

# Notices

Federal Register

Vol. 71, No. 125

Thursday, June 29, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 23, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

### Rural Utilities Service

*Title:* 7 CFR Part 1744-C, Advance and Disbursement of Funds—Telecommunications.

*OMB Control Number:* 0572-0023.

*Summary of Collection:* Section 201 of the Rural Electrification Act (RE Act) of 1936 authorizes the Administrator of the Rural Utilities Service (RUS) to make loans for the purpose of providing telephone service to the widest practicable number of rural subscribers. A borrower requesting loan advances must submit RUS Form 481, "Financial Requirement Statement". Along with the Form 481 the borrower must also submit a description of the advances and upon request copies of backup documentation relating to the transactions. The information is used to determine what projects the contracts listed on the Form relate to. Within a reasonable amount of time, funds are advanced to the borrower for the purposes specified in the statement of purposes.

*Need and Use of the Information:* The Form 481 is used by RUS to record and control transactions in the construction fund. RUS will collect information and verify that the funds advanced are related directly to loan purposes. If the information were not collected, RUS would not have any control over how loan funds are spent or a record of the balance to be advanced.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 177.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 1,223.

### Rural Utilities Service

*Title:* 7 CFR Part 1703-H, Deferments of RUS Loan Payments for Rural Development Projects.

*OMB Control Number:* 0572-0097.

*Summary of Collection:* Subsection (b) of section 12 of the Rural Electrification Act (RE Act) of 1936, as amended (7 U.S.C. 912), a Rural Utilities Service (RUS) electric or telephone borrower may defer the payment of principal and interest on any insured or direct loan made under the RE Act invest the deferred amounts in rural development projects. The Deferment program is used to encourage borrowers to invest in and

promote rural development and rural job creation projects that are based on sound economic and financial analyses.

*Need and Use of the Information:* RUS will collect information to determine eligibility; specific purposes for which the deferment amount will be utilized; the term of the deferment the borrower will receive; the cost of the total project and degree of participation in the financing from other sources; verification that the purposes will not violate limitations established in 7 CFR 1703-H. If the information were not collected, RUS would be unable to determine eligibility for a project.

*Description of Respondents:* Not-for-profit; Business or other for-profit.

*Number of Respondents:* 1.

*Frequency of Responses:*

Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 35.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 06-5802 Filed 6-28-06; 8:45 am]

BILLING CODE 3410-15-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2006-0090]

### Plant Protection and Quarantine Export-Related Services and Procedures

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Plant Protection and Quarantine (PPQ) program of the Animal and Plant Health Inspection Service provides, among other things, certain technical services to businesses and individuals to help them successfully export live plants or plant products. This notice provides information concerning trade-related international agreements and organizations and details PPQ's role in facilitating the export of plants and plant products from the United States.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nancy G. Klag, Deputy Director, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-8262.

**SUPPLEMENTARY INFORMATION:** Any business or individual in the United States who wants to export a product to a foreign country may need to meet a number of requirements. These requirements range from practical and commercial (e.g., finding a buyer, arranging financing, shipping, etc.) to legal (e.g., complying with all requirements, whether U.S. or foreign, that may apply to the shipment).

The Plant Protection and Quarantine (PPQ) program of the Animal and Plant Health Inspection Service (APHIS) can provide certain technical services to businesses and individuals to help them successfully export live plants or plant products. No business or individual is required to use our services; U.S. producers do not need to apply to APHIS or obtain permission from APHIS to export any plant or plant product to any foreign country. However, U.S. producers must meet the import requirements of the importing country, and APHIS, when required, certifies that shipments meet the plant quarantine import requirements of the destination country.

#### International Agreements and Standards

International trade is governed by standards and procedures set by several international organizations. "International standard" is defined in 19 U.S.C. 2578b as a standard, guideline, or recommendation:

(A) Regarding food safety, adopted by the Codex Alimentarius Commission, including a standard, guideline, or recommendation regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;

(B) Regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;

(C) Regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization; or

(D) Established by or developed under any other international organization agreed to by the NAFTA [North American Free Trade Agreement] countries (as defined in section 3301 (4) of this title) or by the WTO [World Trade Organization] members (as defined in section 3501(10) of this title).

Standards and procedures designed to safeguard agricultural resources of member countries have been adopted by the United States and our trading partners as members of these international organizations.

