

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, 330, and 340

[Docket No. 03–002–1]

Importation of Nursery Stock

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations on importing nursery stock to eliminate various restrictions on the importation of plants *in vitro* and kenaf seed; to establish programs for the importation of approved plants from the Canary Islands and from Israel; to require an additional declaration on the phytosanitary certificate accompanying blueberry plants imported from Canada; to require that phytosanitary certificates include the genus and species names of the restricted articles they accompany; to change the phytosanitary certificate requirements for several restricted articles; to reduce the postentry quarantine growing period for *Hydrangea spp.* and for certain chrysanthemums; and to update the list of ports of entry and Federal plant inspection stations. We are also proposing several other changes to update and clarify the regulations and improve their effectiveness. These changes are necessary to relieve restrictions that appear unnecessary, update existing provisions, and make the regulations easier to understand and implement.

DATES: We will consider all comments that we receive on or before February 13, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the “Search for Open Regulations” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on

“Submit.” In the Docket ID column, select APHIS–2005–0081 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the “Advanced Search” function in Regulations.gov.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 03–002–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–002–1.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold T. Tschanz, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–5306.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests. The regulations contained in “Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,” §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

We are proposing to make several amendments to the regulations. Our proposed amendments are discussed below by topic.

Definition of From

The definition of *from* in § 319.37–1 provides that an article is considered to be “from” any country or locality in which it was grown. (If an article has been grown in two or more countries or localities, APHIS inspectors consider that article to be “from” the country or locality from which the importation of that article poses the greatest pest risk when determining what, if any, restrictions apply to the importation of that article.) The current regulations also provide that an article imported into Canada from another country or locality shall be considered as being solely “from” Canada if it is imported into the United States directly from Canada after having been grown for at least 1 year in Canada; has never been grown in a country from which it would be a prohibited article or from which it would be subject to special foreign inspection, certification, treatment, or other requirements; was not grown in a country or locality from which it would be subject to postentry quarantine requirements, unless it was grown in Canada under postentry growing conditions equivalent to those specified for the article in § 319.37–7; and was not imported into Canada in growing media.

We have previously limited this exception to Canada because we believed that the pest risks associated with the importation of plants from Canada were better known to us than those associated with plants imported from other areas. However, articles from any area may be considered to be “from” that area if they were previously imported into the exporting area under conditions that are equivalent to those that we would require if the articles had been imported into the United States. From a phytosanitary perspective, if the articles met the conditions for importation into the United States when they were imported into the country from which they are subsequently exported, there is no reason to impose any conditions on their importation other than any that may apply to those articles exported from the exporting country. For the same reasons, the current definition of *from* may place an unnecessary burden on Canadian importers who wish to export imported plants to the United States; under the current definition, plants may only be considered to be “from” Canada if they have been grown there for a year,

regardless of the duration for which regulations in § 319.37–7 require the plants to be grown in postentry quarantine.

Additionally, under Article 2 of the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), the Animal and Plant Health Inspection Service (APHIS) must not discriminate between countries where identical or similar conditions prevail when regulating the importation of plants and plant products. The definition of *from* provides an exception for restricted articles that originated in another country or locality but have been grown in accordance with postentry growing conditions equivalent to those specified for the articles in Canada, but it does not offer that exception for regulated articles exported from any other country.

Therefore, we are proposing to amend the definition of *from* by providing that a plant would be considered from an exporting country or area when it was grown or propagated only in the exporting country or area, or when it was grown in the exporting country or area after it entered the exporting country or area from another country or area under conditions that are equivalent to those that would be required by the United States if the plant were imported into the United States directly from any of the countries or areas where the plant was grown prior to its entry into the exporting country or area. This change would provide exporters and importers with greater flexibility while continuing to prevent the introduction of plant pests into the United States.

Definition of Inspector

The current definition of *inspector* in § 319.37–1 reads: “Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.” This definition does not reflect the reassignment of certain responsibilities from APHIS to the Department of Homeland Security’s Bureau of Customs and Border Protection by the Homeland Security Act of 2002. Therefore, we are proposing to replace the current definition of *inspector* with a new definition that would read as follows: “Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland

Security, to enforce the regulations in this part.”

Definition of Preclearance

Under the current regulations in § 319.37–4(b), any restricted article may be sampled and inspected by an inspector under preclearance inspection arrangements in the country in which the article was grown and must undergo any treatment contained in 7 CFR part 305 that is ordered by the inspector. However, the current regulations in § 319.37–1 do not include a definition of *preclearance*, which makes the conditions under which sampling and inspection can take place in the country of origin somewhat ambiguous.

Therefore, we are proposing to add a definition of *preclearance* to § 319.37–1. The definition we are proposing to add is consistent with the definition of that term in the International Plant Protection Convention’s (IPPC) 2002 Glossary of Phytosanitary Terms (International Standards for Phytosanitary Measures [ISPM] publication number 5).¹ It would read: “Phytosanitary certification and/or clearance in the country in which the articles were grown, performed by or under the regular supervision of APHIS.” This change would clarify the existing regulations.

Plant Protection Act Definitions

In a final rule published in the **Federal Register** on August 14, 2000 (65 FR 49471–49472, Docket No. 00–063–1), the Secretary of Agriculture delegated to the Animal and Plant Health Inspection Service (APHIS) the authority to carry out title IV of the Agricultural Risk Protection Act of 2000, known as the Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701 *et seq.*). In that final rule, we also stated our intent to make any other changes deemed necessary as a result of the enactment of that law. We are proposing here to amend several definitions and add several other definitions in § 319.37–1 to make the definitions in the regulations consistent with those in the Plant Protection Act.

The proposed changes to the definitions are described below:

- The current definition of *person*, which reads “An individual, corporation, company, society, or association,” would be revised to read: “Any individual, partnership, corporation, association, joint venture, or other legal entity.”

¹ ISPMs may be viewed on the World Wide Web at <https://www.ippc.int/IPPC/En/default.jsp>. Click on the “Standards” link on the home page to view the ISPMs.

- A new definition of *plant* would be added to read: “Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.”

- The current definition of *plant pest*, which reads “The egg, pupal, and larval stages as well as any other living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants,” would be revised to read: “Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of these articles.”

- A new definition of the term *State* would be added to read: “Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.”

- Accordingly, the current definition of the term *United States*, which contains language similar to that in the proposed definition of *State*, would be revised to read, simply, “All of the States.”

In § 319.37–7, paragraph (g) contains a definition of *State* that applies to that section. This definition is substantively identical to the definition proposed above, which would apply to §§ 319.37–1 through 319.37–14. Accordingly, we are also proposing to remove § 319.37–7(g).

Definitions of Restricted Article and Regulated Plant

The Plant Protection Act definition of *plant* that we are proposing to add to the nursery stock regulations would include plants that are not regulated by the nursery stock regulations, such as nonvascular plants and noxious weeds. Accordingly, we would also add a new definition of *regulated plant* to list the plants regulated in the nursery stock regulations. We are also proposing to amend the definition of *restricted article* to refer to the proposed definition of

regulated plant and to correct editorial errors in the definition.

The proposed definition of *regulated plant* would read: "Any gymnosperm, angiosperm, fern, or fern ally. Gymnosperms include cycads, conifers, and ginkgo. Angiosperms include any flowering plant. Fern allies include club moss, horsetail, whisk fern, spike moss, and quillwort." This definition encompasses all the plants regulated by the nursery stock regulations.

(Note: We published an advance notice of proposed rulemaking for revising the nursery stock regulations on December 10, 2004. At a public meeting on May 25, 2005, that solicited comments regarding certain issues discussed in the advance notice of proposed rulemaking, we specifically solicited comments on whether we should expand the range of plants APHIS currently regulates in the nursery stock regulations to include non-vascular plants, such as green algae. We are continuing to consider the responses we received regarding this issue, but since we have not yet decided whether to regulate non-vascular plants, we are proposing a definition of *regulated plant* that includes only the plants APHIS currently regulates under the nursery stock regulations. If we eventually determine that it is necessary to regulate non-vascular plants, we will update the definition of *regulated plant* in a future rulemaking.)

The definition of *restricted article* currently reads "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 this subpart, excluding any articles subject to any restricted entry orders in 7 CFR part 321 (*i.e.*, potatoes), and excluding any articles regulated in 7 CFR 319.8 through 319.24 or 319.41 through 319.74–7." We are proposing to amend this definition so that it specifically includes only regulated plants, as defined above. In addition, the reference to § 319.74–7 in the current definition would be changed to § 319.74–4, because the sections that had followed § 319.74–4 were removed in a final rule effective and published in the **Federal Register** on September 25, 1997 (62 FR 50229–50231, Docket No. 95–082–2). We would also delete the reference to 7 CFR part 321, as the restrictions on the importation of potatoes that had been located in 7 CFR part 321 were moved into the nursery stock regulations in a final rule published in the **Federal Register** on September 25, 1997 (62 FR 50237–50239, Docket No. 97–010–2) and effective on October 27, 1997. We would change the citation "319.24" to read "319.24–5," to indicate that all the sections in the corn diseases subpart are included in that range. Finally, we

would indicate that articles regulated by the noxious weeds regulations in 7 CFR part 360 are excluded from the definition, since they are regulated separately from nursery stock.

Thus, the proposed definition of *restricted article* would read: "Any class of nursery stock or other regulated 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 this subpart, and excluding any articles regulated in §§ 319.8 through 319.24–5 or 319.41 through 319.74–4 and any articles regulated under part 360 of this chapter." These changes would update the regulations and make them more consistent.

Rubus spp. From Europe

We are proposing to add articles of *Rubus spp.* from Europe not meeting the conditions for importation in § 319.37–5(f) to the list of prohibited articles found in the table in § 319.37–2(a). In § 319.37–5, paragraph (f) requires that *Rubus spp.* from Europe must be accompanied at the port of first arrival in the United States by a phytosanitary certificate containing an additional declaration that the articles have been found by the plant protection service of the country of origin to be free of *Rubus* stunt agent, based on visual examination and indexing of the parent stock. *Rubus* stunt agent affects the yield, vitality, and quality of plants of the genus *Rubus*, which include raspberry and blackberry. Although it is primarily transmitted along insect vectors, the disease can be transmitted through propagative material.

If articles of *Rubus spp.* from Europe are not accompanied by a phytosanitary certificate with the above additional declaration at the port of first arrival in the United States, they should be denied entry to prevent the possible introduction of this disease. However, nothing in the regulations as they now stand specifically prohibits the importation of *Rubus spp.* from Europe that are not accompanied by the phytosanitary certificate required in § 319.37–5(f). To correct this oversight, we are proposing to add articles of *Rubus spp.* from Europe that do not meet the conditions for importation in § 319.37–5(f) of the regulations to the list of prohibited articles. Prohibiting imports of *Rubus spp.* from Europe that are not accompanied by a phytosanitary certificate with the proper additional declaration would help to ensure that *Rubus* stunt agent is not introduced into the United States.

Plants In Vitro

We are proposing to remove several restrictions on plants *in vitro*. The IPPC's 2002 Glossary of Phytosanitary Terms defines plants *in vitro* as "plants in an aseptic medium in a closed container." Such plants are minimally exposed to plant diseases and pests that may exist in the area surrounding its nursery of origin. Plants *in vitro* have been found to pose an extremely low risk of introducing plant pests into the United States. We believe, therefore, that several restrictions currently in place on the importation of plants *in vitro* are now unnecessary. Thus:

- We are proposing to amend § 319.37–3(a)(5) of the regulations to exempt shipments of plants *in vitro* from the requirement that lots of 13 or more articles offered for importation into the United States must be accompanied by a written permit issued by a Plant Protection and Quarantine (PPQ) inspector. This exemption would not apply if importation of the plants is restricted or prohibited elsewhere in the nursery stock regulations.

