

agreement on maximizing utilization of U.S. licenses for EU cheese.

Summary of Public Comments: Comments, views, and recommendations were submitted by 32 importers holding historical licenses; three members of Congress; and two trade associations. Submissions by most historical licensees stressed that substantial business investments rely on historical import licenses, and permanent reductions can cause significant harm to employees, distributors, customers, and the survival of many businesses. Most historical licensees supported immediate elimination of the historical license reduction requirement. Certain other historical licensees supported either: (1) the permanent reduction and reallocation of historical licenses in order to provide new entrants and growing businesses a greater opportunity to import cheese; or (2) postponement of the historical license reduction requirement to provide time for adjustment to and analysis of changing market conditions. Comments submitted by the members of Congress and trade associations favored elimination of the historical license reduction requirement based on market conditions.

With respect to market conditions, the members of Congress stated that, under current circumstances, surrenders of historical licenses result from market conditions beyond an importer's control. Historical licensees and the trade associations identified the following market conditions as causes of historical license surrenders: (1) lack of exportable supply; (2) non-competitive foreign prices (resulting in some cases from foreign export administration decisions, and currency fluctuations); (3) low-quality or high-priced foreign products; and (4) foreign export monopolies which can affect license utilization through supply and price controls.

Signed at Washington, D.C. on March 13, 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 98-7171 Filed 3-19-98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96-082-2]

Bamboo

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are consolidating the regulations pertaining to the importation of bamboo, contained in "Subpart—Bamboo Capable of Propagation," and the regulations pertaining to propagative material in general, contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products." This change will simplify and clarify our regulations. We are also amending the regulations in "Subpart—Fruits and Vegetables" to add provisions allowing fresh bamboo shoots without leaves or roots to be imported into the United States from various countries for consumption. This action is based on assessments that indicate that bamboo shoots without leaves or roots may be imported into the United States from certain countries without a significant risk of introducing plant pests.

EFFECTIVE DATE: April 20, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, Staff Officer, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1231, telephone (301) 734-6799; or e-mail jpdmange@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 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 importation into the United States of any variety of bamboo seed, bamboo plants, and bamboo cuttings capable of propagation, including all genera and species of the tribe *Bambuseae*, has been regulated under "Subpart—Bamboo Capable of Propagation," contained in 7 CFR 319.34. Section 319.34(a) provides that all varieties of bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation are prohibited importation into the United States unless they are imported: (1) For experimental or scientific purposes by the United States Department of Agriculture; (2) for export, or for transportation and

exportation in bond, in accordance with 7 CFR part 352; or (3) into Guam, in accordance with § 319.37-4(b).

"Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" (referred to below as "Subpart—Nursery Stock"), contained in 7 CFR 319.37 through 319.37-14, regulates the importation into the United States of most other propagative plant material. Regulated articles are designated as either prohibited or restricted.

On September 11, 1997, we published in the **Federal Register** (62 FR 47770-47772, Docket No. 96-082-1) a proposal to consolidate "Subpart—Bamboo Capable of Propagation" and "Subpart—Nursery Stock" by adding bamboo seed, bamboo plants, and bamboo cuttings capable of propagation, except those imported into Guam, to the list of prohibited articles in § 319.37(a). In conjunction with this action, we proposed to remove "Subpart—Bamboo Capable of Propagation" and all references to § 319.34 contained in part 319.

Under this proposal, bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation would have continued to be eligible for importation into Guam as restricted articles. (The term *restricted article* is defined in § 319.37-1 of "Subpart—Nursery Stock" as any class of nursery stock or other class of plant, root, bulb, seed, or other plant product for, or capable of, propagation, excluding any prohibited articles listed in § 319.37-2 (a) or (b) of "Subpart—Nursery Stock," and excluding any articles regulated under other subparts of part 319.)

The importation of bamboo seeds, bamboo plants, and bamboo cuttings for experimental or scientific purposes by the United States Department of Agriculture also would not have been affected by this change. In "Subpart—Nursery Stock," § 319.37-2(c) provides that any article listed as a prohibited article in § 319.37(a) may be imported for experimental or scientific purposes by the Department of Agriculture.