#### World Trade Organization

Internationally agreed-upon procedures for dealing with trade in

general are covered by various World Trade Organization (WTO) agreements. The WTO framework covers matters involving non-tariff barriers, dispute settlement, and other topics. The WTO Agreement on the Application of Sanitary and Phytosanitary Measures<sup>1</sup> (SPS Agreement) governs the use of SPS measures in trade (i.e., plant or animal health regulations and other requirements imposed for the purpose of safeguarding consumer, animal, or plant health or life).

The SPS Agreement applies to all trade in plant and plant-related materials between members, regardless of the quantity, type, or means of transportation, or country of origin or country of destination. The SPS Agreement maintains member countries' right to regulate imports for the purpose of protecting consumer, animal, and plant health, provided such measures are technically justified, not unjustifiably discriminatory, and the least restrictive measure available (i.e., operationally feasible and capable of achieving the importing country's appropriate level of protection). Under the SPS Agreement, all countries are obligated to base their sanitary and phytosanitary measures on international standards where they exist. Also, all countries must decide whether to allow the import of a commodity based on an analysis of the possible pest risk and consideration of possible mitigations.

#### International Plant Protection Convention

The SPS Agreement recognizes three international standard setting bodies as the official entities for developing health-related standards for global trade. Under the SPS Agreement, members are obligated to recognize these standard-setting organizations. They are:

- Codex Alimentarius, for food safety;
- International Plant Protection Convention (IPPC), for plant health; and
- World Organization for Animal Health (OIE), for animal health.

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been and continues to be broad, encompassing the protection of both cultivated and non-cultivated plants from injury by plant pests. Activities addressed by the IPPC include the

development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization (NPPO) is PPQ.

Technical experts from the United States have participated in working groups and as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS have been sources of significant input for many of the standards adopted to date. APHIS posts information concerning its IPPC-related activities on the Internet at <http://www.aphis.usda.gov/ppq/pim/standards/>. Interested individuals may review draft IPPC standards and other IPPC documents, which are posted as they become available to member governments, and submit comments via the Web site.

#### Regional Plant Protection Organizations/North American Plant Protection Organization

Countries, including the United States, also work together under the auspices of the IPPC and their respective regional plant protection organizations (RPPOs) to establish plant health standards.<sup>2</sup> RPPOs coordinate efforts among member countries to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. Standards adopted by RPPOs may later be proposed, modified, and adopted by the IPPC as global standards.

The United States belongs to the North American Plant Protection Organization (NAPPO). The other NAPPO members include Canada and Mexico. As noted above, PPQ is the United States' NPPO and is delegated the authority to participate in IPPC and NAPPO standard-setting activities.

<sup>2</sup> There are several RPPOs, each covering different areas of the world. They are APPC (Far East, Indian subcontinent, Australia and New Zealand), CAN (Andean community), COSAVE (Southern cone of South America), CPCC (Caribbean), IAPSC/CPI (Africa), NAPPO (Canada, Mexico and the United States), OEPP/EPP (Europe and Mediterranean), OIRSA (Central America), and PPPO (Pacific).

<sup>1</sup> The full text of the SPS Agreement may be found on the Internet at [http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm](http://www.wto.org/english/docs_e/legal_e/legal_e.htm).

### PPQ's Role as NPPO

Generally speaking, specific pest risk mitigation measures for trade in commodities that are identified and evaluated through the pest risk analysis process conducted by the importing country. As the NPPO for the United States, PPQ acts as an intermediary between U.S. exporters and the government of the importing country. In its role as NPPO, PPQ works to ensure that the risk mitigation and import requirements specified by the importing country are appropriate, certifies the commodity is free of pathogens and/or pests of concern to the importing country, and otherwise ensures that trade is conducted consistent with international standards and the importing country's specific phytosanitary import requirements so as to safeguard the importing country's agriculture resources.<sup>3</sup>

To summarize, foreign NPPOs do not work directly with prospective U.S. exporters or State governments; they work instead with PPQ, the NPPO for the United States. PPQ communicates directly with the importing country's NPPO concerning pest risk issues associated with trade in plants and plant products.