- Because we are proposing to exempt shipments of plants *in vitro* from the permit requirement, the changes we are proposing to make to the current list of ports of entry in § 319.37–14, discussed below under the heading "Federal Plant Inspection Stations and Other Ports of Entry," would mean that plants *in vitro* could enter the United States at any port of entry authorized in 7 CFR part 330 for articles not required to be imported under a written permit.

- We are also proposing to amend § 319.37–4(a) of the regulations to exempt plants *in vitro* from the requirement that restricted articles offered for importation into the United States be accompanied by a phytosanitary certificate from the country of origin, unless their importation is restricted or prohibited elsewhere in the nursery stock regulations. These changes would make plants *in vitro* whose importation is not otherwise restricted or prohibited generally admissible into the United States.

To accomplish these changes, we would add a definition of plants *in vitro* to the regulations in § 319.37–1. The definition would be identical to the IPPC definition quoted above. We would also remove the reference in paragraph (a)(5) of § 319.37–3 to "sterile cultures of orchid plants," as these qualify as plants *in vitro*, and we would correct the paragraph to indicate that seeds and bulbs whose importation is otherwise prohibited or restricted by the

regulations are not exempt from the permit requirement.

In a related matter, we are also proposing to amend § 319.37–8(c) of the regulations, which states: “A restricted article growing solely in agar or in other transparent or translucent tissue culture medium may be imported established in such growing media.” We are proposing to remove the requirement that the growing medium be transparent or translucent in order to allow the use of charcoal in the growing medium. Charcoal is commonly used by importers of plants *in vitro* as a detoxifying agent; if it is used as an additive in growing media, it will still be easy to determine whether the growing media meets the aseptic standard prescribed in the definition of plants *in vitro*, because any bacteria in the growing media would quickly reproduce and form a large mass. Therefore, we would revise this paragraph to simply read: “Plants *in vitro* may be imported in their growing media.”

Removing these restrictions would make plants *in vitro* generally admissible without restrictions, providing U.S. importers of plants *in vitro* with greater flexibility without increasing the risk of plant pest introduction into the United States.

Genus and Species Name on Phytosanitary Certificates

The regulations in § 319.37–4(a) currently require that any restricted article offered for importation into the United States be accompanied by a phytosanitary certificate of inspection, with certain exceptions. We are proposing to additionally require that the phytosanitary certificate include the genus and species name of the restricted article that it accompanies.

The IPPC’s Guidelines for Phytosanitary Certificates (ISPM publication number 12) state that phytosanitary certificates “should identify plants and plant products using accepted scientific names, at least to genus level but preferably to species level.” Having the genus and species name available would allow inspectors to easily identify restricted articles presented for importation and thus better assess any risks that may be associated with their importation. It could also result in savings for importers, as eliminating the need for inspectors to make a species identification of restricted articles offered for importation could allow their shipments to be processed more quickly and rejected less frequently.

For example, the regulations in § 319.37–5(b) allow the importation of

Prunus spp. that are immune to plum pox virus under different conditions than the importation of species that are not immune to the virus. When an article of *Prunus* spp. is inspected at the port of entry, it can be difficult to determine whether the article is from a species that is resistant to plum pox. As a result, inspectors often must spend significant amounts of time making that determination, which can cause a delay in releasing the article. If the inspector cannot make such a determination, the shipment of *Prunus* spp. must be rejected. Requiring that both the genus and species name be listed on the phytosanitary certificate offered for importation would eliminate both the burden that making a species determination imposes on inspectors and the costs that delayed or rejected shipments impose on importers.

In addition, requiring that phytosanitary certificates include the genus and species names of the restricted articles that they are accompanying would allow APHIS to collect data from phytosanitary certificates about the number, size, and volume of imports of nursery stock into the United States. Currently, we lack such data, which can make it difficult to accurately assess the potential impact of any changes we may consider making to the nursery stock regulations. Collecting genus and species data from phytosanitary certificates could enable us to promulgate regulations that take into account the current importation of nursery stock more completely.

Phytosanitary Certificates for Bulbs From the Netherlands

We are also proposing to amend paragraph § 319.37–4(a) of the regulations to allow small individual shipments of bulbs from the Netherlands to enter with a special certificate related to a phytosanitary certificate. The special certificate would list a serial number that would refer to a phytosanitary certificate held by the national plant protection organization of the Netherlands. The special certificate would also list the scientific name of the bulb, the bulbs’ country of origin, and an expiration date after which the special certificate could no longer be used in lieu of a phytosanitary certificate. The expiration date would be 4 weeks after the issuance of the phytosanitary certificate held by the national plant protection organization of the Netherlands.

Commercial shipments of bulbs from the Netherlands must be precleared for entry into the United States by a PPQ inspector. In addition, under § 319.37–5(a), all bulbs imported from the

Netherlands must be accompanied by a phytosanitary certificate with an additional declaration that the bulbs offered for importation were grown on land that has been sampled and microscopically inspected by the plant protection organization of the Netherlands and found to be free from the potato cyst nematodes *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens within the past 12 months.

The proposed special certificate would accompany small individual shipments of bulbs. Typically, these shipments are brought to the United States from the Netherlands by individuals carrying the bulbs in their luggage. These shipments are not precleared by APHIS, but must be cleared at the port of entry; the preclearance process and the clearance process at the port of entry involve the same steps and provide equivalent phytosanitary security. Currently, bulbs that come to the United States in that manner must be accompanied by a phytosanitary certificate with the additional declaration described above; if they do not have the phytosanitary certificate, they are confiscated upon arrival in the United States.

The special certificate we are proposing would be easier for individuals to obtain than a full phytosanitary certificate while providing the same assurance that the bulbs are free of golden nematode and potato cyst nematode. The clearance process at the port of entry would continue to serve as an additional mitigation against the risk of introduction of nematodes into the United States. Using this certificate, individuals would be able to import small shipments of bulbs from the Netherlands into the United States more easily without compromising phytosanitary safeguards.

Importation of Certain Seeds From Canada

We are proposing to add a new paragraph (d) to § 319.37–4 of the regulations to allow seed exported from Canada that meets certain conditions to be imported into the United States without a phytosanitary certificate.

To be eligible for this exemption, Canadian exporters of seed would have to register with and participate in a seed export program that would be established by the Canadian Food Inspection Agency (CFIA). CFIA would assign each exporter that registers with the program an establishment identification number. CFIA would provide a list of establishment identification numbers, along with the

names, locations, and telephone numbers of the establishments to which the identification numbers correspond, to APHIS before the start of the seed shipping season and regularly throughout the shipping season.

Participants in the seed export program would be required by CFIA to demonstrate that shipments of seed can be traced back to their original seed lots and seed testing records; demonstrate that seed that does not meet U.S. standards is consistently separated from seed that does; implement quality assurance systems at the production facility, with a descriptive manual available for review by CFIA; submit to annual audits of the quality assurance system; and implement any other necessary safeguards.

Certain documents would be required in lieu of a phytosanitary certificate for Canadian exporters participating in CFIA's seed export program.

- Each shipment of seed exported under this program would be accompanied by an export certification document. The information in this document would be provided by the seed exporter. This document would show, among other information, the scientific name of the seed, the common name of the seed, the country of origin, and the establishment identification number. The document would also contain all information required by 7 CFR part 361, "Importation of Seed and Screenings Under the Federal Seed Act," including the lot number of the seed.

- Shipments of agricultural or vegetable seeds, as listed in the Federal Seed Act regulations in 7 CFR part 361, would be accompanied by a document agreed upon by CFIA and APHIS and provided by CFIA that would certify that the relevant requirements of the Federal Seed Act regulations had been met.

- Shipments of other seeds (i.e., seeds that are not agricultural or vegetable seeds) that are exported from Canada to the United States would be accompanied by a document agreed upon by CFIA and APHIS and provided by CFIA that would certify that the seed had been inspected for plant pests.

Currently, exporters of Canadian seed must provide a phytosanitary certificate as required under the regulations in § 319.37-4 and a different set of documents as required in 7 CFR part 361. The information requirements of the two parts overlap to some extent, which results in duplicative paperwork for exporters of Canadian seed. Because of this, Canada requested that we establish this seed importation program to streamline our requirements; we

reviewed the risks associated with establishing such a program and found that they were similar to the risks associated with current importations if the program operated under the controls described above. Establishing this program would eliminate duplicative paperwork requirements while continuing to ensure that seeds imported from Canada do not introduce plant pests or noxious weeds into the United States.

We are also proposing to remove all references to the "Plant Protection Division of Agriculture Canada" in § 319.37-4 and replace them with references to the Canadian Food Inspection Agency to update the regulations.

At this time, we are not proposing to establish similar seed importation programs for seeds from countries other than Canada. If another country were to request that APHIS establish an importation program for seed from that country and provided data indicating that importing seed from that country under such a program would pose a risk equivalent to that associated with current importations of seed from that country, we would consider establishing such a program.

Blueberry Plants From Canada

We are proposing to add a new paragraph § 319.37-5(t) to the regulations to require that phytosanitary certificates that accompany *Vaccinium corymbosum* (blueberry) plants that are imported from Canada must contain an additional declaration stating that the plants are free of blueberry scorch carlavirus.

Blueberry scorch carlavirus causes blueberry scorch disease, the primary symptom of which is blighting of both flowers and new vegetative growth at peak bloom. Blighted blossoms fail to produce fruit, and infected plants in general are less vigorous than healthy plants. Bushes, once infected, may show symptoms each year. Initially, only one or few branches may have blighted flowers and leaves, but after a few years the entire bush may show symptoms.

We are proposing to require this additional declaration on the phytosanitary certificate accompanying *V. corymbosum* plants because virulent strains of blueberry scorch carlavirus have been found that only exist in Canada. This requirement would ensure that *V. corymbosum* plants imported from Canada are free of this dangerous virus while continuing to allow importation of plants that have been determined to be free of this virus.

For the reasons described above in the discussion of prohibiting the entry of

articles of *Rubus* spp. from Europe that lack the appropriate phytosanitary certificate, we are also proposing to add *V. corymbosum* plants from Canada that do not meet the requirements of proposed § 319.37-5(t) to the list of prohibited articles in § 319.37-2(a).

Programs for Importation of Approved Plants From the Canary Islands and From Israel

We are proposing to add new paragraphs (u) and (v) to § 319.37-5 to establish programs to govern the importation of approved plants from the Canary Islands of Spain and from Israel, respectively. These programs would require that growers employ several safeguards to ensure that pests present in the exporting countries are excluded from shipments of approved plants. In the case of the Canary Islands, the approved plants would be *Pelargonium* (geranium) spp., and the pests of concern are *Helicoverpa armigera*, the cotton bollworm; *Chrysodeixis chalcites*, the tomato looper; and *Cornutiplusia circumflexa*. In the case of Israel, all plants except bulbs, dormant perennials, plants *in vitro*, and seeds that are imported into the United States would be required to be imported under this program; the main pest of concern in Israel is *Spodoptera littoralis*, the Egyptian cotton leafworm, although other quarantine pests are found in Israel and must be excluded from shipments of plants imported under this program. We anticipate that most U.S. imports under these programs would be plant cuttings, which are included in the proposed definition of *plant* in this document.

Under this proposal, the national plant protection organization of the country of origin, the growers in the country of origin, and APHIS would jointly implement the following safeguards to ensure that quarantine pests are not present in shipments of approved plants.

The national plant protection organization of the plants' country of origin would have to issue a phytosanitary certificate of inspection that would accompany any approved plants from the country of origin. This certificate would have to contain additional declarations that the plants were produced in an approved production site, that the production site is operated by a grower participating in the export program for approved plants established by the relevant national plant protection organization, and that the plants were grown under conditions specified by APHIS to prevent infestation with the relevant quarantine pests.

Growers in the programs would register with, and be approved by, the national plant protection organization of their country. Growers would be required to enter into a formal agreement wherein they agree to participate in and follow the export program for approved plants established by the national plant protection organization.

