

choose, and declination of consent will not affect or prejudice the rights or interests of any party. A party, if he or she has not waived oral hearing, may consent to the use of the documentary procedure on the condition that depositions rather than affidavits be used. In such case, if the other party agrees, depositions shall be required to be filed in lieu of verified statements. If any party who has not waived oral hearing does not consent to the use of the documentary procedure, the proceeding will be set for oral hearing. The suggestion that the documentary procedure be used need not originate with the examiner. Any party may address a request to the examiner asking that the documentary procedure be used.

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(h) *Verification.* Verification shall be made under oath of any facts set forth in the pleading or statement, by the person who signs the pleading or statement. Certification by a notary public is insufficient. The form of verification may be as follows:

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18. Section 47.21 is revised to read as follows:

§ 47.21 Transmittal of record.

The Hearing Clerk, immediately after the filing of the examiners' report, shall transmit to the Secretary the record of the proceeding. Such record shall include: The pleadings; motions and requests filed, and rulings thereon; the report of investigation conducted by the Fruit and Vegetable Programs; the transcript or record of the testimony taken at the hearing, together with the exhibits filed therein; any statements or stipulations filed under the documentary procedure; any documents or papers filed in connection with conferences; such proposed findings of fact, conclusions, and orders and briefs as may have been permitted to be filed in connection with the hearing as provided in § 47.19(b) and (c); such statements of objections, and briefs in support thereof, as may have been filed in the proceeding; and the examiner's report.

* * * * *

19. In § 47.24, the section heading and paragraph (a) are revised and a new paragraph (d) is added to read as follows:

§ 47.24 Rehearing, reargument, reconsideration of orders, reopening of hearings, reopening after default.

(a) *Petitions to rehear, reargue, and reconsider.* A petition for rehearing or reargument of the proceeding, or for reconsideration of the order, shall be

made by petition to the Secretary filed with the Hearing Clerk within 20 days after the date of service of the order. Every such petition shall state specifically the matters claimed to have been erroneously decided and the alleged errors. If the Secretary concludes that the questions raised by the petition have been sufficiently considered in the issuance of the order, the Secretary shall dismiss the petition without service on the other party. Otherwise, the Secretary shall direct that a copy of the petition be served upon such party by the Hearing Clerk. The filing of a petition to rehear or reargue a proceeding, or to reconsider an order, shall automatically operate to set aside the order pending final action on the petition. Only one petition to rehear, reargue, or reconsider will be accepted from each party, except when a mathematical or typographical error appears in either the original decision and order or in the decision on reconsideration.

* * * * *

(d) *Reopening after default.* The party in default in the filing of an answer or reply required or authorized under this part may petition to reopen the proceeding at any time prior to the expiration of 30 days from the date of service of the default order. If, in the judgment of the examiner, after notice to and consideration of the views of the other party(ies), there is good reason for granting such relief, the party in default will be allowed 20 days from the date of the order reopening the proceeding to file an answer.

20. In § 47.25, the section heading and paragraph (d) are revised, paragraph (e) is removed and paragraph (f) is redesignated as paragraph (e) to read as follows:

§ 47.25 Filing; extensions of time; effective date of filing; computations of time; official notice.

* * * * *

(d) *Computations of time.* Saturdays, Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: Provided, That, when such time expires on a Saturday, Sunday or Federal holiday, such period shall be extended to include the next following business day.

* * * * *

21. Part 47 is amended by removing the words "hearing clerk" and adding in their place the words "Hearing Clerk", everywhere they appear.

22. Part 47 is amended by removing the word "Division" and adding in its place the words "Fruit and Vegetable Programs", everywhere they appear.

23. Part 47 is amended by removing the words "Director" and "Director's", and adding in their place the words "Deputy Administrator" and "Deputy Administrator's" respectively, everywhere they appear.

Dated: July 12, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-18047 Filed 7-14-99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 98-021-2]

Cut Flowers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the cut flowers regulations to provide that APHIS inspectors will issue a written notice when pests are detected and action on the part of the importer is required. We are also amending the regulations to make it clear that the importer of cut flowers is responsible for all costs of destroying or otherwise disposing of pest-infested cut flowers should the importer choose not to treat or reexport them. These changes will help reduce the risk of cut flowers introducing plant pests into the United States by ensuring that any necessary treatment or other required actions are completed.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1231; (301) 734-6799; or e-mail:

Ronald.C.Campbell@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of plants, plant parts, and related materials to prevent the introduction of foreign plant pests into the United States. The regulations in §§ 319.74 through 319.74-4 (referred to below as the regulations) govern the importation of cut flowers into the United States and require, among other things, that all cut flowers be inspected for injurious insects and plant diseases at the port of entry.

