List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs-health, Infants and children, Labeling, Reporting and recordkeeping requirements.

Accordingly, 7 CFR 225 is corrected by the following correcting amendment:

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for part 225 continues to read as follows:

Authority: Secs. 9, 13, and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761, and 1762a).

2. Revise § 225.14(d) to read as follows:

§ 225.14 Requirements for sponsor participation.

* * * * *

(d) *Requirements specific to sponsor types.* (1) If the sponsor is a camp, it must certify that it will collect information on participants' eligibility to support its claim for reimbursement.

(2) If the sponsor administers the Program at sites that provide summer school sessions, it must ensure that these sites are open to children enrolled in summer school and to all children residing in the area served by the site.

(3) Sponsors which are units of local, municipal, county or State government, and sponsors which are private nonprofit organizations, will only be approved to administer the Program at sites where they have direct operational control. Operational control means that the sponsor shall be responsible for:

(i) Managing site staff, including the hiring, terminating, and determining conditions of employment for site staff; and

(ii) Exercising management control over Program operations at sites throughout the period of Program participation by performing the functions specified in § 225.15.

(4) If the sponsor administers homeless feeding sites, it must:

(i) Document that the site is not a residential child-care institution as defined in paragraph (c) of the definition of 'School' contained in § 210.2 of this chapter;

(ii) Document that the primary purpose of the homeless feeding site is to provide shelter and meals to homeless families; and

(iii) Certify that these sites employ meal counting methods to ensure that reimbursement is claimed only for meals served to homeless and non-homeless children.

(5) If the sponsor administers NYSP sites, it must ensure that all children at these sites are enrolled participants in the NYSP.

(6) If the sponsor is a private nonprofit organization, it must certify that it:

(i) Administers the Program:

(A) At no more than 25 sites, with not more than 300 children being served at any approved meal service at any one site, or

(B) With a waiver granted by the State agency in accordance with § 225.6(b)(6)(ii), not more than 500 children being served at any approved meal service at any one site;

(ii) Operates in areas where a school food authority has not indicated that it will operate the Program in the current year;

(iii) Exercises full control and authority over the operation of the Program at all sites under its sponsorship;

(iv) Provides ongoing year-round activities for children or families;

(v) Demonstrates that it possesses adequate management and the fiscal capacity to operate the Program; and

(vi) Meets applicable State and local health, safety, and sanitation standards.

Dated: August 10, 2000.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 00–20953 Filed 8–16–00; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 353

[Docket No. 99–100–2]

Export Certification; Heat Treatment of Solid Wood Packing Materials Exported to China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the regulations by establishing a program under which softwood (coniferous) packing materials used with goods exported from the United States to China may be certified as having been heat treated. This program is necessary because the Government of the People's Republic of China has established a requirement that coniferous packing materials exported to China must be accompanied by such certification. The one change in this final rule clarifies that the required heat treatment must be performed in the United States, rather than in other countries. This rule affects persons who use coniferous packing materials to export goods from the United States to the People's Republic of China.

EFFECTIVE DATE: August 17, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Russell T. Caplen, Lead Program Analyst, PPQ, Policy, Planning and Critical Issues, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 734–7601.

SUPPLEMENTARY INFORMATION:

Background

The export certification regulations contained in 7 CFR part 353 (referred to below as the regulations) set forth the procedures for obtaining certification for plants and plant products offered for export or reexport. Export certification is not required by the regulations; rather, it is provided by the Animal and Plant Health Inspection Service (APHIS) as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry. After assessing the condition of the plants or plant products intended for export, relative to the receiving country's regulations, an inspector will issue an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for reexport (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578), if warranted.

Since 1975, APHIS has participated with State governments in the Cooperative Phytosanitary Export Certification Program, which allows certain State and county officials, as well as APHIS officials, to issue phytosanitary certificates, phytosanitary certificates for reexport, or export certificates for processed plant products. Because the number of Federal inspectors is limited, the use of State and county inspectors is a considerable service to exporters of plants and plant products in terms of both time and convenience.

The Government of the People's Republic of China has established requirements concerning importation of softwood (coniferous) packing materials from the United States in order to prevent the introduction into China of plant pests, specifically the pinewood nematode. This nematode is indigenous to North America and has caused significant damage to conifer forests in Asia.

