

Rules and Regulations

Federal Register

Vol. 71, No. 62

Friday, March 31, 2006

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 04–082–2]

Importation of Christmas Cactus and Easter Cactus in Growing Media From the Netherlands and Denmark

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of plants and plant products by adding Christmas cactus (*Schlumbergera* spp.) and Easter cactus (*Rhipsalidopsis* spp.) from the Netherlands and Denmark to the list of plants that may be imported in an approved growing medium subject to specified growing, inspection, and certification requirements. We are taking this action in response to requests from the Netherlands and Denmark and after determining that Christmas cactus and Easter cactus established in growing media can be imported without resulting in the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed. This change will allow Christmas cactus and Easter cactus established in growing media to be imported into the United States from the Netherlands and Denmark under certain conditions.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold T. Tschanz, Senior Staff Officer, Commodity Import Analysis and Operation Staff, 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 into the United States of certain plants and plant products to prevent the introduction of plant pests and noxious weeds. The regulations in “Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,” §§ 319.37 through 319.37–14 (referred to below as the regulations) contain, among other things, prohibitions and restrictions on the importation of plants, plant parts, and seeds for propagation.

The regulations currently allow the importation of Christmas cactus (*Schlumbergera* spp.) and Easter cactus (*Rhipsalidopsis* spp.) from all countries of the world, provided that the plants are (1) free of sand, soil, earth, and other growing media, (2) accompanied by phytosanitary certificate of inspection, (3) imported under a permit issued by the Animal and Plant Health Inspection Service (APHIS), and (4) imported into a Federal plant inspection station listed in § 319.37–14(b), where they are subject to inspection by APHIS. Such plants are imported bare-rooted or as rootless cuttings into the United States, and are rooted and/or potted for sale by U.S. nurseries.

In 1994, the governments of the Netherlands and Denmark requested that APHIS consider amending the regulations to allow Christmas cactus and Easter cactus to be imported into the United States established in growing media under the provisions of § 319.37–8(e). These countries currently export cuttings and bare-rooted Cactaceae plants to the United States.

Under § 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed. The Secretary has determined that it is not necessary to prohibit the importation of Christmas cactus and Easter cactus from the Netherlands and Denmark that are established in an approved growing medium in order to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed. This determination is based on the findings of pest risk analyses and

the Secretary’s judgment that the application of the measures required under § 319.37–8(e) will prevent the introduction or dissemination of plant pests and noxious weeds into the United States.

Accordingly, on April 27, 2005, we published in the **Federal Register** (70 FR 21679–21682, Docket No. 04–082–1) a proposal¹ to amend the regulations governing the importation of plants and plant products by adding Christmas cactus (*Schlumbergera* spp.) and Easter cactus (*Rhipsalidopsis* spp.) from the Netherlands and Denmark to the list of plants that may be imported in an approved growing medium subject to specified growing, inspection, and certification requirements. We solicited comments concerning our proposal for 60 days ending June 27, 2005. We received three comments by that date. They were from growers and a nursery association. The comments are discussed below.

One commenter stated that the importation of Christmas cactus and Easter cactus in growing media should be prohibited because it could result in the introduction of a quarantine pest. The commenter said that any potential for introduction of any pest should be ruled out before a plant in growing media is allowed entry. Another commenter stated that there may be pests or disease organisms on plants that are not known at this time and, therefore, are not addressed by the growing, inspection, and certification requirements of the regulations.

The purpose of conducting an analysis of the risk posed by imported agricultural commodities is to evaluate available scientific evidence and to provide an evaluation of the risks associated with the importation of those commodities and the measures available to mitigate any identified risks. APHIS can only make a determination as to whether or not to allow the importation of a particular commodity based on the current state of scientific knowledge. In this case, we worked closely with the Netherlands and Denmark to develop the lists of pests that are analyzed in the

¹ To view the proposed rule, pest risk analyses, and the comments we received, go to <http://www.regulations.gov>, click on the “Advanced Search” tab, and select “Docket Search.” In the Docket ID field, enter APHIS–2005–0040, then click on “Submit.” Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

pest risk analyses. We also consulted applicable scientific literature and reviewed APHIS records to determine what pests have been intercepted on imported Christmas cactus and Easter cactus.

While we do not believe there is a shortage of appropriate scientific information in this specific case, if APHIS were to regulate the trade of agricultural commodities based on the risk posed by unknown factors, such an action could be viewed as being arbitrary and contrary to the international trade agreements to which the United States is a signatory, which could potentially affect the export markets for our own domestically produced commodities. Under the Plant Protection Act, APHIS protects American agriculture while facilitating the trade of agricultural commodities. There is always some uncertainty associated with the risk posed by imported agricultural products, and if zero risk were the standard applied, there would likely be no international trade in agricultural products. While we can never be certain that our methods, regulations, and policies will exclude pests 100 percent of the time, our goal is to do just that, to the extent practicable. We are confident that the measures required under this rule appropriately address the risks associated with Christmas cactus and Easter cactus imported from the Netherlands and Denmark in approved growing media. Our judgment is supported by the fact that bare-rooted Christmas cactus and Easter cactus and the growing media in which they will be imported have separately been imported from the Netherlands and Denmark with no known associated pest problems. Given that the plants in growing media will be subject to a number of additional requirements that do not apply to bare-rooted plants, we believe that the risk posed by known and unknown pests is appropriately reduced, to the extent practicable, by the measures in § 319.37–8(e).