On January 28, 1999, we published in the **Federal Register** (64 CFR 4347–4350, Docket No. 98–021–1) a proposal to amend the cut flowers regulations to:

- Provide that Animal and Plant Health Inspection Service (APHIS) inspectors will issue a written notice when pests are detected at the port of entry and action is required on the part of the importer.
- Make it clear that the importer of cut flowers is responsible for all costs of destroying or otherwise disposing of pest-infested cut flowers should the importer choose not to treat or reexport them.

We solicited comments concerning our proposal for 60 days ending March 29, 1999. We received four comments by that date. They were from trade associations and representatives of State and Federal governments. All responses were in favor of the proposal.

One State requested that APHIS inform the State Department of Agriculture when it issues an emergency action notification (EAN) at a port of entry in that State under this rule. Currently, APHIS' policy is to make individual EANs available upon request, pursuant to the Freedom of Information Act. We intend to discuss other options with the State concerning the notification of issuance of EANs.

We have also made one nonsubstantive editorial change to clarify that cut flowers must be made available for inspection at the port of first arrival.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, with one change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for 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. 604, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic effect of this rule on small entities.

This rule amends the cut flowers regulations to provide that inspectors will issue a written notice when pests are detected in shipments of imported cut flowers and action on the part of the importer is required. This rule also makes it clear that the person importing cut flowers, and not APHIS, is responsible for the costs of destroying cut flowers when pests are detected and the cut flowers will not be treated or reexported.

In our proposal, we solicited comments on the potential effects of this action on small entities. In particular, we sought data and other information to determine the number and kind of small entities that may incur benefits or costs from the implementation of this rule. We received no comments on our Initial Regulatory Flexibility Analysis.

This rule will help reduce the risk of cut flowers introducing plant pests into the United States by ensuring that any necessary treatment or other required actions are completed. This rule will also help reduce costs for the Federal Government because it explicitly requires that the costs of destroying infested or infected cut flowers be the responsibility of the importer, owner, or agent or representative of the importer or owner. We estimate that approximately 200 to 400 boxes of cut flowers are abandoned each month at Miami International Airport, the port of entry for more than 90 percent of foreign cut flowers. Estimates of the annual cost to APHIS for the disposal or destruction of cut flowers range from \$100,000 to \$240,000.

The entities potentially affected by this rule are importers and others in the United States who are involved in the importation of cut flowers. This rule will increase costs for importers, who will be required to absorb the cost of destroying infested or infected flowers at U.S. ports of entry. The number and size of those entities potentially affected by this rule are unknown.

It is reasonable to assume that most of the entities potentially affected by this rule are small by U.S. Small Business Administration (SBA) standards. In 1992, 99 percent of 4,322 wholesalers of flowers, nursery stock, and florists' supplies were considered small entities. The magnitude of the potential economic effect of this rule on small entities cannot be determined.

There is reason to believe that the overall economic effect of this rule on small entities will be insignificant, given that the volume of cut flowers abandoned at U.S. ports of entry is very small compared to the total volume of imported cut flowers allowed entry into the United States. In 1996, the United States imported approximately 2.5 billion fresh cut flower stems through Miami International Airport. No more than 72,000 cut flowers are abandoned yearly at Miami International Airport. Abandoned cut flowers, therefore, represent only a small percentage of the overall volume of cut flower importations into the United States.

Two alternatives to this rule were considered: (1) To make no changes in the regulations and (2) to begin charging

importers for destruction by APHIS of abandoned cut flowers without making changes to the regulations. We rejected the first alternative (making no change in the regulations) after determining that the costs to APHIS are too high to continue destroying or disposing of abandoned cut flowers at APHIS' expense. We also rejected the second alternative (charging importers for destruction by APHIS of abandoned cut flowers without making changes to the regulations) because we believe it is necessary to clarify our regulations regarding this issue since they do not currently state that importers are responsible for abandoned cut flowers. Because we have elected to exercise our authority to recover all costs that we incur when disposing of abandoned cut flowers, we are amending the cut flowers regulations to make them more consistent with our regulations elsewhere in title 7, chapter III, by requiring that the importer, owner, or agent or representative of the importer or owner of cut flowers pay all additional costs associated with the importation of cut flowers. APHIS will continue to provide the services of an inspector during regular hours of duty at the usual place of duty at no cost to the importer.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

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

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

2. Subpart—Cut Flowers is revised to read as follows:

Subpart—Cut Flowers

319.74-1 Definitions.