### APHIS Services and Export Regulations

To successfully export an agricultural product, U.S. producers must meet the import requirements of the importing country. To help producers, PPQ provides various technical services.<sup>4</sup> Our services deal only with plant health (APHIS' Veterinary Services program fulfills a corresponding role with respect to animal health).

<sup>3</sup> This system works identically for commodities imported into the United States. In that situation, PPQ works with the NPPO of the foreign country, not directly with the foreign producers. After conducting any necessary pest risk analysis and considering possible mitigations, PPQ and the foreign NPPO negotiate the terms of trade in compliance with international standards so as to safeguard the agricultural resources of the United States.

<sup>4</sup> The APHIS, PPQ, Phytosanitary Issues Management Web site contains extensive information of interest to exporters. The following information can be accessed through the Web site: (1) Basic program information; (2) descriptions of certificates and forms (some downloadable); (3) a glossary of definitions and terms; (4) the U.S. Export Standards for Seed Potatoes; (5) a fact sheet about EXCERPT (a database of various countries' import requirements); (6) a list of commodities ineligible for phytosanitary certification or processed product certification; (7) a list of processed products eligible for an export certificate; (8) a discussion of user fees for export certificates; (9) a discussion of export requirements for wood packing material (both export and import); and (10) frequently asked questions. The Web site address is <http://www.aphis.usda.gov/ppq/pim/exports/>.

Most countries require most imported agricultural commodities to be accompanied by a phytosanitary certificate. In the United States, only Federal phytosanitary certificates (FPCs) are utilized for certifying the phytosanitary health of U.S. exports of plants and plant products. FPCs are official forms that certify that a plant or plant product has been handled, processed, and inspected in the manner required by a foreign government to mitigate the risk associated with certain pests. The FPC may contain information about the source of the commodity, any treatments applied, the pest status of the area where the commodity was produced, and any other information required by the importing country consistent with IPPC norms.

PPQ is responsible, as the NPPO, for issuing FPCs. Inspectors, who may be PPQ employees or State or county officials designated under IPPC and NAPPO standards as Authorized Certification Officials (ACOs), may issue FPCs.<sup>5 6</sup> Exporters can only obtain the certificate from a designated ACO. FPCs can only be issued for commodities that are eligible under APHIS policy, regardless of the importing country's requirements.

PPQ regulations governing export certification are contained in 7 CFR part 353. These regulations list locations where phytosanitary certification services are offered, what products are covered by the regulations, who may qualify to conduct inspections or draw samples of products for inspection, and detailed information about the various phytosanitary certificates.

### Procedures: Initial Contact With APHIS

Prospective exporters who want to export live plants or plant products should first contact their local State agriculture or PPQ office. Exporters should remember that it can be time-consuming to do the work necessary to issue an FPC. Therefore, exporters should contact their local State agriculture or PPQ office as far in advance of the export date as possible. Exporters should contact their local State agriculture or local PPQ office regardless of the type or quantity of plants or plant products to be exported or the method of transportation. Local State agriculture and PPQ offices are listed in telephone directories in the blue government pages. PPQ offices are

<sup>5</sup> U.S. sanitary certificates are also issued by APHIS for animal; products. APHIS, Veterinary Services, is responsible for issuing these certificates.

<sup>6</sup> PPQ, and most cooperating States, charge a user fee for each FPC. Current PPQ user fees are listed in 7 CFR 354.4(g).

also listed on our Web site at [http://www.aphis.usda.gov/ppq/pim/exports/es\\_certification\\_specialist.html](http://www.aphis.usda.gov/ppq/pim/exports/es_certification_specialist.html). Local State agriculture offices are listed on the Internet at <http://www.nationalplantboard.org/member/index.html>.

The issuing office will use EXCERPT, a computerized compilation of the phytosanitary requirements for most countries to which the United States exports agricultural products, to determine if the foreign country allows importation of the commodity from the United States, and if so, will cite the phytosanitary requirements. (For example, the importing country may require a certain type of packaging, require the commodity to be treated, allow imports only during a certain time of year, etc.) We inform the prospective exporter of the country's phytosanitary requirements, including whether the country requires an FPC. We make every effort to keep the information in EXCERPT up to date. However, EXCERPT is only as current as the information provided to us by importing countries.

