

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 Parts 319, 320, 330, and 352

[Docket No. 97-037-1]

Removal of Mexican Border Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to remove the regulations at 7 CFR part 320, "Mexican Border Regulations," which serve to prevent the introduction into the United States of plant pests from Mexico by regulating the importation of vehicles, soil, and other materials from Mexico. The regulations at 7 CFR part 330, "Federal Plant Pest Regulations; General; Plant Pests; Soil, Stone, and Quarry Products; Garbage," serve to prevent the introduction into the United States of plant pests from all foreign countries by regulating the importation of plant pests themselves, as well as vehicles, soil, and other materials. We believe the provisions in the "Mexican Border Regulations" to prevent the entry of plant pests from Mexico are covered in part 330. Therefore, we believe the regulations in part 320 are unnecessary and should be removed. This action would meet the President's regulatory reform goal of removing redundant Federal regulations.

DATES: Consideration will be given only to comments received on or before October 14, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-037-1, 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. 97-037-1. 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. James A. Petit De Mange, Staff Officer, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236, (301) 734-6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 7 CFR part 320, "Mexican Border Regulations," serve to prevent the entry into the United States of plant pests from Mexico by regulating the importation of vehicles, soil, and other materials from Mexico. Since 1917, the U.S. Department of Agriculture (USDA) has had the authority to inspect and apply safeguards to railway cars, vehicles, and various materials entering the United States from Mexico to prevent the introduction of plant pests. Congress granted such authority on an annual basis from 1917 until passage of the Mexican Border Act (7 U.S.C. 149) on January 31, 1942, which gave USDA the authority "to provide for regulating, inspecting, cleaning, and, when necessary, disinfecting railway cars, other vehicles, and other materials entering the United States from Mexico."

The regulations at 7 CFR part 330, "Federal Plant Pest Regulations; General; Plant Pests; Soil, Stone, and Quarry Products; Garbage," serve to prevent the dissemination of plant pests into or within the United States by regulating the movement of plant pests, means of conveyance, earth, stone and quarry products, garbage, and certain other products and articles into or through the United States. The regulations at part 330 are authorized by the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*).

As part of the President's Regulatory Reform Initiative, we are proposing to remove the Mexican Border Regulations because we do not believe that they are necessary to prevent the introduction of plant pests from Mexico into the United States via imported vehicles, soil, and other materials. We believe the Mexican Border Regulations are redundant

because of the existence of part 330, which regulates the importation of plant pests themselves, as well as vehicles, soil, and other materials, from any foreign country, including Mexico.

The Mexican Border Regulations include nine sections. The basic provisions of these sections are as follows: Sections 320.1 through 320.3 are administrative. They set forth who is responsible for administering the regulations, the items subject to the regulations, and definitions of terms. Section 320.4 states that all articles designated in § 320.2 are subject to inspection as a condition of entry into the United States from Mexico. Sections 320.5 and 320.6 provide that USDA inspectors may, upon inspecting a vehicle or article, either allow its entry into the United States or require, as a condition of entry, cleaning, transfer of cargo, or disinfection, or all three. Sections 320.7 and 320.8 provide that the owner or agent of any vehicle or article that has been determined to need cleaning or disinfection before being allowed entry into the United States is responsible for covering the costs of such cleaning or disinfection. Finally, § 320.9 establishes a permit system for the importation of soil from Mexico.

We believe that all of the provisions of the Mexican Border Regulations are covered in part 330. The provisions in § 320.1 are covered in § 330.108 and refer to the authority of the Deputy Administrator for Plant Protection and Quarantine of USDA's Animal and Plant Health Inspection Service (APHIS) to prevent dissemination of plant pests into the United States or interstate. The provisions in § 320.2 are covered in §§ 330.101 and 330.102, which state the purpose and policy of the regulations in part 330 and the basis for them. Sections 320.3 and 330.100 both contain definitions. The provisions in §§ 320.4 through 320.8 are covered in §§ 330.105 and 330.106, which pertain to inspection of foreign arrivals, procedures to prevent pest dissemination, and orders for remedial measures, among other things. And the provisions in § 320.9 are covered in § 330.300, which pertains to the importation of soil from foreign countries.