In addition, bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation would have continued to be eligible for movement through the United States for export, or for transportation and exportation in bond, in accordance with 7 CFR part 352. The regulations at 7 CFR part 352, "Plant Quarantine Safeguard Regulations," allow plants and plant parts that are not eligible for entry into the United States to move through the United States for export to other countries under safeguards intended to prevent the introduction of plant pests.

We also proposed to amend "Subpart—Fruits and Vegetables," contained in §§ 319.56 through 319.56–8, by adding provisions allowing fresh bamboo shoots without leaves or roots to be imported into the United States for consumption from China, the Dominican Republic, Japan, and Taiwan. We proposed to add bamboo shoots without leaves or roots to the list of fruits and vegetables in § 319.56–2t that may be imported from specified countries or places in accordance with § 319.56–6 and all other applicable provisions of the regulations. (Section 319.56–6, among other things, provides for inspection and, if necessary, disinfection of imported fruits and vegetables at the port of first arrival.) This proposed action was based on assessments that show that fresh bamboo shoots without leaves or roots may be imported from the countries listed into the United States for consumption without presenting a significant pest or plant disease risk.

We solicited comments concerning our proposal for 60 days ending November 10, 1997. We received six comments by that date. Two were from State government officials, and four were from representatives of the domestic bamboo industry. Five commenters asked that we consider amending one or more aspects of our proposal. One commenter expressed disapproval with our proposal. Their concerns are addressed below by topic.

Removal of the Prohibition on Importing Bamboo Nursery Stock

Comment: The prohibition on the importation of bamboo propagative material should be removed since our domestic bamboo industry needs more and better species if it is to become a viable industry. The present quarantine system is not suited for the growing bamboo industry, as it performs both the functions of keeping plant pests out, and keeping industry growth down. The prohibition on the importation of bamboo seeds and tissue-cultured embryos should be removed as well, because the pathogens that were the original basis for the regulations are not carried on the seeds, and therefore, the Animal and Plant Health Inspection Service should allow their importation along with shoots.

Response: Any change in the nursery stock regulations that would eliminate the prohibition on the importation of bamboo would need to be based on a pest risk assessment for each genus of bamboo to be imported. At present, we do not have the resources to complete such pest risk assessments in a timely fashion, as the tribe *Bambuseae* is made

up of approximately 50–120 different genera. However, anyone wishing to import a specific genus may submit such a request to the Phytosanitary Issues Management Team at the address listed above in the **FOR FURTHER INFORMATION CONTACT** section of this rule, and we will conduct a pest risk assessment for that genus. We invite the submission of any pest risk information, preferably published data, with such a request to import bamboo.

Propagative Bamboo into Guam

Comment: The importation of bamboo nursery stock into Guam should be prohibited, since it is prohibited everywhere else in the United States. At present, there are no bamboo pests on Guam, and by continuing to allow the importation of bamboo by standard permit, such bamboo pests or diseases or other plant pests may be brought to Guam.

Response: We have decided to make the change requested in regard to the prohibition of the importation of bamboo nursery stock into Guam. Though the regulations currently allow bamboo nursery stock to be imported into Guam under permit, we have concluded for the reasons stated in the comment that bamboo nursery stock should not be imported into Guam unless a pest risk assessment is conducted that documents that the importation of bamboo nursery stock will not present a significant risk of introducing plant pests into Guam.

Bamboo Shoots

Comment: Mexico should be added to the list of countries eligible to export bamboo shoots to the United States.

Response: In order to add Mexico to the list, a pest risk assessment must be conducted and must indicate that the importation of bamboo shoots from Mexico will not present a significant risk of introducing plant pests into the United States. Anyone who is interested in importing bamboo shoots from Mexico or any other country for consumption should submit a request to the Phytosanitary Issues Management Team at the address listed above in the **FOR FURTHER INFORMATION CONTACT** section of this rule, and we will conduct a pest risk assessment on bamboo shoots from that particular country.

Comment: Bamboo shoots can and might be used for propagation, and thus may introduce new plant pests to the United States.