Growers would be required to meet the following requirements with respect to their facilities and growing practices:

- Plants destined for export to the United States would have to be produced in a production site devoted solely to production of such plants.
- The production sites in which such plants are produced would have to be registered with the national plant protection organization. Such production sites would employ safeguards agreed on by APHIS and the national plant protection organization to ensure the exclusion of the relevant quarantine pest or pests. For Canary Islands production sites, these safeguards would include, but would not be limited to, prescribed mesh screen size (if the production site is a screenhouse) and automatically closing doors. For Israeli production sites, these safeguards would include, but not be limited to, insect-proof screening over openings and double or airlock-type doors. Any rips or tears in any insect-proof screening would have to be repaired immediately.
- Each production site in which plants destined for export to the United States are grown would have to have at least 1 blacklight trap for one year following any of the following events: The construction of a production site; the entry of a production site into the approved plants export program; the replacement of the covering of the production site; or the detection and repair of a break or tear in the plastic or screening in the production site.

APHIS inspectors and national plant protection organization inspectors would perform the inspections described below, along with any others they may deem necessary. The inspections that would be required for plants and production sites in the Canary Islands are somewhat different from those that would be required for plants and production sites in Israel.

In the Canary Islands:

- The national plant protection organization of Spain would inspect the plants and the production site for pests during the growing season and during packing.
- Packing materials and shipping containers would be inspected and approved by APHIS to ensure that they

do not introduce pests of concern to the plants.

- Either APHIS or the national plant protection organization of Spain would inspect the production site of approved plants destined for export to the United States to ensure that they meet standards of sanitation agreed upon by APHIS and the national plant protection organization of Spain.

- Inspectors from both APHIS and the national plant protection organization of Spain would have access to the production site as necessary to ensure that growers are employing the proper safeguards against infestation of *H. armigera*, *C. chalcites*, and *C. circumflexa*, and that those safeguards are correctly implemented.

- The national plant protection organization of Spain would provide APHIS with access to the list of registered and approved growers at least annually.

In Israel:

- The national plant protection organization of Israel would inspect the plants and the production site weekly to ensure that no quarantine pests are present.

- Plants would be inspected to ensure that they are free of quarantine pests before being allowed into the production site.

- The national plant protection organization of Israel would inspect the plants to ensure that no quarantine pests are present prior to export.

- Packing materials and shipping containers would be inspected and approved by APHIS to ensure that they do not introduce pests of concern to the plants.

- Either APHIS or the national plant protection organization of Israel would inspect the production site of the approved plants destined for export to the United States to ensure that they meet standards of sanitation approved by APHIS.

- Inspectors from both APHIS and the national plant protection organization of Israel would have access to the production site as necessary to ensure that growers are employing the safeguards and procedures prescribed by the program and that those safeguards and procedures are correctly implemented.

- The national plant protection organization of Israel would provide APHIS with access to the list of registered and approved growers at least annually.

Growers would become ineligible for participation in the export programs and their production sites would lose approved status upon slightly different occurrences for each country:

- Growers in the Canary Islands would lose eligibility if live *C. circumflexa* (or any other moth of the family Noctuidae) are found in a production site. Israeli growers would lose eligibility if live *S. littoralis* are found in a production site.

- Growers in the Canary Islands would lose eligibility if live *C. circumflexa* (or any other moth of the family Noctuidae) are found in a shipment of plants. An Israeli grower would lose eligibility if live *S. littoralis* are found at port inspection two times during the same shipping season in shipments from that grower.

- Growers in both the Canary Islands and Israel could lose eligibility if they violate the requirements of the export program established by their national plant protection organizations.

- A grower in either country could be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. The national plant protection organization and APHIS would have to concur in approving the report and the corrective actions.

APHIS would have the option to terminate either program if there are repeated violations of procedural or phytosanitary requirements.

The government of the country in which the approved plants are produced would also have to enter into a trust fund agreement with APHIS before each growing season. The government of the country in which the approved plants are produced or its designated representative would be required to pay in advance all estimated costs that APHIS would expect to incur through its involvement in overseeing the execution of the requirements of the certification programs described below. These costs would include administrative expenses incurred in conducting the services enumerated below and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. (Specific provisions for making payments to these proposed trust funds may be found in the rule portion of this document.)

For the reasons described above in the discussion of prohibiting the entry of articles of *Rubus* spp. from Europe that lack the appropriate phytosanitary certificate, we are also proposing to add approved plants from the Canary Islands and Israel that do not meet the requirements of proposed § 319.37-5(u)

and proposed § 319.37–5(v), respectively, to the list of prohibited items in § 319.37–2(a).

The safeguards employed in these programs, combined with the mandatory inspections of the plants at the port of first arrival in the United States, would ensure that approved plants could be safely imported into the United States from production sites in these locations.

Specific Treatment and Other Requirements

We are proposing to reorganize the regulations in § 319.37–6 so that the information in this section is presented in a table. Section 319.37–6 now contains six paragraphs that are largely composed of the same text; the variations between paragraphs are found in the seeds and bulbs being treated, the countries or localities from which seeds and bulbs that must be treated originate, the pests for which the commodity must be treated, and the time at which the treatment must be performed. We believe that presenting this information in tabular form will improve the clarity and usability of the regulations.

In addition, the regulations in § 319.37–6 provide that certain seeds and bulbs from specific foreign regions must be treated for possible infestation with various plant pests in accordance with the applicable provisions of 7 CFR part 305 at the time of importation into the United States or at the time of arrival at the port of first arrival in the United States. However, the regulations in § 319.37–13(c) specify conditions under which treatments required under the regulations may be performed outside the United States. The current regulations in § 319.37–6 do not reflect the fact that treatments of regulated articles may be administered outside the United States. Therefore, we are proposing to amend § 319.37–6 to indicate that treatment of regulated articles may be administered outside the United States. APHIS will retain the option to require treatment within the United States of regulated articles that were treated prior to importation.

Finally, all the commodities listed in § 319.37–6 are required to be treated either at “the time of arrival at the port of first arrival in the United States” or “at the time of importation into the United States.” These phrases are substantively equivalent. Rather than set this information out in the table and preserving the present wording of this requirement from each paragraph in this section, we are proposing to add a paragraph after the table that would indicate that any articles not treated outside the United States would have to

be treated at the time of importation into the United States.

Kenaf Seed From Mexico

Under the current regulations in § 319.37–6(a), seeds of *Hibiscus* spp. (*Hibiscus*, rose mallow) from any foreign country or locality, at the time of importation into the United States, must be treated for possible infestation with *Pectinophora gossypiella* (Saunders) (pink bollworm) in accordance with the applicable provisions of 7 CFR part 305.

However, the movement of untreated kenaf (*Hibiscus cannabinus*) seed from Mexico into pink bollworm generally infested areas of the United States (listed under our domestic pink bollworm quarantine and regulations in § 301.52–2a, and currently the States of Arizona, New Mexico, and Texas, and several counties in California) would pose little or no risk of increasing the area of pink bollworm infestation. Under our domestic pink bollworm quarantine regulations in § 301.52, these generally infested areas are quarantined to prevent the spread of pink bollworm, and Kenaf seed is a regulated article under § 301.52(b) that may not be moved interstate from any quarantined State except under the conditions described in § 301.52–3.

Therefore, we are proposing to allow kenaf seed from Mexico to be imported into pink bollworm generally infested areas in the United States without treatment. Kenaf seed from Mexico that would be imported into pink bollworm generally infested areas would be subject to inspection, and, immediately upon release, would be subject to the domestic pink bollworm quarantine regulations in §§ 301.52 through 301.52–10, Subpart—Pink Bollworm. This change would harmonize the requirements of our regulations on foreign material that could spread pink bollworm with those of our domestic regulations, as required under the SPS Agreement, without increasing the likelihood that pink bollworm could spread to noninfested areas of the United States.

Although kenaf seed may be imported into the United States from countries other than Mexico with the treatment currently referred to in § 319.37–6(a), we are not proposing to allow importation of untreated kenaf seed into generally infested areas from countries other than Mexico. The available evidence indicates that pink bollworm is the only pest of concern for shipments of kenaf seed from Mexico; we do not have evidence that pink bollworm is the only pest of concern for shipments of kenaf seed from any other

place. We would consider requests to allow shipments of untreated kenaf seed into generally infested areas from other countries if the available evidence indicated that pink bollworm was the only pest of concern for shipments of kenaf seed from those countries.

*Postentry Quarantine Requirements for *Hydrangea* spp.*

Under the current regulations in § 319.37–7(a), *Hydrangea* spp. from Canada imported into the United States are not required to be grown under postentry quarantine conditions. However, under the current definition of *from* in § 319.37–1, an article imported into Canada from another country or locality that is subject to postentry quarantine requirements is considered to be solely from Canada if it was grown in Canada under postentry growing conditions equivalent to those specified in § 319.37–7 and meets certain other conditions. The term “equivalent,” as it is used here, refers not to the specific postentry quarantine conditions imposed but their effectiveness at reducing the risk of pest introduction.

CFIA requires that *Hydrangea* spp. imported into Canada from another country or locality be grown in Canada under postentry growing conditions for 9 months. We do not currently recognize Canada’s 9-month postentry growing period for *Hydrangea* spp. to be as effective at reducing pest risk as the postentry quarantine conditions specified in § 319.37–7 that apply to the importation of *Hydrangea* spp. from all countries except Canada and Japan, because the regulations in that section specify that all plants required to be grown in postentry quarantine, including *Hydrangea* spp. from all countries except Canada and Japan, must be grown in postentry quarantine conditions for 2 years after the time of importation into the United States. Therefore, *Hydrangea* spp. from another country or locality that are grown in Canada are not considered to be from Canada and are subject to the postentry quarantine requirements in § 319.37–7. (The proposed revision of the definition of *from* described above would not change this, as that definition would require that *Hydrangea* spp. be grown in conditions we recognize as equivalent to those conditions under which they would be grown if imported directly into the United States.)

CFIA has recently requested that we add specific provisions for postentry quarantine growing agreements for plants of *Hydrangea* spp. to § 319.37–7(d) that would effectively reduce the postentry quarantine period for

Hydrangea spp. from 2 years to 9 months. This request was reviewed by U.S. Department of Agriculture plant pathologists, with particular attention to the biology of the pest of concern, *Aecidium hydrangeae-paniculatea*. Their review of the available scientific evidence found that 9 months is an adequate amount of time to allow detectable symptoms of the disease to express themselves if the disease is present, which is the purpose of postentry quarantine.

Therefore, we are proposing to add a new provision in § 319.37–7(d)(7)(ii) that would require importers of *Hydrangea* spp. from all countries and localities except Canada and Japan who are operating under a postentry quarantine agreement to grow any article of *Hydrangea* spp. or increase therefrom for a period of 9 months after the importation of the plants.

(*Hydrangea* spp. from Japan would continue to be prohibited from being imported or offered for entry into the United States under § 319.37–2(a).) With this proposed change, Canada's 9-month postentry growing period for *Hydrangea* spp. would be equivalent to the postentry growing conditions that would be specified in § 319.37–7; therefore, *Hydrangea* spp. from another country or locality that are grown in postentry quarantine in Canada would be considered to be from Canada and would not be required to be grown under postentry quarantine conditions after they are imported into the United States. (While the current definition of *from* indicates that a restricted article can be considered to be from Canada only after it is grown in Canada for 1 year, the proposed amendments of the definition of *from*, discussed earlier in this proposed rule, would eliminate that restriction, leaving the 9-month postentry quarantine period as the only restriction on the importation of *Hydrangea* spp. from Canada.)

The proposed change would relieve a restriction on the importation of *Hydrangea* spp. into the United States that does not appear to be necessary.