If a prospective exporter wants to export a commodity that is already allowed (referred to as an enterable commodity) and that requires an FPC, and they are able and willing to comply with the import requirements of the foreign country, they must request the services of an inspector by submitting a written application (PPQ Form 572, Application for Inspection and Certification of Domestic Plant and Plant Products for Export). Phytosanitary certification is based, at a minimum, on a physical inspection of the consignment. Therefore, exporters must apply for an FPC in advance of shipping. The exporter should submit this form to their local State agriculture or PPQ office and that office will issue the FPC. ACOs around the country issue approximately 500,000 FPCs annually. If the importing country requires an import permit, an ACO can give guidance on how to obtain a permit.

### Processing FPCs for Enterable Products

If the commodity is enterable and an FPC is required, our local office determines what specific information the country requires on the FPC. Not all countries require an FPC, but their use is growing as global trade increases. Most required information is routine, e.g., shipper's name, name of the commodity (including scientific name), origin of the commodity, quantity, etc. Sometimes the import requirements for a specific commodity require that the commodity be free of a specified pest or disease of particular concern to the

importing country, and the FPC may be required to include a certification to that effect. Each special certification, known as an additional declaration, must be made on the FPC.

We work with the prospective exporter to meet the importing country's phytosanitary and other technical requirements. We communicate with the exporter as appropriate (letter, fax, e-mail, telephone) to work through this stage. We attempt to provide technical help as practical. However, it is the responsibility of the exporter to comply with import requirements of the country of destination. For example, if the importing country requires a certain type of packaging, the exporter must make arrangements to have their commodity packaged as required. If a country requires that a commodity is free of a certain pest or pathogen, we will conduct the appropriate test or inspection to ensure freedom from the pest, and issue an FPC stating that fact. We may suggest how the exporter can grow, process, or package the commodity so that it is and remains free of the pest or pathogen. However, compliance-actually ensuring that the commodity is free of the regulated pest-is the exporter's responsibility.

The prospective exporter must be prepared to supply the following information to the local State agriculture or PPQ office. This information is necessary to complete PPQ Form 572.

*Information about the party submitting the request:*

- Name, mailing address, and telephone and fax numbers of exporter.
- Name, mailing address, and telephone and fax numbers of applicant, if different from exporter's.

*Information about the commodity proposed to be exported:*

- Location of commodity to be exported.
- Description of commodity to be exported. A scientific name may be required to determine phytosanitary requirements. Identity of the particular plant or plant part (e.g., fruit, leaf, root, entire plant, etc.) and any associated plant part proposed to be exported.
- Quantity and weight/volume of each commodity, including total number of packages of each commodity.
- The proposed end use of the exported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.).
- If the commodity is processed, a detailed description of the processing.
- Origin of the commodity (where it was grown).

*Shipping information:*

- Proposed date of exportation.

- Name and address of consignee in foreign country.
- Distinguishing markings on packaging.
- Type of conveyance (air, rail, truck, vessel).
- Port of export.
- Port of import (must be in the same country as the consignee).

**Processing Petitions for Currently Restricted or Prohibited Products**

If the commodity is currently restricted or prohibited, or there are requirements the prospective exporter cannot meet or does not believe are fair or reasonable, the exporter should contact the director of PPQ's Phytosanitary Issues Management (PIM) staff directly. We accept "requests to petition" U.S. trading partners on behalf of U.S. exporters. We refer to all requests as export petitions.

We prefer petitions to be submitted by mail or private courier, though we accept petitions by fax at 301-734-7639. We do not accept petitions over the telephone or by electronic mail, although we certainly encourage prospective exporters to contact us by phone to discuss their individual situations and obtain advice.

For the most efficient service, written export petitions should be mailed directly to: Director, Phytosanitary Issues Management, APHIS, PPQ, 4700 River Road Unit 140, Riverdale, MD 20737-1236. Petitions transmitted through a third party invariably take longer to reach us. In all cases, processing delays can be avoided by confirming that we have received the petition.

We start processing an export petition as soon as we receive it. No particular format or wording is required. But for the quickest service, some basic information should be included in the petition. This is the same information listed above under the heading "Processing FPCs for Enterable Products." Including as much of this information as possible in the initial requesting letter helps us process the petition efficiently.

When we receive a written petition, one of our trade directors determines whether it is a petition to open a market, expand a market, or retain a market. Petitioners are usually not aware of these categories. However, they are important for PPQ. The type of market access requested dictates how PPQ handles the petition. It also gives us an idea of the services the petitioner may want or need.