Response: We are adding edible bamboo shoots without leaves or roots to the list of acceptable imports in § 319.56–2t, which deals with nonpropagative material. We

acknowledge that it is possible to propagate a plant from bamboo shoots, but bamboo shoots are allowed importation under § 319.56–2t for consumption only. We currently require prospective importers to state the purpose of their importation(s) on their application for an import permit. In this case, a permit is issued only for bamboo shoots that are without leaves or roots and that are intended for human consumption. If we have reason to believe that bamboo shoots are being imported for the purpose of planting, we have the authority to investigate and take enforcement action, which could include the revocation of an importer's permit, denial of future permits, and seizure of the propagated bamboo, as well as civil or criminal penalties. We do not believe, however, that propagation of shoots imported for consumption is likely, due to the fragile nature and decreased viability of imported bamboo shoots. It is our understanding that propagative bamboo plants that are imported under special scientific permits have limited survival rates even though such plants are packed and shipped individually with great care. When contrasted with packing and shipping procedures for bulk quantities of fresh bamboo shoots imported for consumption, it is clear that such shoots have a very limited potential to propagate themselves, even if planted. Under these circumstances, we continue to believe that the proposed importation of bamboo shoots for consumption would present a negligible pest risk and are, therefore, making no change in the rule in response to this comment.

Comment: The importation of bamboo shoots will hurt U.S. growers' business.

Response: We anticipate that less than 200 metric tons of fresh bamboo shoots will be imported into the United States under this rule. Data on imported bamboo shoots in general suggests that fresh bamboo shoots occupy a minimal part of the overall market for bamboo shoots in general (less than one percent of the overall market). In 1995, 8,632 metric tons of frozen bamboo shoots and 29,824 metric tons of canned bamboo shoots were imported into the United States. Though we could not determine the amount of domestic production of fresh bamboo shoots, we anticipate that, given the quantity of expected imports (200 metric tons) relative to the overall size of the market for imported bamboo shoots in general (over 38,000 metric tons), a large economic impact on the domestic industry is unlikely.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the

provisions of the proposal as a final rule, with the change discussed in this document.

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 impact of this final rule on small entities.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee, 150ff, 151–167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This rule consolidates the regulations pertaining to the importation of bamboo, contained in “Subpart—Bamboo Capable of Propagation,” and the regulations pertaining to propagative material in general, contained in “Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products.” This change is nonsubstantive, and will simplify and clarify our regulations.

This rule also amends the regulations in “Subpart—Fruits and Vegetables” by adding provisions that allow fresh bamboo shoots without leaves or roots to be imported into the United States from certain countries.

One commenter on the proposed rule expressed concern that the importation of fresh bamboo shoots would have a negative impact on domestic producers of bamboo shoots.

It is estimated that less than 200 metric tons of fresh bamboo shoots will be imported into the United States as a result of this rule. This is compared to imports of 8,632 metric tons of frozen bamboo shoots and imports of 29,824 metric tons of canned bamboo shoots in 1995. While we could not determine the amount of domestic production of fresh bamboo shoots, we anticipate that the imports would supply part of an expanding demand for fresh, rather than frozen or canned, bamboo shoots.

The additional information necessary to determine the impacts on U.S. growers, including estimates of domestic production, is not available. It

is possible that this rule could lead to price effects that could affect producers. Although bamboo shoot growers do not constitute a separate category for classification of small entities by the Small Business Administration, it is likely that the majority of these growers would be considered small. Therefore, any economic impacts of this rule would affect small entities. However, given the quantity of expected imports of fresh bamboo shoots relative to the overall size of the market for imported bamboo shoots in general (over 38,000 metric tons), a large economic impact is unlikely.

Several alternatives to this rule were suggested in public comments on our proposed rule. Two commenters suggested that we remove the prohibition on the importation of bamboo nursery stock so as to facilitate the growing industry in its search for a better crop base. We did not adopt this alternative, based on a lack of scientific pest risk data on bamboo nursery stock. We also did not adopt another proposal to include Mexico on the list of regions we will import fresh bamboo shoots from, based on a similar lack of available data at this time. We did adopt a change suggested by two commenters from Guam who felt that Guam also should be subject to the same prohibition on the importation of bamboo nursery stock as the rest of the United States.

A final alternative to this rule was to make no changes in the regulations. However, we have done pest risk assessments which indicate that bamboo shoots without leaves or roots may be imported into the United States from certain countries without a significant risk of introducing plant pests. Further, we lack the pest risk assessment data needed to demonstrate that there is no significant pest risk associated with the importation of bamboo nursery stock into Guam. Therefore, we have adopted the provisions concerning bamboo shoots, as proposed, and the new provisions concerning bamboo nursery stock into Guam, as suggested by public comment.