Postentry Quarantine Requirements for Chrysanthemum spp., Dendranthema spp., Leucanthemella serotina, and Nipponanthemum nipponicum

The regulations in § 319.37–7(a) designate as restricted articles any articles of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that meet the conditions for importation in § 319.37–5(c) and that are imported from any foreign locality except Argentina, Brazil, Canada, Canary Islands, Chile, Columbia,

Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories and possession of countries located in part or entirely between 90° and 180° East longitude. Articles designated as restricted articles in § 319.37–7(a) must be grown in postentry quarantine under the conditions described in paragraphs (c) and (d) of § 319.37–7. Paragraph (d)(7)(ii) currently requires that any restricted articles of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* be grown in postentry quarantine for a period of 6 months. We are proposing to reduce this postentry quarantine growing period to 2 months if the restricted articles are grown in accordance with the requirements of an APHIS-approved best management practices program.

The pest of concern with regard to imported articles of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* is chrysanthemum white rust (CWR). CWR is caused by *Puccinia horiana* Henn., a filamentous fungus and obligate parasite. CWR is not established in the United States and is a disease of quarantine significance. This disease has the potential to be extremely damaging to the commercial horticulture and florist industries if it becomes established in greenhouses within the United States. The postentry quarantine for articles of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* is intended to allow symptoms of the disease, if it is present, to express themselves, so that any restricted articles that might be affected with CWR can be prevented from entering U.S. commerce.

PPQ's Center for Plant Health Science and Technology has reviewed the available evidence regarding the time within which CWR will express symptoms. Although substantial evidence indicates that articles affected with CWR will express symptoms within 2 months, meaning that 2 months would be an adequate postentry quarantine period for these articles, not all the available evidence confirms that. We are proposing to reduce the postentry quarantine period for restricted articles of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* to 2 months only if the articles are grown in accordance with the requirements of an

APHIS-approved best management practices program.

Best management practices programs for these articles would be designed to ensure that CWR, if it is present on these articles when they are imported into the United States, is not introduced to the wider environment. A best management program would include several basic elements, including:

- A code of conduct or documented standard operating procedures that include pest control practices, inspection and testing, and recordkeeping;
- Oversight and audits by a professional organization or a State agricultural organization to ensure compliance with the agreed-upon code of conduct or standard operating procedures;
- Some form of Federal oversight; and
- Penalties and remedial action for noncompliance.

We would evaluate best management programs for their effectiveness at ensuring that any CWR that might be present on these articles would not be introduced into the wider environment.

This change would reduce the cost of postentry quarantine for importers of those restricted articles while continuing to protect against the introduction of CWR into the United States.

Plants in Growing Media From Certain Areas in Canada

We are proposing to amend § 319.37–8(b) of the regulations to allow the importation of restricted articles in growing media from two areas in Canada from which such importation is currently prohibited if those articles are grown under certain conditions. Paragraph (b) of § 319.37–8 allows the importation of restricted articles from Canada in any growing medium, except restricted articles from Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road. Restricted articles from these areas may not enter in growing media because of the presence of potato cyst nematodes (*G. rostochiensis* and *G. pallida*) in those parts of Canada.

We have determined that restricted articles that are grown in approved growing media and are isolated in such a manner as to prevent the restricted articles from being infested with potato cyst nematodes may be imported safely into the United States from these areas. Therefore, we are proposing to allow the importation of restricted articles in approved growing media from these areas in Canada if the phytosanitary certificate accompanying the articles

contains an additional declaration. (Production sites in the area of Canada where potato cyst nematodes are present are not eligible to participate in the Canadian greenhouse-grown plants program in § 319.37–4(c) due to the presence of the potato cyst nematodes, so all articles imported into the United States from these production sites are required to be accompanied by a phytosanitary certificate under § 319.37–4(a).) The additional declaration would have to state that the restricted articles were produced in a production site approved by the national plant protection organization of Canada as capable of isolating the plants from potato cyst nematode infestation and that the restricted articles were isolated from potato cyst nematode infestation throughout their production. Allowing the importation of restricted articles from these areas under the conditions described above would give importers flexibility while continuing to protect against the introduction of potato cyst nematodes into the United States.

Additions to the List of Approved Growing Media

We are proposing to add unused clay pots and new wooden baskets to the list of growing media approved for epiphytic plants found in § 319.37–8(d). Such media are used by many nurseries. We are proposing these additions at the request of importers. We believe that unused clay pots and new wooden baskets would be as safe as the current approved growing media.

Federal Plant Inspection Stations and Other Ports of Entry

Under the current regulations in § 319.37–14(a), restricted articles of nursery stock, plants, roots, bulbs, seeds, and other plant products that are not required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (a)(6) may be imported or offered for importation at any of the ports of entry listed in § 319.37–14(b) or at any Customs designated port of entry on the United States-Canada border. A complete list of Customs designated ports of entry can be found in 19 CFR part 101.

Restricted articles of nursery stock, plants, roots, bulbs, seeds, and other plant products required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (a)(6) must be imported or offered for importation only at plant inspection stations, which are ports with special inspection and treatment facilities. Plant inspection stations are listed and designated by an asterisk in § 319.37–14(b). We are

proposing to revise § 319.37–14 and related regulations in 7 CFR part 330 to relieve unnecessary restrictions on the entry of regulated articles and to make the regulations easier to use.

First, the list of ports of entry in § 319.37–14(b) does not include all current plant inspection stations. We are therefore proposing to make the necessary updates to this list. This includes removing the entry for the plant inspection stations that were in Brownsville, TX, and Hoboken, NJ, and updating the addresses for some plant inspection stations.

We are also proposing to add a new entry for a plant inspection station in New Jersey. In order to be designated as a plant inspection station, a building must have adequate space for inspection areas to be set up, laboratory facilities for pest and disease identification, provide easy access by shipments for inspection, and, in most cases, contain various treatment facilities. We have determined that the facility in Linden, NJ, satisfies the criteria for designation as a plant inspection station.

Furthermore, it is not necessary to list ports of entry other than plant inspection stations in § 319.37–14(b). APHIS can handle, either through direct staffing or through cooperation with the Department of Homeland Security's Bureau of Customs and Border Protection, imports of restricted articles that are not required to be imported with a permit at any Customs designated port of entry, though there may be exceptions in the future. Therefore, we are proposing to amend the regulations to indicate that restricted articles not required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (a)(6) may be imported or offered for importation at any Customs designated port of entry indicated in our regulations in 7 CFR 330.104.

Section 330.104 contains the general provisions for ports of entry that apply to 7 CFR chapter III. We are proposing to amend these provisions as well. Under § 330.104, ports of entry for articles regulated under 7 CFR chapter III shall be selected by the Deputy Administrator from ports named in 19 CFR part 1.2 as "ports of entry" or 19 CFR part 6.13 as "international airports." However, 19 CFR parts 1.2 and 6.13 have been removed and, as previously noted, the complete list of Customs designated ports of entry is now contained in 19 CFR part 101.3(b)(1). Therefore, to update the regulations in § 330.104, we are proposing to remove all references to 19 CFR parts 1.2 and 6.13 in 7 CFR chapter

III and to add references to 19 CFR part 101.3(b)(1) in their place.

As mentioned above, though APHIS can currently handle imports of restricted articles that are not required to be imported with a permit at any Customs designated port of entry, there may be exceptions in the future. Therefore, we are also proposing to add to § 330.104 a list of exceptions to the ports of entry in 19 CFR part 101.3(b)(1) that will indicate those ports of entry through which articles regulated under 7 CFR chapter III may not be imported. This list would be blank as of the publication of this proposed rule, but we would update the list as necessary.

These changes would eliminate the need to list the ports of entry that are not plant inspection stations in § 319.37–14. Therefore, we are proposing to remove those ports of entry that are not plant inspection stations from the list in that section. We would further amend § 319.37–14 to list the remaining Federal plant inspection stations in the form of a table, for easier reference.

Under the current regulations in § 319.37–14, any restricted article from Canada that is not required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (a)(6) may be imported at any port of entry listed in § 319.37–14(b), or at any Customs designated port of entry on the United States-Canada border. However, for the reasons discussed above, we are proposing to allow restricted articles that are not required to be imported with a permit to be imported at any Customs designated port of entry with limited exceptions that would be listed in § 330.104. Therefore, we are also proposing to remove the provisions in § 319.37–14(b) regarding restricted articles from Canada, because they would no longer be necessary.

The current regulations in § 319.37–14 provide that any restricted article of nursery stock that is required to be imported under a written permit must be imported or offered for importation only at a plant inspection station. However, articles that are required to be imported under a written permit and that have been precleared or treated in the country of export have already fulfilled the necessary conditions for importation into the United States; because they have fulfilled these conditions, they do not need to pass through special inspection and treatment facilities at plant inspection stations, but rather can enter U.S. commerce freely after being released from the port of entry by an inspector. Therefore, we are proposing to add a provision in § 319.37–14 stating that

restricted articles that are required to be imported under a written permit and that have been precleared or treated in the country of export may enter through any Customs designated port of entry, including any ports that might in the future be excepted in § 330.104, since it will be unnecessary to ensure that APHIS has a staffing presence in place at ports that receive these articles.

To reflect the proposed changes to § 319.37–14, we are also proposing to update references to the section that appear in 7 CFR parts 319, 322, and 340.

Editorial Changes

We are proposing to replace certain country names in the regulations to reflect geopolitical changes.

Specifically, we would replace references to Czechoslovakia with references to the Czech Republic and Slovakia; replace references to the Federal Republic of Germany and the German Democratic Republic with references to Germany; replace references to the Union of Soviet Socialist Republics with references to Armenia, Azerbaijan, Belarus, Estonia, Georgia, Latvia, Lithuania, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and replace references to Yugoslavia with references to Croatia, Serbia and Montenegro, and Slovenia. These changes would update the regulations.

The definition of *bulbs* in § 319.37–1 refers to a single article. We are proposing to change the defined term to *bulb* so that the definition refers consistently to a single article.

Paragraph (c)(2) of § 319.37–2 contains a reference to the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705. This center has been renamed the National Plant Germplasm Inspection Station and is located in Building 580 of the Beltsville Agricultural Research Center. We are proposing to correct this address to update the regulations. To make the regulations in 7 CFR part 319 consistent, we would make the same update in paragraphs (b)(1) and (b)(2) of § 319.59–2 and paragraph (c)(2) of § 319.75.

Paragraph (a)(3) of § 319.37–3 refers to “*Alium sativum* spp.” *Alium sativum* is the species name for this article; the “spp.” is incorrect, and we are proposing to remove it.

Paragraph (a)(8) of § 319.37–3 requires a permit for articles (except seeds) of *Castanea* spp. or *Castanopsis* spp. destined to California or Oregon. In a final rule published in the **Federal Register** on September 18, 1992 (57 FR 43134–43151) and effective October 19,

1992, we added *Castanea* spp. to the list of prohibited articles in § 319.37–2(a). However, we failed to update paragraph § 319.37–3(a)(8) at that time. Therefore, we are proposing to remove the reference to *Castanea* spp. in § 319.37–3(a)(8).

Paragraph (b) of § 319.37–3 sets out the address to which applications for a permit to import regulated articles should be sent. In this address, the staff previously known as “Port Operations” is now known as “Permits, Registrations, Imports and Manuals.” We are proposing to update that address.

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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential economic effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests and noxious weeds.

We are proposing to amend the regulations on importing nursery stock to eliminate certain restrictions on the importation of plants *in vitro*, kenaf seed, and *Hydrangea* spp.; to establish programs for the importation of approved plants; to address recent changes in pest distributions; to change the phytosanitary certificate requirements for several restricted articles; and to update the list of ports of entry and Federal plant inspection stations. We are also proposing several other changes to update and clarify the regulations and improve their effectiveness. This proposal would relieve restrictions that appear unnecessary and would update the existing regulations and make them easier to understand and implement. The potential economic effects of the

changes proposed in this document are discussed below, by topic.

Several changes we are making, such as adding and changing definitions and reorganizing § 319.37–14, are administrative in nature and are not expected to have any impact on any U.S. entities, whether small or large. This analysis examines the potential economic effects of changes that could potentially have economic effects.