Petitions for currently restricted or prohibited commodities are petitions to open a market. If a foreign country does

not currently allow import of a specific commodity from the United States, we will work with the petitioner to open that market. In some cases, a market is closed to certain commodities from the United States because:

- The foreign country has never considered whether to allow importation because no one has ever requested it;
- There is a pest risk that cannot be mitigated;
- There is a mitigation, but it is technically or economically not feasible to use; or
- The importing country believes it does not have sufficient information to address its concerns.

The bulk of petitions are petitions to retain or expand a market. If a foreign country allows imports of a commodity from the United States, but imports are restricted, e.g., geographically (only allowed to enter a portion of the country), in time (only allowed to be shipped during certain times of the year), or subject to restrictive phytosanitary measures, or if a country restricts an enterable commodity due to a perceived pest risk, we will work to expand the market.

Unfortunately, there is no global list of possible requirements and restrictions. Requirements and restrictions are particular to what are called "commodity-country pairs," that is, a specific commodity from a country (for example, cherries from the United States) going to a specific country (for example, Spain). Generally, requirements and conditions apply to a specific commodity-country combination. However, in the future we expect to see the development and application of global import standards for specific commodity/pest combinations (e.g., developed by the IPPC and/or individual countries).

If the exporter cannot meet the foreign country's requirements, we will work with the exporter and the foreign country to develop acceptable alternatives. Common situations of this type are where the foreign country requires a commodity to be treated using a chemical that is not approved for application in the United States, or when a requirement is impractical or too expensive for the exporter.

Occasionally foreign countries impose requirements which are contrary to the SPS Agreement. In these situations we work with the foreign country to develop acceptable alternatives or to have the inappropriate requirement eliminated.

### Full Market Access Not Allowed— Overly Restrictive Measures

Sometimes the foreign country allows the requested commodity to be imported from the United States, but restricts importation geographically or in time. That is, the commodity is allowed to be exported from the United States only into a portion of the foreign country or only during a certain time of year. In many cases these restrictions are appropriate. In other cases, we may disagree and believe less restrictive requirements would protect the legitimate agricultural interests of the importing country. For example, there may be cases where, since the restrictions were put in place, a systems approach or a new treatment has been developed, or a regulated pest that previously existed in the United States has been eradicated. As with all restrictions, we inform the exporter. The exporter may find the requirements acceptable, or the exporter may decide they want to pursue exportation only if the requirements are less restrictive. In that case, we work with them and the importing country to identify less restrictive, but effective, measures to safeguard the importing country's agricultural health interests. Negotiations are extremely time-consuming and there is no guarantee of success.

The situation is similar if the importing country does not allow importation of the commodity at all from the United States. The country may actually prohibit importation or it may never have considered whether to allow importation. We inform the exporter of the situation. If they still want to pursue their petition, we will work with them and the foreign country to resolve the matter. However, as with expanding market access, the process of obtaining market access is extremely time-consuming and there is no guarantee of success.

When we are working to expand or obtain market access, PPQ may have to supply information to the foreign country so they can conduct a pest risk analysis. With help from the exporter, we provide the foreign country with the information they need.

If a risk analysis is required, the exporter may have to provide extensive information. The types of information required are the same as PPQ requests in order to conduct a pest risk analysis for a foreign commodity that has been proposed for importation into the United States.<sup>7</sup>

The information actually needed depends on the individual petition. The trade director works with the exporter and scientific experts to develop a package of data supporting the export petition. It is very much in the exporter's interest to provide information that is needed, as it facilitates the timely processing of their petition. If APHIS cannot obtain necessary information from the exporter, the foreign country will either seek the information from other sources, causing substantial delay, or may deny or delay consideration of the request. The information needed depends on the type of request. The following list describes types of information that might be requested:

- Contact information;
- Information about the area where the commodity is grown; and
- Shipping methods and volume of exports.

In some cases more extensive information might be required. Other information that might be requested includes, for example, a list of pests associated with the commodity, possible mitigation measures, post-harvest handling, and safeguarding procedures.

