Islands.).	All except Guimaras Island (Republic of the Philippines) and North and South America (excluding Barbados, the British Virgin Islands, Dominica, French Guiana, Grenada, Guadeloupe, Martinique, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago).	<i>Sternonchetus mangiferae</i> F. (mango seed weevil).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Nipponanthemum</i> spp	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude..	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Salix</i> spp. (willow)	Belgium, Germany, Great Britain, Japan, and The Netherlands.	<i>Erwinia salicis</i> (Day) Chester (Watermark disease).
<i>Sorbus</i> spp. (mountain ash)	Czechoslovakia, Denmark, Germany	Mountain ash variegation or ringspot mosaic disease.
<i>Watsonia</i> spp. (bugle lily)	Africa	<i>Puccinia mccleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Watsonia</i> spp. (bugle lily), except bulbs in commercial shipments.	Argentina, Uruguay, Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	<i>U. gladioli</i> P. Henn. (rust). <i>U. transversalis</i> (Thuem.) Wint. (rust).

5. In § 319.37-4, paragraph (c) would be amended as follows:
 a. By revising the introductory text to read as set forth below.
 b. By revising the introductory text of paragraph (c)(1) to read as set forth below.
 c. By revising paragraph (c)(1)(iv) to read as set forth below.
 d. By revising paragraph (c)(2) to read as follows:

§ 319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Health and Production Division of the Canadian Food Inspection Agency (CFIA) signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation, and provided that the following conditions are met:

(1) The Plant Health and Production Division of CFIA shall:

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown

plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency." The Plant Health and Production Division, CFIA, shall also ensure that the label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Health and Production Division of CFIA in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants; keep the records for at least 1 year after the plants are shipped to the United States; and make the records available for review and copying upon request by either the Plant Health and Production Division of CFIA or an authorized representative of the Secretary of Agriculture;

(ii) Apply to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States a label issued by CFIA that includes the identification number assigned to the

grower by the Plant Health and Production Division, CFIA, and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency."; and

(iii) Use pest control practices approved by Plant Protection and Quarantine and the Plant Health and Production Division of CFIA to exclude pests from the greenhouses.

6. Section 319.37-5 would be amended by revising paragraphs (c) and (i) to read as follows.

§ 319.37-5 Special foreign inspection and certification requirements.

(c) Any restricted article (except seeds) of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., or *Nipponanthemum* spp. from any foreign place except Europe, Argentina, Brazil, Canada, the Canary Islands, Chile, Colombia, the Republic of South Africa, Uruguay, Venezuela, and all countries and localities located in part or entirely between 90° and 180° east longitude shall, at the time of arrival at the port of first arrival in United States, be accompanied by a phytosanitary

certificate of inspection. The phytosanitary certificate of inspection must contain a declaration that such article was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust of chrysanthemum (caused by the rust fungus *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation.

* * * * *

(i) Any restricted article of *Syringa* spp. (lilac) from The Netherlands is prohibited as specified in § 319.37-2(a) unless, at the time of arrival at the port of first arrival in the United States, the phytosanitary certificate accompanying the article of *Syringa* spp. (lilac) contains a declaration that stipulates that the parent stock was found free of plant diseases by inspection and indexing and that the *Syringa* spp. (lilac) to be imported were propagated either by rooting cuttings from indexed parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in:

(1) Fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least 3 meters from the nearest nonindexed *Syringa* spp. (lilac), or

(2) Soil that has been sampled and microscopically inspected by the plant protection service of The Netherlands within 12 months preceding issuance of the phytosanitary certificate and that

has been found free of the viruliferous nematodes capable of transmitting European nepoviruses, including, but not limited to, the Arabis mosaic nepovirus.

* * * * *

7. Section 319.37-6 would be amended as follows:

a. By revising paragraph (d) to read as set forth below.

b. In paragraph (e), by removing the words "Burma," and "Ivory Coast," and by adding, in alphabetical order, the words "Cote d'Ivoire," "Gabon," "Iran," and "Myanmar,".

§ 319.37-6 Specific treatment and other requirements.

* * * * *

(d) Seeds of *Guizotia abyssinica* (niger seed) are allowed entry only if:

(1) They are treated in accordance with the PPQ Treatment Manual at the time of arrival at the port of first arrival in the United States; or

(2) They are treated prior to shipment to the United States at a facility that is approved by APHIS⁹ and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of this section and allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in § 319.37-13(c).