Rubus spp. From Europe

There are more than 400 species of *Rubus* in the temperate areas of the world. These are divided into subcategories that include dewberries, blackberries, and raspberries. Most species of *Rubus* grow as shrubs or trailing vines with thorny points. We are proposing to add *Rubus* spp. from Europe not meeting the conditions for importation in § 319.37–5(f) to the list of prohibited articles in § 319.37–2(a). *Rubus* stunt agent (*Phytoplasma*) is a leafhopper-borne agent that causes damage to foliage and flowers. *Rubus* stunt agent has caused direct damage to European fruits through yield loss.² This proposed amendment to § 319.37–2 would have no effect on domestic producers and consumers, while safeguarding the multi-million dollar U.S. berry production industry (2002).³

Plants *In Vitro*

We are proposing to remove the requirement that lots of 13 or more items of plants *in vitro* may only be imported after issuance of a written permit by PPQ, unless their importation is prohibited or restricted elsewhere in the nursery stock regulations. This change would allow plants *in vitro* to enter at a greater number of ports. We are also proposing to remove the requirement for a phytosanitary certificate for imported plants *in vitro*, unless their importation is prohibited or restricted elsewhere in the nursery stock regulations. We are proposing these changes because the risk of plant pest introduction via plants *in vitro* is extremely low and these requirements are unnecessary. We have no reason to expect that making plants *in vitro* generally admissible through the proposed changes would have a significant effect on domestic producers and consumers. However, we invite the public to submit data on the possible effects of these proposed changes.

² Gordon S.C., et al. Progress towards Integrated Crop Management (ICM) for European Raspberry Production.

³ National Agricultural Statistical Survey (NASS), Noncitrus Fruits and Nuts: Price and Value for the United States, 2000–2002.

We are also proposing to remove the requirement in § 319.37–8(c) that growing media imported along with a restricted article be transparent or translucent, thus allowing charcoal to be used in growing media for plants *in vitro*. Allowing the use of charcoal as an additive to growing media makes APHIS requirements up-to-date with the current industry standards. We have no reason to expect that allowing the use of charcoal in growing media for plants would have a significant effect on domestic producers and consumers. However, we invite the public to submit data on the possible effects of this proposed change.

Genus and Species Name on Phytosanitary Certificates

We are proposing to require that the phytosanitary certificate that must accompany any restricted article presented for importation into the United States under § 319.37–4(a) include the genus and species name of the restricted article that it accompanies. Although this information is not currently required to be given to APHIS, this information is already available for the vast majority of importers and exporters on the invoices that typically also accompany restricted articles presented for importation into the United States. For this reason, we believe that this proposed change would not have a significant impact on any entities, whether large or small.

Phytosanitary Certificates for Bulbs From the Netherlands

We are proposing to allow bulbs from the Netherlands to enter the United States with a special certificate in lieu of a phytosanitary certificate. The special certificate would list special identification information for the shipment, including a serial number referring to the phytosanitary certificate on file in the Netherlands. The United States imported \$145 million worth of bulbs and tubers from the Netherlands in 2001. This proposed change would expedite entry of bulbs and tubers from the Netherlands when they are carried in small amounts by individuals. We have no reason to expect that this change would have a significant effect on domestic producers and consumers of bulbs and tubers. However, we invite the public to submit data on the possible effects of this proposed change.

Importation of Certain Seeds From Canada

We are proposing to amend § 319.37–4 to exempt certain Canadian seeds from the requirement for a phytosanitary certificate. Certain seeds from specific

establishments in Canada would be able to enter the United States with proper identification and an alternative document in lieu of the required phytosanitary certificate. The alternative document would be an export certification label and a document agreed upon by APHIS and CFIA. This change would eliminate redundant paperwork requirements in the nursery stock regulations and the Federal Seed Act regulations in 7 CFR part 361.

The United States imported \$108 million worth of planting seeds from Canada in 2001 while exporting \$134 million planting seeds to Canada. The United States exported \$754 million worth of planting seeds worldwide in 2001.⁴ This amendment would allow the United States and Canada to trade seed more freely, benefitting both countries with negligible impacts to domestic producers and consumers of seeds.

Blueberry Plants From Canada

We are proposing to amend § 319.37–5 to require that *Vaccinium corymbosum* plants from Canada be accompanied by a phytosanitary certificate with an additional declaration stating they are free of blueberry scorch carlavirus. Blueberry production in the United States was worth \$208 million in 2002.⁵ This additional declaration would help to safeguard U.S. producers from virulent strains of the virus that only exist in Canada while continuing to allow imports of blueberry plants from Canada. This proposed amendment would have a negligible impact on domestic producers and consumers of blueberry plants.

Importation of Pelargonium Plants From the Canary Islands

We are proposing to require that *Pelargonium* spp. plants from the Canary Islands be grown under certain conditions and accompanied by a phytosanitary certificate. A phytosanitary certificate with an additional declaration confirming that those growing conditions have been met for *Pelargonium* spp. plants would minimize risk that such organisms such as *Helicoverpa armigera*, *Chrysodexixis chalcites* and *Cornutiplusia circumflexa* might enter the United States. No export data are currently available for the Canary Islands regarding plant cuttings. We invite the public to submit data on the possible effects of this proposed change.

Importation of Approved Plants From Israel

We are proposing to require that plants from Israel be grown under certain conditions and accompanied by a phytosanitary certificate along with an additional declaration confirming that those growing conditions have been met. Plants from Israel run the risk of harboring plant pests such as *Spodoptera littoralis* and other pests which could be introduced to the United States. *S. littoralis* is associated with cotton production losses around the world. Without control measures, *S. littoralis* could inflict heavy damage to both the yield and quality of U.S. cotton production.

Israel exported \$1.9 million worth of plant cuttings to the United States in 2001, while the United States exported \$11.7 million worth of cuttings to the world.⁶ This change would help to safeguard the \$3.6 billion worth of U.S. cotton production (2002).⁷ We have no reason to expect that this change would have a significant effect on importers of plants from Israel or on domestic cotton producers and consumers. However, we invite the public to submit data on the possible effects of this proposed change.

Treatment of Regulated Articles

Under the current regulations in § 319.37–4(b), any restricted article may be sampled and inspected by an inspector under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in 7 CFR part 305 that is ordered by the inspector. We are proposing to add a paragraph to § 319.37–6 that would explicitly indicate that treatment of regulated articles of nursery stock may be administered outside the United States. We believe that this changes would not have any significant impact on any U.S. entities, whether small or large.

Kenaf Seed From Mexico

Under the current regulations in § 319.37–6(a), seeds of *Hibiscus* spp. (*Hibiscus*, rose mallow) from any foreign country or locality, at the time of importation into the United States, must be treated for possible infestation with pink bollworm in accordance with the applicable provisions of 7 CFR part 305. We are proposing to provide an exception to the restriction for seeds of kenaf from Mexico that are imported into pink bollworm generally infested

⁴ Foreign Agricultural Service, 2001.

⁵ NASS, Noncitrus Fruits and Nuts: Price and Value by Crop, US, 2000–2002.

⁶ FAS., U.S. Trade Statistics, Israel and US, plant cuttings code # 06021, 2001.

⁷ USDA–NASS, U.S. cotton production value 2002.

areas in the United States. The States of Arizona, New Mexico, and Texas, and specific counties in California are pink bollworm generally infested areas. Under our proposed rule, shipments of untreated kenaf seed from Mexico would be authorized entry into those pink bollworm generally infested areas subject to inspection. Immediately upon release, those shipments would be subject to the domestic pink bollworm quarantine regulations in §§ 301.52 through 301.52-10, Subpart-Pink Bollworm.

Allowing the importation of untreated kenaf seed from Mexico into pink

bollworm generally infested areas may have economic effects on some U.S. entities; however, if effects occurred, they would be small, given that the United States imports mainly processed kenaf and very little seed and raw fiber.⁸ For example, on average between 1999 and 2001, the United States imported 0.3 percent of world imports of raw (seeds are included) kenaf (table 1). U.S. demand for imported kenaf seed from Mexico is not expected to increase significantly as a result of the proposed change.

Kenaf is an annual herbaceous plant of the Malvaceae family, and its flowers

are closely related to those of cotton, okra, and hollyhock. Latin America, including Mexico, produces about 5 percent of the world's kenaf seed and fiber (table 2). Kenaf seed can grow in many parts of the United States, but it generally needs a long, warm growing season to produce the necessary yield to make it a profitable crop. Such a climate can only be found in the southern United States. Primary production areas in the United States are Texas (lower Rio Grande Valley), Louisiana, Mississippi, Georgia, and Florida. An estimated 8,000 acres of kenaf was grown in the United States in 1997.⁹

TABLE 1.—WORLD IMPORTS OF RAW KENAF SEEDS & FIBERS (METRIC TONS)

Calendar year	1999	2000	2001
United States	2,400	800	500
Mexico	0	0	0
Rest of the world	330,300	288,200	272,200
World	332,700	289,000	272,700

TABLE 2.—WORLD PRODUCTION OF RAW KENAF SEEDS & FIBERS (METRIC TONS)

Crop year	1999–2000	2000–2001	2001–2002
Developed countries ¹	7,000	7,000	7,000
Latin America ²	25,400	24,100	12,500
Rest of the world	427,100	388,300	409,800
World	459,500	419,400	440,500

¹ Developed countries include Europe, United States, Australia, New Zealand, Japan, and former Soviet Republics.

² Latin America includes Mexico.

Source: Food & Agriculture Organization of the U.N., Commodities and Trade Division, *Current Situation & Short Term Outlook for Hard Fibers, Kenaf, Jute, & Allied Fibers Statistics*, December 2002.

The number and size of the entities that might be affected by this proposed change is unknown. APHIS requests that the public provide information regarding the kind and the number of entities that might be affected.

Postentry Quarantine Requirements for Hydrangea spp.

We are proposing to decrease the amount of time imported *Hydrangea* spp. must be grown in postentry quarantine conditions from 2 years to 9 months. This proposed change could affect the volume of *Hydrangea* spp. imported into the United States because it would decrease the cost associated with growing *Hydrangea* spp. in postentry quarantine conditions after importation into the United States. With this change, Canada's 9-month postentry growing period for *Hydrangea* spp. would be equivalent to the postentry

quarantine conditions specified in § 319.37-7. *Hydrangea* spp. from another country or locality that are imported into Canada and grown in accordance with Canadian postentry growing requirements would be considered to be from Canada and would no longer be required to be grown under postentry quarantine conditions for 2 years after the time of importation into the United States. Therefore, this change would relieve restrictions on the importation of *Hydrangea* spp. from Canada.

Hydrangeas are summer-flowering shrubs which are usually shipped in the late fall through early winter, after they have received a cold storage treatment. There are nine main *Hydrangea* varieties in the world. Only two, *Hydrangea arborescens* and *Hydrangea quercifolia*, are native to the United States; the other seven are native to

Asia.¹⁰ The popularity and production of hydrangeas have both been increasing in the past few years in the United States and so has demand for them. Thus, the shorter quarantine period for imported *Hydrangea* spp. would benefit the U.S. public. However, it is difficult to measure the size of any possible economic impact of this proposed change in postentry quarantine duration for imported hydrangeas.

The number and size of the entities that might be affected by this proposed change is unknown. APHIS requests that the public provide information regarding the kind and the number of entities that might be affected.

⁸ The primary focus of the kenaf development has been on the newsprint industry with its annual world production near the 30 million tons level (Scott & Taylor, 1990). U.S. publishers and other users account for nearly half of the world's total consumption of the processed kenaf. Annual production of newsprint in the United States is

approximately 5 million tons. Traditionally, imports of processed kenaf have accounted for about 60 percent of U.S. consumption and demand has steadily increased at about 2.5 percent annually.

⁹ Economic Research Service, USDA, FLO-2002, May 2002. *Floriculture and Nursery Crops. Situation and Outlook Yearbook.*

¹⁰ *Hydrangeas: Arborescens* (U.S. native), *Quercifolia* (U.S. native), *Aspera*, *Involucrata*, *Macrophylla Normalis*, *Macrophylla*, *Paniculata*, *Anomala*, & *Macrophylla Serrata*.