Since January 1, 2000, the Government of the People's Republic of China has required goods from the

United States to be accompanied either by a statement from the exporter that the shipment does not contain any coniferous packing material or by a certificate issued by a representative of the United States Department of Agriculture (USDA) in which the exporter attests that the coniferous packing materials in the shipment have been heat treated by being subjected to a minimum core temperature of 56 °C for 30 minutes.

In an interim rule effective and published in the **Federal Register** on December 27, 1999 (64 FR 72262–72265, Docket No. 99–100–1), we amended the regulations to create a new certificate of heat treatment and to establish procedures for issuing it to exporters who have treated their solid wood packing materials (SWPM) in order to ship goods to China. This new certificate of heat treatment, PPQ Form 553, is divided into two parts and serves as both a certification by the exporter that the required heat treatment was performed and USDA endorsement of industry compliance with the certification requirements.

We solicited comments concerning the interim rule for 60 days ending February 25, 2000. We received four comments by that date. They were from a State government, a wood products producer, a wooden container and pallet association, and a manufacturer and exporter of heavy machinery. We have carefully considered all of the comments we received. They are discussed below by topic.

Use of Markings on SWPM to Certify Treatment

Two commenters made similar suggestions to reduce paperwork associated with shipments to China. They suggested that SWPM should be accepted by China without a certificate of heat treatment (PPQ Form 553) if it is marked with the brand KD, KD19, or HT (for *kiln dried*, *kiln dried < 19 percent moisture*, or *heat treated*). These brands are currently applied to wood that is heated in U.S. kilns to specified internal temperatures in accordance with procedures that are monitored by private grading agencies supervised by the U.S. Government. The commenters noted that wood eligible for these brands would also meet the treatment requirements for SWPM established by China. The commenters also noted that APHIS could, if necessary, evaluate the kiln drying and heat treatment standards that private grading agencies apply when authorizing kilns to apply the KD, KD19, or HT brands to ensure that they fully meet the Chinese time/temperature requirements, and that APHIS could issue the grading agencies a ''certification of adequacy'' to further document that their brands signify compliance with the Chinese requirements. Exporters could then attach to their shipments an informational statement for Chinese authorities, stating that only SWPM bearing such a brand was used in their shipment.

While APHIS agrees that the suggested procedure could simplify procedures and reduce the procedural and paperwork burden on exporters, this procedure would not satisfy the requirements currently imposed by China. The announcement of that requirement stated that SWPM in shipments must be certified to meet the heat treatment requirements ''by the official quarantine organization(s) from the United States.'' This is a requirement for APHIS certification. Based on discussions between APHIS and Chinese authorities to date, China is not willing to accept a combination of grading brands and exporter statements as a substitute for APHIS certification. APHIS will continue to discuss less burdensome alternatives for exporters with China, but at this time we cannot make any change in response to this comment.

Exporter Obligation to Document Heat Treatment

One commenter suggested changes to § 353.7(e)(4), which requires that the exporter or his or her representative must keep on file ''documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate.'' The commenter suggested that, as an alternative to this, the exporter could keep invoices and purchase orders indicating that the lumber ordered by the exporter to fabricate the SWPM was sold to him as lumber that was grade marked kiln dried, according to lumber grade rules certified as conforming to the American Softwood Lumber Standard PS20 established by the Board of Review of the American Lumber Standards Committee. This comment addressed the difficulty some exporters face with obtaining what they call ''supplementary certifications from upstream suppliers in the SWPM supply chain.'' The comment explained that since the exporter or his agent must sign the PPQ Form 553, attesting that the SWPM has been heat treated for the proper time at the proper temperature, the exporter faces a problem if the treatment was performed on the SWPM material at a stage of commerce before he obtained the material. The comment suggests that the exporter has met his responsibility if he keeps on file invoices and purchase orders from the seller of the SWPM material that assert that the material was properly heat treated.

We are not making any change in response to this comment. APHIS faces the same problem exporters do when dealing with SWPM; the chain of commerce has many stages, including tree harvest operations, lumber mills, wood product manufacturers, resellers, and others. However, we cannot establish rules that would require us to investigate this chain for the violator each time an enforcement action is necessary. Our rules focus on the immediate action that is being regulated, which is exportation of SWPM in this case, and therefore make the exporter the party responsible for the accuracy of exporter declarations in PPQ Form 553. However, even without making the requested change, we believe that as long as the exporter has confidence in the integrity of his supplier, then exporter records consisting of invoices and purchase orders for properly treated SWPM materials would satisfy the requirement of § 353.7(e)(4) that the exporter keep ''documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate.'' But having such documentation does not absolve the exporter from responsibility if the documentation is inaccurate. If an investigation reveals that an exporter shipped SWPM that was not properly treated, that exporter would have falsely stated in the PPQ Form 553 that the SWPM was properly treated and could be subject to penalties.