### Retaining Market Access

PPQ works constantly with current exporters and our trading partners to retain and expand markets, and to encourage countries to adopt the least restrictive measures necessary to effectively safeguard their agricultural resources. This is beneficial to both U.S. exporters and to importing countries. For example, eliminating or reducing the volume of dangerous chemicals to treat plants and plant material is a general benefit.

We also work with current exporters to retain markets that are already open to U.S. exporters. Sometimes a market is open, but import requirements change. This may happen because a regulated pest is detected in an arriving shipment, there is a report of a new pest in the United States, or the United States asks the importing country to reevaluate the pest risk of the commodity and to change its import requirements. If we determine that requirements are overly restrictive, PPQ works with the foreign government and with U.S. exporters to find mutually acceptable alternatives.

### Documentation and Communication

For each petition we receive, PPQ maintains a file of written documents relating to the petition. We keep a

regulations to require the submission of certain information before we will consider any request to import a new commodity for which a risk analysis is required (see 7 CFR 319.5).

record of every significant decision with a letter or other physical document. Some export petitions are handled very easily. However, any export petition can result in extensive negotiations between the importing country and PPQ. We utilize all appropriate and effective means to conduct negotiations (meetings, telephone calls, video conferences, letters, etc.). Official correspondence between PPQ and officials of the importing country is an especially important part of the negotiating process, and we maintain a complete file of official correspondence for each export petition. In addition, we endeavor to keep exporters informed at every stage of negotiations, and we request their help and cooperation as needed to help the process move forward. PPQ's staff of trade directors, along with APHIS attachés, communicates routinely with our trading partners both personally, one-on-one, and through informal and formal meetings. Bilateral meetings are formal meetings held with our major trading partners.<sup>8</sup> Bilateral meetings are scheduled as needed, when both countries have issues to discuss. PPQ posts minutes from bilateral meetings on the PPQ Web site.<sup>9</sup> These meetings are attended by technical staff and higher level officials; who attends is determined by the issues to be discussed.

With the cooperation of the exporter, we work with our trading partners to resolve technical market access issues. Risk mitigations may be documented in operational workplans. These documents, signed by the NPPO of each country, detail the operational requirements U.S. commodities must meet to be imported into foreign countries.<sup>10</sup>

### Completing Work on an Export Petition

The number, gravity, and intricacy of issues raised by an export petition, and the willingness of the foreign government to negotiate over a particular request, determine how long it takes to complete work on an export petition. We consider work on an export petition completed only if one of two events occurs, i.e., the requested export takes place or the prospective exporter withdraws his/her petition.

<sup>8</sup> As of 2006, we hold bilateral meetings with Australia, Canada, China, Japan, Mexico, New Zealand, and Taiwan.

<sup>9</sup> Minutes from bilateral meetings held during calendar year 2005 are posted at <http://www.aphis.usda.gov/ppq/pim/bilateral/index.html>.

<sup>10</sup> PPQ also negotiates and agrees to operational workplans covering foreign plants and plant products to be imported into the United States.

<sup>7</sup> On May 30, 2006, APHIS published a final rule in the **Federal Register** (71 FR 30563–30568, Docket No. 02–132–2) that amended our commodity import

It is important to remember that trade negotiations are often extended. It may be many months or years before work on a petition is completed. The disease or pest situation in either the United States or the foreign country may change, governmental policies or goals in either the United States or the foreign country may change, or research or scientific analysis may be necessary before there can be an agreement.

Occasionally a foreign government refuses to consider accepting a commodity for import. However, this is extremely rare. The more common occurrence is a breakdown in negotiations. If it becomes apparent that PPQ can do nothing more to complete work on a petition, we work with APHIS SPS policy offices and the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service to consider other options, including the possibility of seeking the involvement of the Office of the U.S. Trade Representative in addressing a particular SPS trade impasse. Even then we consider these export petitions "open" and we continue to work on them as appropriate.

#### Barriers to Export

There are barriers to export that APHIS cannot resolve. These include:

- When information necessary to resolve the petition is not available;
- When a regulated pest exists in the United States for which there is no effective risk mitigation; and
- When technical discussions with the foreign country have reached an impasse.