Therefore, because the provisions in part 320 are covered in part 330, we are proposing to remove the regulations in §§ 320.1 through 320.9. We are also

proposing to remove all references to part 320 that appear in 7 CFR parts 319, 330, and 352.

Miscellaneous

We are also proposing to amend §§ 319.69a(c) and 330.300 of this chapter to correct some erroneous references to § 319.37-16a, which no longer exists.

The undesignated regulatory text at the beginning of § 330.300 prohibits the movement of soil from foreign countries or U.S. territories or possessions, except in accordance with certain regulations, including § 319.37-16a. When § 330.300 was first promulgated, § 319.37-16a(b) allowed certain subsoil from Japan and the Rkuyku Islands to be used as packing materials for lily bulbs imported into the United States. However, APHIS revoked § 319.37-16a(b) on November 30, 1979 (44 FR 68803-68804, FR Doc. 79-38849), because lily bulbs imported from Japan and the Rkuyku Islands had been found infested with nematodes. Therefore, the three references to § 319.37-16a that appear in § 330.300 in the undesignated regulatory text and in paragraph (a) should have been removed in 1979. We are now proposing to correct § 330.300 to remove these references.

APHIS revised all of § 319.37 on May 13, 1980 (45 FR 31572-31597, FR Doc. 80-14492), and the provisions of the remaining paragraphs of § 319.37-16a were redesignated as various other sections of § 319.37. The provisions pertaining to growing media became § 319.37-8, and the provisions pertaining to packing materials became § 319.37-9. Section 319.37-16a ceased to exist at that time, and all references to it should either have been removed or amended to refer to the appropriate section in § 319.37. However, current § 319.69a(c) includes a reference to defunct § 319.37-16a. This reference should have been changed to § 319.37-9, and, therefore, we are also proposing to make this correction at this time.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The purpose of this proposed rule is to remove redundant regulations from title 7 of the CFR. No segment of U.S. society should be affected by this regulatory action.

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.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) State and local laws and regulations will not be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule 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

7 CFR Part 319

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

7 CFR Part 320

Imports, International boundaries, Mexico, Plant diseases and pests, Quarantine, Transportation.

7 CFR Part 330

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 352

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR, Chapter III, would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue 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).

§ 319.8-27 [Removed]

2. Section 319.8-27, "Applicability of Mexican Border Regulations," would be removed.

§ 319.69a [Amended]

3. In § 319.69a, paragraph (c), the reference to "§ 319.37-16a" would be removed and a reference to "§ 319.37-9" would be added in its place.

PART 320—MEXICAN BORDER REGULATIONS [REMOVED]

4. Under the authority of 7 U.S.C. 149 and 150ee and 21 U.S.C. 136 and 136a, 7 CFR, Chapter III, would be amended by removing "Part 320—Mexican Border Regulations".

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

5. The authority citation for part 330 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd-150ff, 161, 162, 164a, 450, 2260; 19 U.S.C. 1306; 21 U.S.C. 111, 114a; 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331; 4332; 7 CFR 2.22, 2.80, and 371.2(c).

§ 330.105 [Amended]

6. In § 330.105, paragraph (a), third sentence, the reference to "320," would be removed.

§ 330.300 [Amended]

7. Section § 330.300 would be amended as follows:

a. In the undesignated regulatory text, by removing the reference to "§ 319.37-16a," in the first sentence, and by removing the entire last sentence.

b. In paragraph (a), by removing the reference to "§ 319.37-16a," and the words "or part 320".

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

8. The authority citation for part 352 would continue to read as follows:

Authority: 7 U.S.C. 149, 150bb, 150dd, 150ee, 150ff, 154, 159, 160, 162, and 2260; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(c).

§ 352.1 [Amended]

9. In § 352.1, paragraphs (b)(14), (b)(15), (b)(16), and (b)(24), the reference to "320," would be removed.

§ 352.2 [Amended]

10. In § 352.2, in paragraph (a), the first sentence, and in paragraph (b), the reference to "320," would be removed.

§ 352.5 [Amended]

11. In § 352.5, paragraph (d), the reference to "320," would be removed both times it appears.

§ 352.10 [Amended]

12. In § 352.10, the reference to "320," would be removed in the following places.

- a. Paragraph (a), third sentence.
- b. Paragraph (b)(1), sixth sentence.
- c. Paragraph (b)(2), second sentence.