Using the Heat Treatment Certificate Currently Used for SWPM Exports to Europe

One commenter suggested that we comply with the Chinese requirement in the same fashion as we responded to European countries' demands in 1993 for assurance that shipments of softwood SWPM from the United States were free from pinewood nematode. The solution in that case was an industry-issued heat treatment certificate (HTC) that was issued by kilns conducting heat treatment under supervision of private grading agencies. This certificate now accompanies softwood SWPM shipments to Europe and satisfies the concerns of the receiving countries.

As discussed above, China currently requires certification by APHIS, not by private agencies or industries. Therefore, we are making no change based on this comment.

Heat Treatment Facilities Operating Under Compliance Agreements

One commenter noted that, under various APHIS regulations, APHIS establishes compliance agreements with commercial facilities when materials must be processed in a certain way to remove plant pest risks. The commenter suggested that APHIS set up compliance agreements with kilns or other wood heat treatment facilities and certify that SWPM made with wood from these facilities meets the requirements for export to China. This would reduce the procedural and paperwork burden on exporters who use only SWPM from such facilities.

APHIS is exploring this suggestion. However, there are many unsettled issues with such an arrangement, and establishing it would take time and require additional rulemaking. We are not taking any action with regard to this suggestion in this final rule, but may return to this suggestion in future rulemaking on the subject of SWPM.

Heat Treatments Performed Outside the United States

One commenter noted that the regulations do not specifically state that the SWPM exported from the United States must have been heat treated in the United States, rather than in some other country, and suggested that this requirement be made explicit.

We agree, and are changing the definition of certificate of heat treatment in § 353.1, and the language in PPQ Form 553, to state that the SWPM must be ''heat treated in the United States by being subjected to a minimum core temperature of 56 °C for 30 minutes.'' That requirement was always our intent, because there are a wide range of heat treatments employed in different countries and many of them would not meet the requirements of the Government of the People's Republic of China. It also becomes extremely difficult for U.S. exporters to document that a heat treatment has been properly performed when it was performed in a foreign country.

Miscellaneous Comments

Several comments raised issues outside the scope of the current rulemaking, including questions about how APHIS would react if other countries impose requirements similar to China's with regard to exports of SWPM from the United States, and questions about future APHIS plans for dealing with plant pest risks associated with imports of SWPM into the United States. APHIS has a long-term rulemaking action underway to address SWPM imports on a global basis. This action is described in the 1999 Regulatory Program of the United States. The first step of this action was an advance notice of proposed rulemaking published on January 20, 1999 (Docket No. 98–057–1; 64 FR 3049–3052). The alternatives discussed in the advance notice were to apply restrictions on the importation of SWPM based on risk assessment of regions, apply restrictions on a general basis regardless of origin, and prohibit importation of any SWPM. We also accepted comments on other alternatives to consider. These alternatives will be considered in analyses prepared in connection with further rulemaking. Persons interested in long-term APHIS plans concerning SWPM should refer to the advance notice and the Regulatory Program entry.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the change discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in the interim rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0147.

Regulatory Flexibility Act

This final rule follows an interim rule that amended the regulations by establishing a program under which softwood (coniferous) packing materials used with goods exported from the United States to China may be certified as having been heat treated.

In the interim rule, we stated that the emergency situation made compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We also stated that if we determined that this rule would have a significant economic impact on a substantial number of small entities, then we would discuss the issues raised by section 604 of the Regulatory Flexibility Act in our final regulatory flexibility analysis. That analysis follows.

At the current time there are no APHIS fees or other direct costs for exporters who must obtain the new certificate in order to ship goods to China. There will be minor administrative costs incurred by each exporter to obtain each certificate, associated with items such as courier or express mail costs and long distance telephone inquiries. The amounts of these costs will vary depending on how each exporter arranges to obtain each certificate, but they should not be large for a single certificate.

The cost to exporters of obtaining and using only heat treated SWPM for shipments to China is not a cost associated with this final rule; it is a cost associated with the requirements imposed by China.

This rule affects U.S. exporters, primarily U.S. manufacturers and freight forwarders who act on their behalf, who ship goods to China using coniferous SWPM. It is estimated that there are about 125,000 such shipments per year, spread among approximately 5,000 exporters. A wide variety of products are shipped to China using coniferous SWPM, such as pharmaceuticals, auto parts, diapers, and fruits and vegetables.

