

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96-061-1]

Interstate Movements of Imported Plants and Plant Parts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to establish a new domestic quarantine notice. This domestic quarantine notice would provide that, subsequent to their importation, plants and plant parts prohibited under foreign quarantine notices from being imported into certain States or areas are also prohibited from being moved interstate into those States or areas. This action would strengthen our ability to enforce restrictions on the movement in commerce of plants and plant parts that present a risk of introducing foreign plant pests and diseases. In conjunction with this action, we also propose to remove a domestic quarantine notice that prohibits certain interstate movements of Unshu oranges subsequent to their importation into the United States, because the proposed domestic quarantine notice would make a specific one for Unshu oranges unnecessary.

DATES: Consideration will be given only to comments received on or before November 18, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-061-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-061-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday,

except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8899.

SUPPLEMENTARY INFORMATION:

Background

The Federal Plant Pest Act, as amended (7 U.S.C. 150aa-150jj), and the Plant Quarantine Act of 1912, as amended (7 U.S.C. 151-165, and 167), were enacted to protect U.S. plant resources from exotic, injurious plant pests and diseases. Pursuant to these statutes, the Animal and Plant Health Inspection Service (APHIS) has promulgated the regulations at title 7, parts 301 and 319, of the Code of Federal Regulations (CFR). Part 301 contains domestic quarantine notices designed to prevent the spread of certain plant pests and diseases through the interstate movement of regulated articles. Part 319 contains foreign quarantine notices designed to prevent the introduction of foreign plant pests and diseases through the importation of regulated articles.

According to 7 U.S.C. 161, the Secretary of Agriculture is authorized and directed to quarantine any portion of the United States he deems necessary to prevent the spread of a dangerous plant disease or insect infestation that is new to or not widely prevalent within the United States. Further, 7 U.S.C. 161 prohibits the interstate movement of any plants, plant parts, or other articles capable of carrying the disease or insect pest from any quarantined portion of the United States into or through any other part of the United States, except as prescribed by the Secretary of Agriculture. Accordingly, we regulate the importation and subsequent interstate movement of Unshu oranges grown in Japan or on Cheju Island, Republic of Korea, to prevent the introduction and spread of citrus canker disease into citrus-producing areas of the United States. Under the foreign quarantine notice "Subpart—Citrus Fruit," contained in 7 CFR 319.28, these Unshu oranges may be imported under permit and under certain conditions into any area of the United States except

American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States. The domestic quarantine notice "Subpart—Unshu Oranges," contained in 7 CFR 301.83, quarantines all areas of the United States except American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States, with respect to imported Unshu oranges, and prohibits the subsequent interstate movement of imported Unshu oranges into or through any area of the United States not so quarantined.

The purpose of "Subpart—Unshu Oranges" is to reinforce the destination restrictions specified in "Subpart—Citrus Fruit." "Subpart—Unshu Oranges" is the only domestic quarantine notice that plays such a direct companion role to a foreign quarantine notice. No other domestic quarantine notice prohibits the subsequent movement of an imported plant or plant part into or through certain portions of the United States based on importation restrictions specified in a foreign quarantine notice.

The foreign quarantine notices, however, prescribe destination restrictions for many other plants or plant parts that, like Unshu oranges, are eligible for importation into the United States but not into specified States or areas. Like the importation restrictions on Unshu oranges, these specific prohibitions by State or area were established because the imported plants or plant parts would present an unacceptable plant pest or disease risk if moved into those States or areas. For example, under 7 CFR 319.56-2t, ginger root imported from the Cook Islands is prohibited entry into Puerto Rico, the Virgin Islands, and Guam to prevent possible establishment of the ginger weevil in those areas. We allow ginger root from the Cook Islands to be imported into the continental United States because the ginger weevil is unlikely to become established in the continental United States, and into Hawaii because the pest is already established there. The foreign quarantine notice pertaining to the importation of ginger root from the Cook Islands is intended to prevent such ginger root from ever entering Puerto

Rico, the Virgin Islands, or Guam. However, no domestic quarantine notice specifically prohibits the interstate movement of ginger root imported from the Cook Islands into those areas.

We believe it would be helpful for part 301 of the regulations to include a notice of a general domestic quarantine and prohibition on interstate movement to cover all plants and plant parts, like ginger root from the Cook Islands, that, according to a foreign quarantine notice, may be imported only into specified areas of the United States. Such a notice would serve two important purposes. First, it would clarify and strengthen APHIS' ability to enforce destination restrictions on imported plants and plant parts. Second, it would assist the public by logically placing quarantine notices restricting the interstate movement of imported plants and plant parts in the domestic quarantine notices in part 301, instead of in the foreign quarantine notices in part 319.

Accordingly, we are proposing to establish a new generic domestic quarantine notice to restrict the interstate movement of imported plants and plant parts that present a risk of introducing a foreign plant pest or disease. This domestic quarantine notice would quarantine all parts of the United States other than those listed in a foreign quarantine notice as a prohibited area for the importation of a specified type of plant or plant part (in other words, it would quarantine those areas into which the plant or plant part may be imported). Additionally, this domestic quarantine notice would prohibit the subsequent interstate movement of such imported plants or plant parts into or through areas of the United States not so quarantined. In the case of ginger root from the Cook Islands, for example, this proposed domestic quarantine notice would quarantine all areas of the United States except for Puerto Rico, the Virgin Islands, and Guam, and would prohibit the subsequent interstate movement of imported ginger root from the Cook Islands into or through any nonquarantined area of the United States (i.e., Puerto Rico, the Virgin Islands, and Guam). This proposed domestic quarantine notice is intended to cover any plants or plant parts currently in, or subsequently added to, part 319 that have destination restrictions.

In conjunction with the action just described, we propose to remove the domestic quarantine notice, "Subpart—Unshu Oranges," contained in § 301.83. As stated previously, that subpart serves to reinforce the destination restrictions

for imported Unshu oranges specified in the foreign quarantine notice "Subpart—Citrus Fruit." "Subpart—Unshu Oranges" would no longer be necessary if we establish a new domestic quarantine notice as described above because the generic domestic quarantine would prohibit the interstate movement of Unshu oranges grown in Japan or Cheju Island into any nonquarantined area.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We do not anticipate that this action would have a significant economic impact on any small entities. Imported plants and plant parts, including fruits and vegetables, that are prohibited from being imported into specified States or areas under our foreign quarantine notices are, under those same notices, prohibited from being distributed in those States or areas. This action would clarify and strengthen the agency's ability to enforce these restrictions.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Paperwork Reduction Act

This action contains no 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 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 would be amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. A new subpart Subpart—Imported Plants and Plant Parts, would be added to read as follows:

Subpart—Imported Plants and Plant Parts

§ 301.10 Definitions.

Moved (move, movement). Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other legal entity.

State. Any State, territory, district, or possession of the United States.

§ 301.11 Notice of quarantine; prohibition on the interstate movement of certain imported plants and plant parts.

Whenever part 319 of this chapter allows the importation of a plant or plant part into certain States or areas of the United States, but prohibits the plant or plant part from being imported into, entered into, or distributed within any other State or area of the United States, the States or areas of the United States into which the plant or plant part may be imported are quarantined with respect to that plant or plant part. No person may move interstate any such plant or plant part from any State or area quarantined with respect to that plant or plant part into or through any State or area of the United States not quarantined with respect to that plant or plant part.

Subpart—Unshu Oranges [Removed and Reserved]

3. Subpart—Unshu Oranges consisting of § 301.83, would be removed and reserved.

Done in Washington, DC, this 25th day of September 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–25101 Filed 10–1–96; 8:45 am]

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