Postentry Quarantine Requirements for Chrysanthemum spp., Dendranthema spp., Leucanthemella serotina, and Nipponanthemum nipponicum

We are proposing to decrease the amount of the time that certain imported chrysanthemums (i.e., *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum*) must be grown in postentry quarantine conditions from 6 months to 2 months if the articles are grown in accordance with the requirements of an APHIS-approved best management practices program. The proposed change would affect the volume of chrysanthemums imported into the United States because it would likely decrease the cost associated with growing them in postentry quarantine conditions after their importation. PPQ has determined that imported chrysanthemums that might be affected with chrysanthemum white rust (CWR) are likely to express symptoms of this disease if it is present within a 2-month postentry quarantine period; the extra safeguards required by a best management practices program act as an additional mitigation against the risk of articles with CWR introducing the disease into the wider environment. Articles identified as being affected with CWR can then be prevented from entering U.S. commerce.

The economic effects of the proposed change are expected to be positive, if small, for U.S. importers of chrysanthemums and the U.S. public. The popularity of chrysanthemums in the United States has been increasing and so has demand for them. In 2003, the value of imported chrysanthemums was around \$83.4 million, or 7 percent of the value of all imported flowers (i.e., fresh cut flowers and florist plants).¹¹ In the same year, the wholesale value of the domestic sales of chrysanthemums reached \$95 million.¹² APHIS's efforts to prevent the introduction of CWR safeguard the \$14 billion U.S. floriculture and nursery crop industries.

The shorter postentry quarantine period for imported chrysanthemums would benefit both U.S. importers and U.S. consumers. This proposed change would reduce the cost to the chrysanthemum importers, and those savings may be passed along to U.S. buyers of these flowers in the form of lower retail prices. However, the costs of implementing and maintaining an APHIS-approved best management

practices program, as well as the benefits from the shorter quarantine period, are unknown. Therefore, it is difficult to measure the size of the economic impact of this proposed change in postentry quarantine duration for the chrysanthemums.

The number and size of entities that might be affected by this proposed change is unknown. APHIS requests the public provide information regarding the kind and the number that might be affected.

Plants in Growing Media From Certain Areas in Canada

We are proposing to amend § 319.37–8(b) allow importation of restricted plant articles from areas of Canada that are infested with potato cyst nematodes as long as they are grown in approved media and isolated from potato cyst nematodes. APHIS has determined that restricted articles from these areas that are grown in approved media can be isolated in such a manner as to prevent the introduction of potato cyst nematodes. These articles would be allowed to be imported if they are grown in approved media and are accompanied by a phytosanitary certificate with an additional declaration stating that the facility in which they were produced is capable of isolating the plants from nematodes and that the plants were isolated from nematodes throughout their production. Allowing these restricted articles to enter under these conditions would increase the flexibility of imports while protecting the United States against potato cyst nematode infestation. We have no reason to expect that this change would have a significant effect on domestic producers and consumers of nursery stock. However, we invite the public to submit data on the possible effects of this proposed change.

Additions to the List of Approved Growing Media

We are proposing to amend § 319.37–8(d) to allow unused clay pots and new wooden baskets to be used as a growing media for epiphytic plants. No trade information is currently available for clay pots and wooden baskets. Planting epiphytic plants into new wooden baskets and unused clay pots is a standard nursery practice. Importers have requested that APHIS amend the regulations to allow them to import plants in wooden baskets and clay pots. Neither medium is believed to pose a pest risk. We have no reason to expect that this change would have a significant effect on domestic producers and consumers of nursery stock. However, we invite the public to submit

data on the possible effects of this proposed change.

Federal Plant Inspection Stations and Other Ports of Entry

We are proposing to add a plant inspection station in Linden, NJ, to the list of Federal plant inspection stations in § 319.37–14. Adding this facility to the list of Federal plant inspection stations would make importation of nursery stock more convenient and possibly less costly for domestic sellers and consumers without reducing the effectiveness of the regulations.

This proposed rule contains new information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will 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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03–002–1. Please send a copy of your comments to: (1) Docket No. 03–002–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 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. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to amend the regulations on importing nursery stock to eliminate various restrictions on the importation of plants *in vitro* and kenaf seed; to establish programs for the importation of approved plants from the Canary Islands and from Israel; to require an additional declaration on the phytosanitary certificate accompanying blueberry plants imported from Canada; to require

¹¹ USDA, FAS, U.S. Trade Statistics, HS 10 Digit Imports 0603107010, 0603107020, 0602903010.

¹² USDA, ERS, Floriculture and Nursery Crops Outlook, Electronic Outlook Report, FLO–1, September 12, 2002.

that phytosanitary certificates include the genus and species names of the restricted articles they accompany; to change the phytosanitary certificate requirements for several restricted articles; to reduce the postentry quarantine growing period for *Hydrangea* spp. and for certain chrysanthemums; and to update the list of ports of entry and Federal plant inspection stations. We are also proposing several other changes to update and clarify the regulations and improve their effectiveness. This proposal would relieve restrictions that appear unnecessary and would update the existing regulations and make them easier to understand and implement.

These changes will necessitate the use of certain information collection activities, including the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed 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 proposed 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 0.2774 hours per response.

Respondents: Importers of nursery stock and foreign officials.

Estimated annual number of respondents: 804.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 804.

Estimated total annual burden on respondents: 223 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste

Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

Lists of Subjects

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 330

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

7 CFR Part 340

Administrative practice and procedure, Biotechnology, Genetic engineering, Imports, Packaging and containers, Plant diseases and pests, Transportation.

Accordingly, we propose to amend 7 CFR parts 319, 330, and 340 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. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.28 [Amended]

2. In § 319.28, the introductory text of paragraph (b)(7) would be amended by removing the word "listed" and adding the word "identified" in its place.

3. Section 319.37-1 would be amended as follows:

a. By removing the definition for *bulbs*.

b. By adding new definitions, in alphabetical order, for *bulb*, *plant*, *plants in vitro*, *preclearance*, *regulated plants*, and *State* to read as set forth below.

c. By revising the definitions for *from*, *inspector*, *person*, *plant pest*, *restricted*

article, and *United States* to read as set forth below.

§ 319.37-1 Definitions.

* * * * *

Bulb. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

* * * * *

From. An article is considered to be "from" an exporting country or area when it was grown or propagated only in the exporting country or area, or when it was grown in the exporting country or area after it entered the exporting country or area from another country or area under conditions that are equivalent to those that would be required by the United States if the plant were imported into the United States directly from any of the countries or areas where the plant was grown prior to its entry into the exporting country or area.

* * * * *

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

* * * * *

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

* * * * *

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Plant pest. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of these articles.

Plants in vitro. Plants in an aseptic medium in a closed container.

* * * * *

Preclearance. Phytosanitary certification and/or clearance in the country in which the articles were grown, performed by or under the regular supervision of APHIS.

* * * * *

Regulated plant. Any gymnosperm, angiosperm, fern, or fern ally. Gymnosperms include cycads, conifers, and ginkgo. Angiosperms include any

flowering plant. Fern allies include club moss, horsetail, whisk fern, spike moss, and quillwort.

Restricted article. Any class of nursery stock or other regulated 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 this subpart, and excluding any articles regulated in §§ 319.8 through 319.24 or 319.41 through 319.74–4 and any articles regulated in part 360 of this chapter.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the

District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

* * * * *
United States. All of the States.

4. Section 319.37–2 would be amended as follows:
 a. In the table in paragraph (a), new entries for “*Pelargonium* spp. plants not meeting the requirements for importation in § 319.37–5(u)”, “Plants (except bulbs, dormant perennials, plants *in vitro* and seeds) not meeting the requirements for importation in § 319.37–5(v)”, “*Rubus* spp. not meeting the conditions for importation in § 319.37–5(f)”, and “*Vaccinium*

corymbosum plants not meeting the conditions for importation in § 319.37–5(t)” would be added, in alphabetical order, to read as set forth below.

b. Paragraph (c)(2) would be amended by removing the words “Plant Germplasm Quarantine Center, Building 320” and adding the words “National Plant Germplasm Inspection Station, Building 580” in their place; and by removing the words “at a port of entry designated by an asterisk in § 319.37–14(b)” and adding the words “through any Federal plant inspection station listed in § 319.37–14” in their place.

§ 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
* * * * *		
<i>Pelargonium</i> spp. plants not meeting the conditions for importation in § 319.37–5(u).	Canary Islands (Spain)	<i>Helicoverpa armigera</i> , <i>Chrysodeixis chalcites</i> , and <i>Cornutiplusia circumflexa</i> .
* * * * *		
Plants (except bulbs, dormant herbaceous perennials, plants <i>in vitro</i> , and seeds) not meeting the conditions for importation in § 319.37–5(v).	Israel	<i>Spodoptera littoralis</i> and other quarantine pests.
* * * * *		
<i>Rubus</i> spp. not meeting the conditions for importation in § 319.37–5(f).	Europe	<i>Rubus</i> stunt agent.
* * * * *		
<i>Vaccinium corymbosum</i> plants not meeting the conditions for importation in § 319.37–5(t).	Canada	Blueberry scorch carlavirus.
* * * * *		

* * * * *
 5. Section 319.37–3 would be amended as follows:

a. In paragraph (a)(3), by removing the word “spp.” the first time it occurs.

b. By revising paragraph (a)(5) to read as set forth below.

c. In paragraph (a)(8), by removing the words “*Castanea* spp. (chestnut) or”.

d. In paragraph (b), in the introductory text of the paragraph and in footnote 4, by removing the words “Port Operations” and adding the words “Permits, Registrations, Imports and Manuals” in their place.

§ 319.37–3 Permits.

(a) * * *

(5) Lots of 13 or more articles (other than seeds, bulbs, or plants *in vitro* whose importation is not otherwise prohibited or restricted in this subpart) from any country except Canada;

* * * * *
 6. Section 319.37–4 would be amended as follows:

a. By revising paragraph (a) to read as set forth below.

b. By adding a new paragraph (d) to read as set forth below.

§ 319.37–4 Inspection, treatment, and phytosanitary certificates of inspection.

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate must include the genus and species name of the restricted article that it accompanies. Phytosanitary certificates are not required for the following restricted articles:

(1) Plants *in vitro* whose importation is not otherwise restricted or prohibited by this subpart.

(2) Greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section. These plants must be accompanied by a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway

bill, bill of lading, or delivery ticket accompanying the articles.

(3) Seeds from Canada imported in accordance with paragraph (d) of this section. Each carton of seed must be labeled as required by (d)(2)(ii). Each shipment of seed must be accompanied by the documents in (d)(2)(iii) and (d)(2)(iv), as necessary.

(4) Bulbs from the Netherlands accompanied by a special certificate that lists a serial number, the scientific name of the bulb, the country of its origin, and a date on which the special certificate expires. The serial number must refer to a phytosanitary certificate issued, held, and retrievable upon request by the national plant protection organization of the Netherlands. The expiration date must be 4 weeks after the issuance of the phytosanitary certificate held by the national plant protection organization of the Netherlands. Shipments of bulbs from the Netherlands accompanied by this certificate may be imported into the

United States without preclearance by APHIS.

* * * * *

(d) *Certain seeds from Canada.* Seeds imported from Canada may be imported without a phytosanitary certificate if the following conditions are met:

(1) The Canadian Food Inspection Agency shall:

(i) Establish and administer a seed export program under which Canadian exporters of seed may operate;

(ii) Assign a unique identification number to each exporting establishment enrolled in and approved by the seed inspection program;

(iii) Provide APHIS with a current list of the establishments participating in its seed export program and their names, locations, telephone numbers, and establishment identification numbers at the start of the shipping season, and provide regular updates to that list throughout the shipping season;

(iv) Enter into an agreement with APHIS that specifies the documents that must accompany shipments of seeds under the seed export program:

(A) Agricultural and vegetable seeds, as listed in the Federal Seed Act regulations in part 361 of this chapter, must be accompanied by a document certifying that the relevant provisions of the Federal Seed Act have been followed;

(B) Other seeds must be accompanied by a document certifying that the seeds have been inspected.