§ 352.13 [Amended]

13. In § 352.13, the reference to "320," would be removed.

Done in Washington, DC, this 8th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-21521 Filed 8-13-97; 8:45 am]

BILLING CODE 3410-34-P

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 402**

RIN 0960-AE68

Electronic Freedom of Information Act Amendments of 1996

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: These rules are proposed to reflect the changes made by the Electronic Freedom of Information Act Amendments (EFOIA) of 1996, that give the public access to government information and records maintained in an electronic format, provide for expedited processing of certain requests, establish "electronic reading rooms," eliminate an agency backlog of work as a justification for delay in processing requests, require redacted material to be estimated or indicated in an agency's response, and require an agency reference guide on FOIA to be made available.

DATES: To be sure that your comments are considered, we must receive them no later than September 15, 1997.

ADDRESSES: Comments should be submitted in writing to the Acting Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov" or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD

21235, between 8:00 a.m. and 4:30 p.m. on regular business days.

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect format and will remain on the FBB during the comment period.

FOR FURTHER INFORMATION CONTACT:

Henry D. Lerner, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1762 for information about these rules.

SUPPLEMENTARY INFORMATION: These proposed rules will revise our existing regulations to reflect the provisions of Public Law 104-231, the Electronic Freedom of Information Act Amendments of 1996, Pub. L. No. 104-231 amended 5 U.S.C. 552, popularly known as the Freedom of Information Act (FOIA), to provide public access to information in an electronic format, provide for expedited processing of certain requests, establish "electronic reading rooms," eliminate an agency backlog of work as a justification for delay in processing requests, require redacted material to be estimated or indicated in an agency's response, and require an agency reference guide on FOIA to be made available. The proposed rules will also make technical changes to related rules.

According to the new law, the term "record" encompasses information, subject to the requirements of the FOIA, when maintained in any format, including an electronic format. The category of "reading room" records, at 5 U.S.C. 552(a)(2), is expanded to include records that the agency discloses in response to a FOIA request that have become, or are likely to become, the subject of future requests. An index of those records that are subject to multiple requests must be prepared and made available by computer telecommunications by December 31, 1999. Furthermore, agencies must create an "electronic reading room" to contain records created after November 1, 1996 that are required to be made available under 5 U.S.C. 552(a)(2). Additionally, agencies must make reasonable efforts to search for records, even when information is maintained in an electronic database, unless such efforts would significantly interfere with the operation of the agency's automated information system. If a requester requests a record in a particular format, agencies must attempt to provide the

record in that format if the record is readily reproducible in such format.

The general period for responding to requests has been changed from 10 days to 20 days. Moreover, multi-track processing may be offered as a way to provide more timely responses. Agencies and requesters may discuss alternative time frames to process requests, or modifications to the requests, when the general 20-day time for responding cannot be met. Expedited processing of requests must be done when there is a compelling need for the records. "Compelling need" means that the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or when a request is made by a person primarily engaged in disseminating information (e.g., the news media), and there is an urgency to inform the public concerning actual or alleged Federal Government activity.

The amount of information deleted on a record must be indicated, unless doing so would harm an interest protected by an exemption; and, if technically feasible, the indication shall be at the place in the record where the deletion is made. If whole pages or documents are withheld, an estimate of the volume of material withheld must be provided to the requester, unless doing so would harm an interest protected by an exemption. Furthermore, a guide for requesting records, to include an index and description of major record systems, must be made available to the public.

The definition of "record" in § 402.30 will be revised to reflect the provisions of section 3 of Public Law 104-231 to include information stored in an electronic format, and the meaning of "record" in the Records Disposal Act, 44 U.S.C. 3301, as well as the Supreme Court's decision in *U.S. Dept. of Justice versus Tax Analysts*, 492 U.S. 136 (1989).

Section 402.35 will be revised to reflect the provisions of section 4 of Public Law 104-231 concerning availability of records, extent of deletions, and a general index of records.

Section 402.40 will be revised to indicate that SSA Publications on CD-ROM are available for purchase.

Section 402.45 will be revised to add a new category to reading room records. These are records which "the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records." Also, we will provide an electronic index for this category of records as reflected in section 4 of the EFOIA amendments.