We try to minimize these barriers. APHIS and other agencies within USDA are always looking for new and effective systems approaches and treatments. In partnership with the Department of Homeland Security, we endeavor to prevent pests and pathogens from entering the United States from foreign countries. If we detect a pest or pathogen within the United States, we attempt by all means within our authority to keep that pest or pathogen from spreading, and if possible, to eradicate it. We also try to minimize barriers to exports by maintaining good working relationships with foreign officials, by dealing with foreign goods imported into the United States openly, consistently and fairly, and by negotiating in good faith. However, we have no authority or power to force foreign governments, or exporters, to come to an agreement or even to respond to our overtures.

Done in Washington, DC, this 23rd day of June 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 06-5799 Filed 6-28-06; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### Highwood Generating Station

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Availability of Draft Environmental Impact Statement and Notice of Public Meeting.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service (RUS) is issuing a Draft Environmental Impact Statement (EIS) for the Highwood Generating Station (HGS). The Draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508) and RUS regulations (7 CFR part 1794). This document has been prepared jointly with the Montana Department of Environmental Quality (MDEQ), which has its own statutory mandates to analyze potential environmental impacts under the Montana Environmental Policy Act (MEPA) (75-1-101 *et seq.*, MCA and ARM 17.4.601 *et seq.*) and to issue permits under the Montana Clean Air Act, Montana Clean Water Act, and Montana Solid Waste Management Act.

The purpose of the EIS is to evaluate the potential environmental impacts of and alternatives to the Southern Montana Electric Transmission & Generation Cooperative, Inc. (SME) application for a RUS loan guarantee to construct a 250 megawatt (MW) coal-fired power plant near Great Falls, Montana. SME is proposing to use a coal combustion technology known as circulating fluidized bed (CFB), along with other proposed pollution controls collectively known as Best Available Control Technology (BACT). SME also proposes to construct and operate four, 1.5-MW wind turbines to generate supplemental electrical power at the preferred project location eight miles east of Great Falls.

**DATES:** With this notice, RUS and MDEQ invite any affected Federal, State, and local Agencies and other interested persons to comment on the Draft EIS. Written comments on this Draft EIS will

be accepted for 45 days following publication of the Environmental Protection Agency's notice of Availability for this Draft Environmental Impact Statement (DEIS) in the **Federal Register**.

RUS and MDEQ will hold a public meeting on July 27, 2006, at the Great Falls Civic Center (Gibson Room), 2 Park Drive South, Great Falls, MT. The public meeting will begin with an open house at 5 p.m., followed by a public hearing starting at 7 p.m. The hearing will include a presentation summarizing the findings of the DEIS and the opportunity for attendees to submit both oral and written comments. In accordance with 40 CFR 1503.1, Inviting Comments, the purpose of the meeting will be to solicit comments from interested parties on the Draft EIS for the Highwood Generating Station.

A copy of the Draft EIS can be obtained or viewed online at <http://www.usda.gov/rus/water/ees/eis.htm>. The files are in a Portable Document Format (.pdf); in order to review or print the document, users need to obtain a free copy of Acrobat® Reader® (© 2003 Adobe Systems Incorporated). The Acrobat® Reader® can be obtained from <http://www.adobe.com/prodindex/acrobat/readstep.html>.

Copies of the Draft EIS will also be available for public review during normal business hours at the following locations:

Montana State Library System, Attn: Roberta Gebhardt, P.O. Box 201800, Helena, MT 59620-1800. (406) 444-5393.

University of Montana at Missoula, 32 Campus Drive 59801, Mansfield Library, Missoula, MT 59812. (406) 243-6866.

Missoula Public Library, 301 East Main, Missoula, MT 59802-4799. (406) 721-2665. FAX: (406) 728-5900.

Montana State University Libraries, P.O. Box 173320, Bozeman, MT 59717-3320. Phone: (406) 994-3119. Fax: (406) 994-2851.

Great Falls Public Library, 301 2nd Ave., North, Great Falls, MT 59401-2593. (406) 453-0349.

**FOR FURTHER INFORMATION CONTACT:** To send comments or for more information, contact: Richard Fristik, USDA, Rural Development, Utilities Programs, 1400 Independence Avenue, Mail Stop 1571, Room 2237, Washington, DC 20250-1571, telephone (202) 720-5093, fax (202) 720-0820, or e-mail: [Richard.Fristik@wdc.usda.gov](mailto:Richard.Fristik@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:** SME is an electric generation and transmission cooperative, a non-profit utility owned