(2) Each seed exporter participating in the seed export program shall enter into an agreement with the Canadian Food Inspection Agency in which the exporter agrees to:

(i) Practice any and all safeguards the Canadian Food Inspection Agency may prescribe in order to ensure that seed exported to the United States is free of plant pests and that seed that does not meet the requirements for exportation to the United States is separated from seed that does;

(ii) Include an export certification document with each shipment indicating the common name of the seed, the country of origin of the seed, the establishment identification number assigned to the exporting establishment under the Canadian Food Inspection Agency's seed export program, and the lot number in addition to all other information required to be present by § 361.3 of this chapter.

(iii) Include other shipping documents as required with each shipment:

(A) Shipments of agricultural and vegetable seeds, as listed in the Federal Seed Act, must be accompanied by a

document certifying that the relevant provisions of the Federal Seed Act regulations in part 361 of this chapter have been followed, as agreed upon by the Canadian Food Inspection Agency and APHIS;

(B) Shipments of other seeds must be accompanied by a document certifying that the seeds have been inspected, as agreed upon by the Canadian Food Inspection Agency and APHIS.

7. Section 319.37–5 would be amended as follows:

a. In paragraph (a), by revising the country list at the end of the paragraph to read as set forth below.

b. In paragraph (b)(1), by removing the words “Federal Republic of Germany” and replacing them with the word “Germany”.

c. In paragraphs (j)(1) and (j)(1)(i), by removing the words “Federal Republic of Germany” and replacing them with the word “Germany” each time they appear.

d. By adding new paragraphs (t), (u), and (v) to read as set forth below.

§ 319.37–5 Special foreign inspection and certification requirements.

(a) * * *

Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Azores, Belarus, Belgium, Bolivia, Bulgaria, Canada (only that portion comprising Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road), Channel Islands, Chile, Colombia, Costa Rica, Crete, Croatia, Cyprus, Czech Republic, Denmark (including Faeroe Islands), Ecuador, Egypt, Estonia, Finland, France, Georgia, Germany, Great Britain, Greece, Guernsey, Hungary, Iceland, India, Ireland, Italy, Japan, Jersey, Jordan, Latvia, Lebanon, Lithuania, Luxembourg, Kazakhstan, Kyrgyzstan, Malta, Mexico, Republic of Moldova, Morocco, the Netherlands, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, the Philippines, Poland, Portugal, Russian Federation, Serbia and Montenegro, South Africa, Spain (including Canary Islands), Slovakia, Slovenia, Sweden, Switzerland, Tajikistan, Tunisia, Turkmenistan, Ukraine, Uzbekistan, and Venezuela.

* * * * *

(t) For any *Vaccinium corymbosum* plants from Canada, the phytosanitary certificate of inspection required by § 319.37–4 must contain an additional declaration that such article was found by the national plant protection organization of Canada to be free of blueberry scorch carlavirus.

(u) *Special foreign inspection and certification requirements for Pelargonium spp. plants from the Canary Islands.* *Pelargonium* spp. plants from the Canary Islands may only be imported into the United States in accordance with the requirements of this section, to prevent the plant pests *Helicoverpa armigera*, *Chrysodeixis chalcites*, and *Cornutiplusia circumflexa* from entering the United States.

(1) *Phytosanitary certificate.* The phytosanitary certificate of inspection required by § 319.37–4 that accompanies *Pelargonium* spp. plants from the Canary Islands must contain additional declarations that the plants were produced in an approved Spanish (Canary Island) production site, that the production site is operated by a grower participating in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain, and that the plants were grown under conditions specified by APHIS as described in this paragraph § 319.37–5(u) to prevent infestation with *Helicoverpa armigera*, *Chrysodeixis chalcites*, and *Cornutiplusia circumflexa*.

(2) *Grower registration and agreement.* Persons in the Canary Islands who produce *Pelargonium* spp. plants for export to the United States must:

(i) Be registered and approved by the national plant protection organization of Spain; and

(ii) Enter into an agreement with the national plant protection organization of Spain whereby the producer agrees to participate in and follow the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain.

(3) *Growing requirements.* Growers in the Canary Islands who produce *Pelargonium* spp. plants for export to the United States must meet the following requirements for inclusion in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain:

(i) *Pelargonium* spp. plants destined for export to the United States must be produced in a production site devoted solely to production of such plants.

(ii) The production sites in which such plants are produced must be registered with the national plant protection organization of Spain. Such production sites must employ safeguards agreed on by APHIS and the national plant protection organization of Spain, including, but not limited to, prescribed mesh screen size (if the production site is a greenhouse) and

automatically closing doors, to ensure the exclusion of *H. armigera*.

(iii) Each production site in which plants destined for export to the United States are grown must have at least one blacklight trap for 1 year following any of the following events:

(A) The construction of the production site;

(B) The entry of the production site into the approved plants export program;

(C) The replacement of the covering of the production site; or

(D) The detection and repair of a break or tear in the plastic or screening in the production site.

(4) *Inspections.* Inspections undertaken in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain will include, but may not be limited to, the following:

(i) The national plant protection organization of Spain will inspect the plants and the production site during the growing season and during packing.

(ii) Packing materials and shipping containers for the plants must be inspected and approved by APHIS to ensure that they do not introduce pests of concern to the plants.

(iii) Either APHIS or the national plant protection organization of Spain will inspect the production site of the plants to ensure that they meet standards of sanitation agreed upon by APHIS and the national plant protection organization of Spain.

(iv) Inspectors from both APHIS and the national plant protection organization of Spain will have access to the production site as necessary to ensure that growers are employing the proper safeguards against infestation of *H. armigera*, *C. chalcites*, and *C. circumflexa* and that those safeguards are correctly implemented.

(v) The national plant protection organization of Spain will provide APHIS with access to the list of registered and approved growers at least annually.

(5) *Ineligibility for participation.* (i) Growers will be ineligible for participation in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain and their production sites will lose approved status if:

(A) Live *Cornutiplusia circumflexa* (or any other moth of the family *Noctuidae*) are found in a production site;

(B) Live *Cornutiplusia circumflexa* (or any other moth of the family *Noctuidae*) are found in a shipment of plants; or

(C) Growers violate the requirements set out in this section and by the export

program established by the national plant protection organization of Spain.

(ii) A grower may be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. Reapproval will only be granted upon concurrence from the national plant protection organization of Spain and APHIS.

(6) *Termination.* APHIS may terminate the entire program if there are repeated violations of procedural or biological requirements.

(7) *Trust fund.* The government of Spain must enter into a trust fund agreement with APHIS before each growing season. The government of Spain or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (u) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (u) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of Spain or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of Spain or its designated representative or held on account until needed.

(v) *Special foreign inspection and certification requirements for plants from Israel.* Plants from Israel, except bulbs, dormant perennials, plants *in vitro*, and seeds, may only be imported into the United States in accordance with the regulations in this section, to prevent *Spodoptera littoralis* and other quarantine pests found in Israel from entering the United States.

(1) *Phytosanitary certificate.* The phytosanitary certificate of inspection required by § 319.37-4 that accompanies plants from Israel at the time of arrival at the port of first arrival in the United States must contain additional declarations that the plants

were produced in an approved Israeli production site, that the production site is operated by a grower participating in the export program for plants established by the national plant protection organization of Israel, and that the plants were grown under conditions specified by APHIS as described in this paragraph § 319.37-5(v) to prevent infestation or contamination with *Spodoptera littoralis* or other quarantine pests.

(2) *Grower registration and agreement.* Persons in Israel who produce plants for export to the United States must:

(i) Be registered and approved by the national plant protection organization of Israel; and

(ii) Enter into an agreement with the national plant protection organization of Israel whereby the producer agrees to participate in and follow the export program for plants established by the national plant protection organization of Israel.

(3) *Growing requirements.* Growers in Israel who produce plants for export to the United States must meet the following requirements for inclusion in the export program for plants established by the national plant protection organization of Israel:

(i) Plants destined for export to the United States must come from a production site devoted solely to production of such plants.

(ii) The production sites in which such plants are produced must be registered with the national plant protection organization of Israel. These production sites must employ safeguards agreed on by APHIS and the national plant protection organization of Israel to prevent the entry of *S. littoralis*, including, but not limited to, insect-proof screening over openings and double or airlock-type doors. Any rips or tears in the insect-proof screening must be repaired immediately.

(iii) Each production site in which plants destined for export to the United States are grown must have at least one blacklight trap for 1 year following any of the following events:

(A) The construction of the production site;

(B) The entry of the production site into the approved plants export program;

(C) The replacement of the covering of the production site; or

(D) The detection and repair of a break or tear in the plastic or screening in the production site.

(4) *Inspections.* Inspections undertaken in the export program for plants established by the national plant protection organization of Israel will

include, but may not be limited to, the following:

(i) The national plant protection organization of Israel will inspect the plants and the production site weekly to ensure that no quarantine pests are present.

(ii) Plants must be inspected to ensure that they are free of quarantine pests before being allowed into the screened area of the production site.

(iii) The national plant protection organization of Israel will inspect the plants to ensure that no quarantine pests are present prior to export.

(iv) Packing materials and shipping containers for the plants must be inspected and approved by APHIS to ensure that they do not introduce pests of concern to the plants.

(v) Either APHIS or the national plant protection organization of Israel will inspect the production site of the plants to ensure that they meet standards of sanitation approved by APHIS.

(vi) Inspectors from both APHIS and the national plant protection organization of Israel will have access to the production site as necessary to ensure that growers are employing the safeguards and procedures prescribed by the program and that those safeguards and procedures are correctly implemented.

(vii) The national plant protection organization of Israel will provide APHIS with access to the list of registered and approved growers at least annually.

(5) *Ineligibility for participation.* (i) Growers will be ineligible for participation in the export program for

plants established by the national plant protection organization of Israel and their production sites will lose approved status if:

(A) Live *Spoeoptera littoralis* are found in a production site;

(B) Live *Spoeoptera littoralis* are found at port inspection two times during the shipping season in shipments from the same grower; or

(C) Growers violate the requirements set out in this section and by the export program established by the national plant protection organization of Israel.

(ii) A grower may be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. Reapproval will only be granted upon concurrence from the national plant protection organization of Israel and APHIS.

(6) *Termination.* APHIS may terminate the entire program if there are repeated violations of procedural or biological requirements.

(7) *Trust fund.* The government of Israel must enter into a trust fund agreement with APHIS before each growing season. The government of Israel or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (v) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (v) of this section and all salaries (including overtime and the Federal share of employee benefits),

travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of Israel or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of Israel or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of Israel or its designated representative or held on account until needed.

* * * * *

8. Section 319.37-6 would be revised to read as follows.

§ 319.37-6 Specific treatment and other requirements.

(a) The following seeds and bulbs may be imported into the United States from designated countries and localities only if they have been treated for the specified pests in accordance with part 305 of this chapter. Seeds and bulbs treated prior to importation outside the United States must be treated in accordance with § 319.37-13(c). An inspector may require treatment within the United States of articles that have been treated prior to importation outside the United States if such treatment is determined to be necessary:

Seed/bulb	Country/locality	Pest(s) for which treatment is required
<i>Allium sativum</i> (garlic) bulbs	Algeria, Armenia, Austria, Azerbaijan, Belarus, Croatia, Czech Republic, Egypt, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Kazakhstan, Kyrgyzstan, Republic of Moldova, Morocco, Portugal, Serbia and Montenegro, Slovakia, Slovenia, Republic of South Africa, Spain, Switzerland, Syria, Russian Federation, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.	<i>Brachycerus</i> spp. and <i>Dyspessa ulula</i> (Bkh.).
<i>Castanea</i> and <i>Quercus</i> seeds.	All except Canada and Mexico	<i>Curculio elephas</i> (Cyllenhal), <i>C. nucum</i> L., <i>Cydia (Laspeyresia) splendana</i> Hubner, <i>Pammene fusciana</i> L. (<i>Hemimene juliana</i> (Curtis)) and other insect pests of chestnut and acorn.
<i>Guizotia abyssinica</i> (niger) seeds.	All (see paragraph (c) of this section)	<i>Cuscuta</i> spp.
<i>Hibiscus</i> spp. (hibiscus, rose mallow) seeds and <i>Abelmoschus</i> ssp. (okra) seeds.	All except kenaf seed (<i>Hibiscus cannabinus</i>) from Mexico to be imported into pink bollworm generally infested areas listed in § 301.52-2a.	<i>Pectinophora gossypiella</i> (Saunders) (pink bollworm).
<i>Lathyrus</i> spp. (sweet pea, peavine) seeds, <i>Lens</i> spp. (lentil) seeds, and <i>Vicia</i> spp. (fava bean, vetch) seeds.	All except North America and Central America	Insects of the family Bruchidae.