This final rule sets forth the administrative procedures that U.S. exporters must follow in order to obtain an export certificate from APHIS. For affected exporters, the principal burden is the completion of part of a 1-page APHIS form (PPQ Form 553) for each shipment, a task which is estimated to take no more than 1 minute and cost no more than about $0.40 per form.[1] Based on the per exporter average of 25 shipments per year, this rule would add only about $10 in labor costs and an unpredictable but small amount in postal or courier costs to each affected exporter's annual operating costs.[2] This represents a very minor economic effect on affected U.S. exporters.

The Regulatory Flexibility Act requires that agencies consider the economic effect of rules on small entities (i.e., businesses, organizations, and governmental jurisdictions). For the reasons discussed above, this rule will have an insignificant economic effect on each of the approximately 5,000 U.S. exporters expected to be affected. The affected exporters represent a broad cross section of American industry, including producers of pharmaceuticals, auto parts, diapers, and fruits and vegetables.

The typical size of the affected exporters is unknown. Although the overwhelming majority of U.S. businesses in general are small by the standards of the Small Business Administration (SBA), it is possible that many of the affected manufacturers

[1] The cost of $0.40 per form assumes a labor rate of $24 per hour, based on industry averages.

[2] The $10 cost is derived as follows: 125,000/5,000 x $0.40. Even if the labor rate were double (i.e., $48 per hour or $0.80 per minute), the annual cost would only be $20.

could be large in size, since large manufacturers are more likely than small manufacturers to export their products to China or anywhere else. Most freight forwarders in the United States are small. In 1996, there were 12,022 U.S. firms in SIC 4731, a classification comprised of firms primarily engaged in arranging transportation for freight and cargo, including freight forwarders. Of the 12,022 firms, 97 percent had sales of less than $7.5 million each in 1996. The SBA's small entity threshold for firms in SIC 4731 is annual sales of $18.5 million.[3]

APHIS and the cooperating State agencies will also be affected by this rule, but they are not ''small entities'' under the Regulatory Flexibility Act.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. The interim rule adopted as final by this rule was effective on December 27, 1999. This rule clarifies that heat treatments conducted in accordance with the regulations must be conducted in the United States. Immediate action is necessary to provide a means for U.S. exporters to obtain certificates that the Government of the People's Republic of China has required to accompany certain shipments of U.S. goods to China since January 1, 2000. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 7 CFR part 353 which was published at 64 FR 72262–72265 on December 27, 1999, is adopted as a final rule with the following changes:

PART 353—EXPORT CERTIFICATION

1. The authority citation for part 353 is revised to read as follows:

Authority: Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 353.1 [Amended]

2. In § 353.1, the definition of *Certificate of heat treatment* is amended by adding the phrase ''in the United States'' immediately after the phrase ''have been heat treated''.

Done in Washington, DC, this 12th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–20978 Filed 8–16–00; 8:45 am]

BILLING CODE 3410–34–P

[3] Source: SBA.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–90–AD; Amendment 39–11857; AD 2000–16–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7–100, and DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Bombardier Model DHC–7–100, and DHC–8–100, –200, and –300 series airplanes, that requires a one-time inspection of maintenance records to determine the method used during the most recent weight and balance check of the airplane and, if necessary, accomplishment of a weight and balance check. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent unusual handling characteristics and consequent reduced controllability during ground operations due to incorrect methods of weighing and balancing the airplane.

DATES: Effective September 21, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Bombardier Model DHC–7–100, and DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on April 28, 2000 (65 FR 24887). That action proposed to require a one-time inspection of the maintenance records to determine the method used during the most recent weight and balance check of the airplane and, if necessary, accomplishment of a weight and balance check.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request To Revise the Compliance Time

A single commenter requests that the weight and balance check of the airplane required by paragraph (a)(2) of the proposal be revised from ''prior to further flight'' to ''within 60 days after the effective date of the proposed AD.'' The commenter states that the intent of the rule should be that the operator would have 60 days to review the records and reweigh any airplane that was last weighed on wing jacks. The commenter objects to the proposed requirement to perform the weight and balance prior to further flight, after the records inspection. The commenter explains that paragraph (a)(2) of the proposal could result in an airplane being grounded.

The FAA concurs with the commenter's request and has revised paragraph (a)(2) of the final rule accordingly.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any