* * * * *

8. Section 319.37-7 would be amended as follows:

a. In the table in paragraph (a)(3), by adding, in alphabetical order, entries for "*Ajania* spp.," "*Brugmansia* spp.," "*Chrysanthemum*," "*Datura* spp. (woody species)," "*Leucanthemella* spp.," and "*Nipponanthemum* spp." to read as set forth below.

b. In the table in paragraph (a)(3), by removing the entry for "*Chrysanthemum* spp."

c. In the table in paragraph (a)(3), by revising the entries for "*Aesculus* spp.," "*Blighia sapida*," "*Datura* spp.," "*Ribes* spp.," and "*Salix* spp." to read as set forth below.

d. In paragraph (b), by removing the entry for "*Phoenix—date*".

e. By revising paragraph (c)(1)(i) to read as set forth below and by adding and reserving paragraph (c)(1)(ii).

f. In paragraph (c)(2)(iv), by removing the words "now know" and adding the words "not known" in their place.

g. In paragraph (d)(1), by removing the words "of an inspector and only to the extent prescribed by the inspector;" and adding the words "of the coordinator, Postentry Quarantine Unit, USDA, APHIS, PPQ, Building 580, BARC-East, Beltsville, MD 20705;" in their place.

h. By revising paragraph (d)(4) to read as set forth below.

i. By revising paragraph (d)(7) to read as set forth below.

j. By removing paragraphs (d)(8) and (d)(9).

k. In paragraph (e), by redesignating footnote 9 and its reference in the text as footnote 10.

§ 319.37-7 Postentry quarantine.

(a) * * *

(3) * * *

Restricted articles (excluding seeds)	Foreign country(ies) or locality(ies) from which imported
<i>Aesculus</i> spp. (horsechestnut)	All except Canada, Czechoslovakia, Germany, Romania, and the United Kingdom.
<i>Ajania</i> spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
<i>Blighia sapida</i> (akee)	All except Canada, Cote d'Ivoire, and Nigeria.
<i>Brugmansia</i> spp	All except Canada and Columbia.
<i>Chrysanthemum</i>	See § 319.37-5(c).

⁹Criteria for the approval of niger seed treatment facilities are contained in the PPQ Treatment

Manual, which is incorporated by reference at § 300.1 of this chapter.

Restricted articles (excluding seeds)	Foreign country(ies) or locality(ies) from which imported
<i>Datura</i> spp	All except Canada and India.
<i>Datura</i> spp. (woody species)	(See <i>Brugmansia</i> spp)
<i>Leucanthemella</i> spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
<i>Nipponanthemum</i> spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
<i>Ribes</i> spp	All except Canada, Europe, and New Zealand.
<i>Salix</i> spp. (willow)	All of Europe (except Belgium, Germany, Great Britain, and the Netherlands).

* * * * *

(c) * * * (1) * * *

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph: All U.S. States and Territories, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands.

(ii) [Reserved]

* * * * *

(d) * * *

(4) To keep the article separated from any other plant or plant product by no less than 3 meters (approximately 10 feet) unless such other plant or plant product is of the same genus as the article, entered postentry quarantine with the article, and arrived together with the article in a single shipment from a foreign region;

* * * * *

(7) To grow the article or increase therefrom in postentry quarantine for a period of 2 years unless specified otherwise in the following:

(i) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe, only in a greenhouse with screening of a minimum of 16 mesh per inch.

(ii) To grow the article or increase therefrom, if an article of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., *Nipponanthemum* spp., or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 6 months after importation for an article of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., or

Nipponanthemum spp., and for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william).

(iii) To grow the article or increase therefrom, if an article of *Humulus* spp. (hops), a meristem culture of the imported plant will be observed for 6 months, and the original plant will be destroyed after the meristem culture is established. After the 6-month observation, the meristem culture-generated plant must remain in postentry quarantine for an additional year.

* * * * *

9. In § 319.37–8, the introductory text of paragraph (e) and paragraphs (e)(1) and (g) would be revised to read as follows.

§ 319.37–8 Growing media.

* * * * *

(e) A restricted article of any of the following groups of plants may be imported established in an approved growing medium listed in this paragraph, if the article meets the conditions of this paragraph, and is accompanied by a phytosanitary certificate issued by the plant protection service of the country in which the article was grown that declares that the article meets the conditions of this paragraph: *Alstroemeria*, *Ananas*, *Anthurium*, *Begonia*, *Gloxinia* (= *Sinningia*), *Nidularium*, *Peperomia*, Polypodiophyta (= Filicales) (ferns), Rhododendron from Europe, and *Saintpaulia*.¹¹

¹¹ *Ananas* and *Nidularium* are bromeliads, and if imported into Hawaii, bromeliads are subject to postentry quarantine in accordance with § 319.37–7.

(1) Approved growing media are baked expanded clay pellets, coal cinder, coir, cork, glass wool, organic and inorganic fibers, peat, perlite, phenol formaldehyde, plastic particles, polyethylene, polymer stabilized starch, polystyrene, polyurethane, rock wool, sphagnum moss, ureaformaldehyde, stockosorb superabsorbent polymer, vermiculite, volcanic rock, or zeolite, or any combination of these media. Growing media must not have been previously used.

* * * * *

(g) *Pest risk evaluation standards for plants established in growing media.* The Animal and Plant Health Inspection Service will conduct a pest risk assessment based on pest risk analysis guidelines established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization in response to each request to allow the importation of additional taxa of plants in growing media. These guidelines are available upon request by writing to USDA, APHIS, PPQ, Permits and Risk Assessment, Commodity Risk Analysis Branch, 4700 River Road Unit 133, Riverdale, MD 20737.