Executive Order 12988

This 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.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 7 CFR Part 319

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

Accordingly, 7 CFR part 319 is amended 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).

Subpart—Bamboo Capable of Propagation [Removed]

2. Subpart—Bamboo Capable of Propagation, consisting of § 319.34, is removed.

§ 319.37–1 [Amended]

3. In § 319.37–1, the definition for *Restricted article* is amended by removing the reference to “319.34” and adding “319.24” in its place.

§ 319.37–2 [Amended]

4. In § 319.37–2(a), the table is amended as follows:

a. By adding, in alphabetical order, an entry for “Bambuseae,” to read as set forth below.

b. By amending the entry for “Poaceae” by revising the text in the first column, to read as set forth below.

§ 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
* Bambuseae (seeds, plants, and cuttings).	* All	* Various plant diseases, including bamboo smut (<i>Ustilago shiraiana</i>)
* Poaceae (vegetative parts of all grains and grasses, except species of Bambuseae).	* * * *	* * * *
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§ 319.40-2 [Amended]

5. In § 319.40-2, paragraph (c) is amended by removing the words “; § 319.34, “Subpart—Bamboo Capable of

Propagation”; and by adding in their place a comma immediately after the word “Diseases”.

6. In § 319.56-2t, the table is amended by adding entries, in alphabetical order, to read as follows:

§ 319.56-2t Administrative instructions; conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
* China	* Bamboo	* <i>Bambuseae</i> spp	* Edible shoot, free of leaves and roots.
* Dominican Republic	* Bamboo	* <i>Bambuseae</i> spp	* Edible shoot, free of leaves and roots.
* Japan	* Bamboo	* <i>Bambuseae</i> spp	* Edible shoot, free of leaves and roots.
* Taiwan	* Bamboo	* <i>Bambuseae</i> spp	* Edible shoot, free of leaves and roots.
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Done in Washington, DC, this 16th day of March 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-7330 Filed 3-19-98; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Chapter 15

RIN 1990 AA25

Office of the Federal Inspector for the Alaska Natural Gas Transportation System

AGENCY: Office of Fossil Energy, DOE.

ACTION: Final rule.

SUMMARY: The Office of Fossil Energy, Department of Energy, is eliminating the regulations codified at 10 CFR chapter 15, entitled “Office of the Federal

Inspector for the Alaska Natural Gas Transportation System.”

EFFECTIVE DATE: March 20, 1998.

FOR FURTHER INFORMATION CONTACT:

Nancy Ellett, Office of Fossil Energy, (202) 586-4669, or Diane Stubbs, Office of the General Counsel, (202) 586-6667.

SUPPLEMENTARY INFORMATION: The regulations codified at 10 CFR chapter 15, entitled “Office of the Federal Inspector for the Alaska Natural Gas Transportation System,” are being eliminated as contemplated by section 3012 of the Energy Policy Act of 1992 (EPACT), Pub. L. 102-486, 106 Stat. 2776, 3128 (1992).

The Office of the Federal Inspector (OFI) was established pursuant to the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. 719; Reorganization Plan No. 1 of 1979, 44 FR 33663 (June 12, 1979); and Executive Order No. 12142, 44 FR 36927 (June 25, 1979), to oversee construction of the Alaska Natural Gas Transportation

System (ANGTS). The ANGTS encompasses a 4,800-mile joint U.S.-Canadian overland pipeline project selected and approved for the delivery of Alaska natural gas from Prudhoe Bay to the lower 48 states. The first phase of the project, completed in the early 1980s, involved construction of facilities in the United States and southern Canada. Changing economic conditions and natural gas markets have not supported the second phase of construction, which would complete the Alaskan and northern Canadian portions of ANGTS.

In recognition of ANGTS construction inactivity, section 3012 of EPACT repealed section 7(a)(5) of ANGTA, which authorized the appointment of a Federal Inspector; abolished OFI and transferred all functions and authority vested in the Federal Inspector to the Secretary of Energy; and revoked the OFI regulations in 10 CFR chapter 15. This rule merely eliminates from the CFR regulations which have already