319.74-2 Conditions governing the entry of cut flowers.

319.74-3 Importations by the Department.

319.74-4 Costs and charges.

Subpart—Cut Flowers

§ 319.74-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Cut flower. The highly perishable commodity known in the commercial flower-producing industry as a cut flower, which is the severed portion of a plant, including the inflorescence and any parts of the plant attached to it, in a fresh state. This definition does not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; or Christmas greenery, such as holly, mistletoe, and Christmas trees.

Inspector. Any individual authorized by the Administrator to enforce this subpart.

United States. All of the States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories or possessions of the United States.

§ 319.74-2 Conditions governing the entry of cut flowers.

(a) *Inspection.* All cut flowers imported into the United States must be made available to an inspector for examination at the port of first arrival and must remain at the port of first arrival until released, or authorized further movement, by an inspector.

(b) *Actions to prevent the introduction of plant pests; notice by an inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported cut flowers that are found to be infested with injurious plant pests or infected with diseases, the inspector will provide an emergency action notification (PPQ Form 523) to the importer, owner, or agent or representative of the importer or owner of the cut flowers. The importer, owner, or agent or representative of the importer or owner must, within the time specified in the PPQ Form 523 and at his or her own expense, destroy the cut flowers, ship them to a point outside the United

States, move them to an authorized site, and/or apply treatments, clean, or apply other safeguards to the cut flowers as prescribed by the inspector on the PPQ Form 523. Further, if the importer, owner, or agent or representative of the importer or owner fails to follow the conditions on PPQ Form 523 by the time specified on the form, APHIS will arrange for destruction of the cut flowers, and the importer, owner, or agent or representative of the importer or owner will be responsible for all costs incurred. Cut flowers that have been cleaned or treated must be made available for further inspection, cleaning, and treatment at the option of the inspector at any time and place indicated by the inspector before the requirements of this subpart will have been met. Neither the Department of Agriculture nor the inspector may be held responsible for any adverse effects of treatment on imported cut flowers.

(c) *Fumigation for agromyzids.* (1) Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) must be fumigated at the time of importation with methyl bromide in accordance with paragraph (c)(2) of this section, with the following exceptions:

(i) Fumigation will not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids.

(ii) Fumigation will not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

(2) *Fumigation schedules.* Fumigation of cut flowers for agromyzids (insects of the family Agromyzidae) must consist of fumigation with methyl bromide at normal atmospheric pressure in a chamber or under a tarpaulin in accordance with one of the following schedules:

1½ lbs. per 1,000 cu. ft. for 2 hours at 80–90 °F.

(19 oz. concentration at first ½ hour)

(12 oz. concentration at 2 hours); or

2 lbs. per 1,000 cu. ft. for 2 hours at 70–79 °F.

(24 oz. concentration at first ½ hour)

(16 oz. concentration at 2 hours); or

2½ lbs. per 1,000 cu. ft. for 2 hours at 60–69 °F.

(30 oz. concentration at first ½ hour)

(20 oz. concentration at 2 hours); or

3 lbs. per 1,000 cu. ft. for 2 hours at 50–59 °F.

(36 oz. concentration at first ½ hour)
(24 oz. concentration at 2 hours); or
3½ lbs. per 1,000 cu. ft. for 2 hours at 40–49 °F.

(41 oz. concentration at first ½ hour)
(27 oz. concentration at 2 hours)

Note: There is a possibility that some cut flowers could be damaged by such fumigation.

(d) *Refusal of entry.* If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease that, in the judgment of the inspector, they cannot be cleaned or treated, or if they contain soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

§ 319.74-3 Importations by the Department.

The U.S. Department of Agriculture may import cut flowers for experimental or scientific purposes under such conditions and restrictions as the Administrator may prescribe to prevent the dissemination of plant pests.

§ 319.74-4 Costs and charges.

The Animal and Plant Health Inspection Service, U.S. Department of Agriculture, will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty (provisions relating to costs for other services of an inspector are contained in 7 CFR part 354). The importer, owner, or agent or representative of the importer or owner of cut flowers is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including the costs of any labor, chemicals, packing materials, or other supplies required.

Done in Washington, DC, this 9th day of July 1999.

A. Cielo,

Acting Administrator, Animal and Plant Health Inspection Service.

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FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB76

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investment Management; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.