* * * * *

10. In § 319.37–9, the list of approved packing material would be amended by adding, in alphabetical order, a new entry to read as follows:

§ 319.37–9 Approved packing material.

* * * * *

Stockosorb superabsorbent polymer.

* * * * *

11. Section § 319.37–13 would be amended as follows:

a. The section heading would be revised as set forth below.

b. In paragraph (a), footnote 11 and its reference in the text would be redesignated as footnote 12.

c. A new paragraph (c) would be added to read as follows:

§ 319.37-13 Treatment and costs and charges for inspection and treatment; treatments applied outside the United States.

* * * * *

(c) Any treatment performed outside the United States must be monitored and certified by an APHIS inspector or an official from the plant protection service of the exporting country. If monitored and certified by an official of the plant protection service of the exporting country, then a phytosanitary certificate must be issued with the following declaration: "The consignment of (fill in botanical name) has been treated in accordance with the Plant Protection and Quarantine Treatment Manual." During the entire interval between treatment and export, the consignment must be stored and handled in a manner that prevents any infestation by pests and Federal noxious weeds.

§ 319.37-14 [Amended]

15. In § 319.37-14, paragraph (b), in the list of ports of entry, under the undesignated center heading, "TEXAS", the asterisk immediately before the words "El Paso" would be removed.

Done in Washington, DC, this 18th day of December, 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-31602 Filed 12-27-01; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 35, and 37

[Docket No. RM01-8-000]

Revised Public Utility Filing Requirements

Issued December 20, 2001.

AGENCY: Federal Energy Regulatory Commission (Commission), DOE.

ACTION: Order seeking comments on proposed data sets.

SUMMARY: As contemplated in the notice of proposed rulemaking issued by the Federal Energy Regulatory Commission (Commission) earlier in this proceeding,

Revised Public Utility Filing Requirements, (66 FR 40929), FERC Stats. & Regs. ¶ 32,554 (2001) (NOPR), this order invites comment on a proposed set of uniform data elements for public utilities' quarterly electronic filings that would accompany the final rule. Uniform data sets are necessary to ensure that the requested data is reported in a consistent, informative manner by all reporting public utilities.

DATES: Written comments must be received by the Commission by January 28, 2002.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

H. Keith Pierce (Technical Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-0525

Barbara D. Bourque (Information Technology Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-2338

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (202) 208-0321

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

Order Seeking Comments on Proposed Data Sets

Issued December 20, 2001.

I. Background

On July 26, 2001, the Commission issued a notice of proposed rulemaking in this proceeding, *Revised Public Utility Filing Requirements*, 66 FR 40929, FERC Stats. & Regs. ¶ 32,554 (2001) (NOPR), proposing to revise the Commission's filing requirements for public utilities. The Commission is currently engaged in reviewing the comments filed in response to the NOPR.

Among other matters, the NOPR stated that "[l]ater in this rulemaking process, we plan to conduct further proceedings to develop the instruction manual to be used to make Index of Customer filings, which will define the data elements to be included in Index of Customers filings." Uniform data sets are necessary to ensure that required data are reported in a consistent,

informative manner by all reporting public utilities.

As explained in the NOPR, the Commission is considering requiring public utilities to make quarterly electronic filings when we issue a final rule in this proceeding. As explained in the text of proposed § 35.10b, the filing requirements would pertain to every jurisdictional electric service, under part 35 of the Commission's regulations, 18 CFR Part 35, that was effective some time during the reporting quarter. In this order, we invite comment on a proposed set of uniform data elements for public utilities' quarterly electronic filings that would accompany the final rule.

II. Discussion

A. Suggestion To Postpone Action on Proposed Rulemaking Pending Completion of Comprehensive Review of Market Monitoring Information

As explained above, we are currently engaged in reviewing the comments filed in response to the NOPR and, with one exception, will not address those comments here. The exception is the issue raised in some comments to the NOPR that the Commission should postpone action on the proposals in the NOPR pending completion of the Commission's comprehensive review of the information needed by the Commission for market monitoring purposes.

This argument maintains that, if the Commission's comprehensive review of market monitoring information concludes that the transactional data proposed in the NOPR to be reported in Index of Customers filings are later found to be unnecessary, then issuance of a final rule requiring the electronic filing of that information (and posting of that information on a website) would result in public utilities incurring unnecessary expenses to establish procedures to collect and report these data. The same commenters also argue that it would be wasteful to force public utilities to design and implement procedures to report transactional data for market monitoring purposes, merely to have those reporting requirements withdrawn, once the Commission completes its review of needed market monitoring information.

We find these arguments without merit because, although the Commission has not completed its comprehensive review of market monitoring data, we believe that the information proposed to be reported would be the minimum needed for market monitoring purposes, even if we later determine that additional data also will be necessary. Moreover, as we noted in the NOPR, we