

Rules and Regulations

Federal Register

Vol. 66, No. 4

Friday, January 5, 2001

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 302

[Docket No. 00-085-1]

District of Columbia; Movement of Plants and Plant Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are establishing regulations concerning the application for and issuance of certificates for the interstate movement of plants and plant products from the District of Columbia. The certificates will address the plant health status of plants and plant products moving interstate from the District of Columbia. This action will facilitate the interstate movement of plants and plant products from the District of Columbia.

DATES: This interim rule is effective January 5, 2001. We invite you to comment on this docket. We will consider all comments that we receive by March 6, 2001.

ADDRESSES: Please send your comment and three copies to: Docket No. 00-085-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-085-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

Until 1992, 7 CFR part 302 contained regulations governing the movement of plants and plant parts into and from the District of Columbia (referred to below as the District). The former regulations in part 302 contained a requirement that no nursery stock or herbaceous perennial plants, bulbs, or roots could be moved interstate from the District unless a certificate or permit was issued by the Animal and Plant Health Inspection Service (APHIS) stating that the plant or plant product was free from dangerous plant pests. This requirement was necessary because most States, and some Federal regulations, required that certain plants and plant products moving interstate be accompanied by a plant health certificate issued by the plant protection service of the originating State. Since the District has no official plant protection service, APHIS provides the District with plant health services, including inspecting and documenting the plant health status of plants and plant products being moved from the District.

In removing part 302, APHIS stated that it would continue to provide inspection and documentation services for plants and plant products moving from the District when inspection or documentation is required by Federal laws or regulations, or, when applicable, by the laws or regulations of countries that receive plants or plant products from the District.

This rule clarifies that, when inspection and documentation are requested for plants or plant products to be moved interstate from the District, the U.S. Department of Agriculture will provide those services. This rule will tell how to apply for inspection and

obtain documentation for the interstate movement of plants and plant products from the District. A District of Columbia Plant Health Certificate is the form used to certify the plant pest status of plants or plant parts moving interstate from the District.

District of Columbia Plant Health Certificates are valid only for certifying plants *moving interstate* within the United States. Persons in the District of Columbia who require certification of plants *intended for export* to a foreign country need to obtain a Federal phytosanitary certificate under 7 CFR part 353. Persons interested in obtaining certification should contact the Plant Protection and Quarantine office at the Port of Baltimore, 2200 Broening Highway, Suite 140, Baltimore, MD 21224-6623; phone: (410) 631-0075; fax: (410) 631-0083; or visit the APHIS web site at <http://www.aphis.usda.gov/ppq/exports>.

This rule also includes definitions for “inspector,” “interstate,” and “State”. We define an “inspector” as any employee of the Animal and Plant Health Inspection Service or other person authorized by the Administrator to inspect and certify the plant health status of plants and products under 7 CFR part 302. The term “interstate” means from any State into or through any other State. The term “State” means the District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

Immediate Action

Immediate action is necessary to facilitate the interstate movement of plants and plant products from the District of Columbia during the fall shipping season. Under these circumstances, the Administrator has determined that prior notice and opportunity for comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This interim rule provides that, the Animal and Plant Health Inspection Service will provide inspection and documentation services for plants or plant products moving interstate from the District of Columbia when inspection or documentation is required by Federal or State laws or regulations.

This rule simply puts into the regulations a process for inspecting and documenting plants and plant products that has been in effect for many years. Inspection and documentation are provided at no cost to applicants, and few, if any, entities, aside from the National Arboretum, regularly move plants and plant products interstate from the District of Columbia.

This rule will benefit the National Arboretum and others in the District who move plants and plant products interstate.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 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

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0166 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Docket No. 00-085-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. Please state that your comments refer to Docket No. 00-085-1 and send your comments within 60 days of publication of this rule.

This interim rule provides that when inspection or documentation is required by Federal or State laws or regulations, any plants and plant products moving interstate from the District of Columbia may be inspected for plant pests and their plant health status certified by a U.S. Department of Agriculture inspector prior to the interstate movement.

We are soliciting comments from the public concerning information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.2 hours per response.

Respondents: Plant producers and shippers.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 50.

Estimated annual number of responses: 200.

Estimated total annual burden on respondents: 40 hours.

Copies of this information collection can be obtained from: Ms. Laura Cahall, APHIS' Information Collection Coordinator, at (301) 734-5360.

List of Subjects in 7 CFR Part 302

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, we are amending title 7, chapter III, by adding a new part 302 to read as follows:

PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

Sec.

302.1 Definitions.

302.2 Movement of plants and plant products.

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

§ 302.1 Definitions.

Inspector. Any employee of the Animal and Plant Health Inspection Service or other person authorized by the Administrator to inspect and certify the plant health status of plants and products under this part.

Interstate. From any State into or through any other State.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 302.2 Movement of plants and plant products.

Inspection or documentation of the plant health status of plants or plant products to be moved interstate from the District of Columbia may be obtained by contacting Plant Protection and Quarantine, APHIS, Port of Baltimore, 2200 Broening Highway, Suite 140, Baltimore, MD 21224-6623; phone: (410) 631-0075; fax: (410) 631-0083.

(Approved by the Office of Management and Budget under control number 0579-0166)

Done in Washington, DC, this 27th day of December 2000.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-241 Filed 1-4-01; 8:45 am]

BILLING CODE 3410-34-U