Seed/bulb	Country/locality	Pest(s) for which treatment is required
<i>Rutaceae</i> seeds	Afghanistan, Andaman Islands, Argentina, Bangladesh, Brazil, Caroline Islands, Comoro Islands, Fiji Islands, Home Island in Cocos, (Keeling) Islands, Hong Kong, India, Indonesia, Ivory Coast, Japan, Kampuchea, Korea, Madagascar, Malaysia, Mauritius, Mozambique, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Paraguay, People's Republic of China, Philippines, Reunion Island, Rodriguez Islands, Ryukyu Islands, Saudi Arabia, Seychelles, Sri Lanka, Taiwan, Thailand, Thursday Island, United Arab Emirates, Uruguay, Vietnam, Yemen (Sanaa), and Zaire.	<i>Xanthomonas axonopodis</i> , pv. <i>citri</i> (citrus canker).

(b) Seeds and bulbs that are treated within the United States must be treated at the time of importation into the United States.

(c) Seeds of *Guizotia abyssinica* (niger seed) that are treated prior to shipment to the United States at a facility that is approved by APHIS⁸ and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of this section and allow inspectors and

representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in § 319.37–13(c).

(d) Shipments of kenaf (*Hibiscus cannabinus*) seed from Mexico that are imported into pink bollworm generally infested areas listed in § 301.52–2a shall be subject to inspection, and shall immediately, upon release, be subject to the domestic pink bollworm quarantine regulations in §§ 301.52 through

301.52–10, “Subpart-Pink Bollworm,” of this chapter.

9. Section 319.37–7 would be amended as follows:

a. In the table in paragraph (a)(3), by revising the entries for “*Fragaria* spp.”, “*Jasminum* spp.”, and “*Sorbus* spp.” to read as set forth below.

b. By revising paragraph (d)(7)(ii) to read as set forth below.

c. By removing paragraph (g).

§ 319.37–7 Postentry quarantine.

(a) * * *

(3) * * *

Restricted articles (excluding seeds)	Foreign country(ies) or locality(ies) from which imported
* * * * * <i>Fragaria</i> spp. (strawberry)	All except Armenia, Australia, Austria, Azerbaijan, Belarus, Canada, Czech Republic, Estonia, France, Georgia, Great Britain, Italy, Japan, Latvia, Lebanon, Lithuania, Kazakhstan, Kyrgyzstan, Republic of Moldova, the Netherlands, New Zealand, Northern Ireland, Republic of Ireland, Russian Federation, Slovakia, Switzerland, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.
* * * * * <i>Jasminum</i> spp. (jasmine)	All except Canada, Belgium, Germany, Great Britain, India, and the Philippines.
* * * * * <i>Sorbus</i> spp. (mountain ash)	All except Canada, Czech Republic, Denmark, Germany, and Slovakia.

* * * * *
(d) * * *
(7) * * *
(ii) To grow the article or increase therefrom, if an article of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum*, or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 2 months after importation for an article of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that is grown in accordance with an APHIS-approved best management practices

program, for a period of 6 months after importation for an article of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that is not grown in accordance with an APHIS-approved best management practices program, for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william), and for a period of 9 months after importation for an article of *Hydrangea* spp.
* * * * *

10. Section 319.37–8 would be amended as follows:

a. By revising paragraph (b) to read as set forth below.

b. In paragraph (c), by removing the words “transparent or translucent”.

c. In paragraph (d), by removing the words “or coconut fiber” and adding the words “coconut fiber, unused clay pots, or new wooden baskets” in their place.

§ 319.37–8 Growing media.

* * * * *

(b)(1) A restricted article from Canada may be imported in any growing medium, except as restricted in paragraph (b)(2) of this section.

(2) A restricted article from Newfoundland or from that portion of the Municipality of Central Saanich in

⁸Criteria for the approval of heat treatment facilities are contained in part 305 of this chapter.

the Province of British Columbia east of the West Saanich Road may only be imported in an approved growing medium if the phytosanitary certificate accompanying it contains an additional declaration that the restricted article was produced in a production site approved by the national plant protection organization of Canada as capable of isolating the plants from infestation by potato cyst nematodes (*Globodera rostochiensis* (Woll.) Behrens and *G. pallida*) and that the restricted article was isolated from potato cyst nematode infestation throughout its production.

* * * * *

§ 319.37–10 [Amended]

11. In § 319.37–10, paragraph (b) introductory text would be amended by removing the word “listed” and adding the word “identified” in its place.

12. Section 319.37–14 would be revised to read as follows.

§ 319.37–14 Ports of entry.

Any restricted article required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (6) of this subpart, if not precleared, may be imported or offered for importation only at a Federal plant inspection station listed below. Ports of entry through which restricted articles must pass before arriving at these Federal plant

inspection stations are listed in the second column. Any other restricted article that is not required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (6) of this subpart may be imported or offered for importation at any Customs designated port of entry indicated in 19 CFR 101.3(b)(1). Exceptions may be listed in § 330.104 of this chapter. Articles that are required to be imported under a written permit that are also precleared in the country of export are not required to enter at an inspection station and may enter through any Customs port of entry. Exceptions may be listed in § 330.104 of this chapter.

LIST OF FEDERAL PLANT INSPECTION STATIONS

State	Port of entry	Federal plant inspection station.
Arizona	Nogales	Plant Inspection Station, 9 North Grand Avenue, Room 120, Nogales, AZ 85621.
California	Long Beach	Los Angeles Inspection Station, 11840 S. La Cienega Blvd., Hawthorne, CA 90250.
	Los Angeles	
	San Pedro	
	San Diego	
Florida	Oakland	Plant Inspection Station, 9777 Via de la Amistad, Room 140, San Diego, CA 92154.
	San Francisco	Plant Inspection Station, 389 Oyster Point Blvd., Suite 2, South San Francisco, CA 94080.
	Miami	Plant Inspection Station, 3500 NW. 62nd Avenue, Miami, FL 33122.
	(Note: Restricted articles may be moved from Fort Lauderdale to Miami under U.S. Customs bond). Orlando	Plant Inspection Station, 9317 Tradeport Drive, Orlando, FL 32827.
Georgia	Atlanta	Hartsfield Perishable Complex, 1270 Woolman Place, Atlanta, GA 30354.
Guam	Agana	P.O. Box 8769, Tamuning, GU 96931.
Hawaii	Honolulu (Airport)	Honolulu Inspection Station, Honolulu International Airport, 300 Rodgers Blvd., #57, Honolulu, HI 96819–1897.
Louisiana	New Orleans	Plant Inspection Station, 900 East Airline Service Road A, Kenner, LA 70063.
Maryland	Baltimore	(Niger seed may be imported into the Port of Baltimore and treated at a local treatment facility).
New Jersey	Elizabeth	Frances Krim Memorial Inspection Station, 2500 Brunswick Avenue, Building G, Linden, NJ 07036.
	New York (Maritime)	
	Newark	
New York	Jamaica (JFK)	Plant Inspection Station, 230–59 International Airport Centers Boulevard, Building C, Suite 100, Room 109, Jamaica, NY 11413.
Puerto Rico	San Juan	Plant Inspection Station, 150 Central Sector, Building C–2, Warehouse 3, Carolina, PR 00979.
Texas	Houston	Plant Inspection Station, 19581 Lee Road, Humble, TX 77338.
	Los Indios	Plant Inspection Station, P.O. Drawer Box 393, 100 Los Indios Boulevard, Los Indios, TX 78567.
Washington	Seattle	Plant Inspection Station, 16215 Air Cargo Road, Suite 112, Seattle, WA 98158–1301.

§ 319.59–2 [Amended]

13. Section 319.59–2 would be amended as follows:

a. In paragraph (b)(1), by removing the words “Plant Germplasm Quarantine Center, Building 320” and adding the words “National Plant Germplasm Inspection Station, Building 580” in their place; and by removing the words

“at any port of entry with an asterisk listed in § 319.37–14(b)” and adding the words “through any Federal plant inspection station listed in § 319.37–14” in their place.

b. In paragraph (b)(2), by removing the words “Plant Germplasm Quarantine Center” and adding the words “National

Plant Germplasm Inspection Station” in their place.

§ 319.75 [Amended]

14. In § 319.75, paragraph (c)(2) would be amended by removing the words “Plant Germplasm Quarantine Center, Building 320” and adding the words “National Plant Germplasm

Inspection Station, Building 580” in their place; and by removing the words “at a port of entry designated by an asterisk in § 319.37–14;” and adding the words “through any Federal plant inspection station listed in § 319.37–14;” in their place.

§ 319.75–8 [Amended]

15. § 319.75–8 would be amended by removing the word “listed” and adding the word “identified” in its place.

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

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

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

17. Section 330.104 would be amended by revising all of the text after the first sentence to read as follows:

§ 330.104 Ports of entry.

• * * * The ports of entry shall be those named in 19 CFR 101.3(b)(1), except as otherwise provided by administrative instructions or by permits issued in accordance with this part, and except those ports of entry listed below.

LIST OF EXCEPTIONS TO CUSTOMS DESIGNATED PORTS OF ENTRY

State	Port of entry
[Reserved]	[Reserved]

PART 340—INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

18. The authority citation for part 340 would continue to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

§ 340.4 [Amended]

19. In § 340.4, paragraph (f)(11)(i) would be amended by removing the words “at a port of entry which is designated by an asterisk in 7 CFR 319.37–14(b);” and adding the words “through any Federal plant inspection station listed in § 319.37–14 of this chapter;” in their place.

§ 340.7 [Amended]

20. In § 340.7, paragraph (b) introductory text would be amended by removing the words “at a port of entry designated by an asterisk in 7 CFR 319.37–14(b)” and adding the words “through any Federal plant inspection station listed in § 319.37–14 of this chapter” in their place.

Done in Washington, DC, this 8th day of December 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–24031 Filed 12–14–05; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration**

14 CFR Part 39

[Docket No. FAA–2005–23314; Directorate Identifier 2005–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes, A320–111 Airplanes, A320–200 Series Airplanes, and A321–100 and A321–200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A318–100 and A319–100 series airplanes, A320–111 airplanes, A320–200 series airplanes, and A321–100 and A321–200 series airplanes. This proposed AD would require operators to review the airplane’s maintenance records to determine the part numbers of the magnetic fuel level indicators (MFLI) of the fuel tank, and related investigative and corrective actions if necessary. This proposed AD results from several in-service incidents of wear and detachment of the top-stops from the MFLI. Such detachment allows the top-stop to move around the fuel tank, and the top-stop could come into contact or in close proximity with a gauging probe, resulting in compromise of the air gap between the probe and the structure and creating a potential ignition source. We are proposing this AD to prevent an ignition source in the fuel tank in the event of a lightning strike, which could result in a fire or explosion.

DATES: We must receive comments on this proposed AD by January 17, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

• DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

• Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

• Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.

• Fax: (202) 493–2251.

• Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number “FAA–2005–23314; Directorate Identifier 2005–NM–189–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all