One commenter stated that the use of clean stock and phytosanitary greenhouse production programs do not always provide effective control of *Fusarium* diseases. The commenter noted that one of the two major growers from the Netherlands has admitted to having difficulty controlling this disease on both Christmas cactus and Easter cactus. The commenter stated that, if the disease was introduced in the United States, there is no guarantee it could be eradicated and that domestic growers, which tend to be small operations, are more vulnerable to the loss of their stock as a result of the introduction of

pests or diseases and would bear the financial burden of any quarantine. Another commenter stated that *Fusarium* is more prevalent and active in warm weather. The commenter suggested that APHIS require that plants be rooted and grown for a minimum of 6 consecutive months so that the plants would be growing during favorable conditions for at least a portion of their life.

In the pest risk analysis titled “Importation of Christmas Cactus, *Schlumbergera* spp., and Easter Cactus, *Rhipsalidopsis* spp., in APHIS Approved Growing Media into the United States From Denmark,” APHIS determined that there are no quarantine pests that follow the import pathway on Christmas cactus and Easter cactus from Denmark. The pest risk analysis concluded that the safeguards in § 319.37–8(e) will effectively remove any pests from the import pathway and allow the safe importation of Christmas cactus and Easter cactus from Denmark.

In the pest risk analysis titled “Importation of Christmas Cactus, *Schlumbergera* spp., and Easter Cactus, *Rhipsalidopsis* spp., in APHIS Approved Growing Media into the United States From the Netherlands,” APHIS identified one quarantine pest that could potentially follow the import pathway on Christmas cactus and Easter cactus from the Netherlands: *Fusarium oxysporum* Schlechtend. f. sp. *opuntiarum* (Pettinari) Gordon (Fungi Imperfecti: Hypomycetes). The pest risk analysis concluded that the safeguards in § 319.37–8(e) would effectively remove that and other pests from the import pathway and allow the safe importation of Christmas cactus and Easter cactus from the Netherlands. The pest risk analysis notes that the characteristic above-ground symptoms of the cladophyll rot caused by *Fusarium oxysporum* are relatively easy to identify; should signs of infection be detected during any of the several inspections required under the regulations, the plants would be ineligible for importation into the United States and remedial measures to ensure that the place of production is free from quarantine pests would have to be applied.

One commenter stated that there are not enough safeguards in place to protect domestic growers from the inadvertent entry of an unwanted pest. The commenter recommended that, at a minimum, the cacti be subject to postentry quarantine with multiple inspections by APHIS for 1 year before release. Another commenter stated that APHIS should require a postentry quarantine period of at least 4 months

with inspections upon entry and before the movement or sale of the plants.

We are confident that the measures contained in § 319.37–8(e) will mitigate the risks posed by Christmas cactus and Easter cactus imported in growing media from the Netherlands and Denmark. Among other things, the plants will be required to be propagated from clean mother stock, grown in approved growing media, watered with clean water sources, grown in greenhouses that meet certain requirements for pest exclusion, and grown in those greenhouses for a minimum of 4 months prior to importation into the United States. In addition, the plants will be required to be inspected in the greenhouse and found free of evidence of plant pests no more than 30 days prior to the exportation of the plants. The effectiveness of these measures renders postentry risk management, other than inspection, unnecessary.

One commenter stated that the proposed rule does not preclude a grower from growing the plants in another country that has lower labor costs and bringing them back to the exporting country close to the shipping date, which could result in the introduction of pests. The commenter stated that APHIS must specify where the plants must be grown.

Among other things, the regulations specifically require that articles imported in growing media under the provisions of § 319.37–8(e):

- Must be developed from mother stock that was inspected and found free from evidence of disease and pests by an APHIS inspector or foreign plant protection service inspector no more than 60 days prior to the time the article is established in the greenhouse (except for articles developed from seeds germinated in the greenhouse);
- Must be grown solely in a greenhouse in which sanitary procedures adequate to exclude plant pests and diseases are always employed;
- Must be rooted and grown in an active state of foliar growth for at least 4 consecutive months immediately prior to importation into the United States in a greenhouse unit that is used solely for articles grown in compliance with the regulations; and
- Must be grown from seeds germinated in the greenhouse unit or descended from a mother plant that was grown for at least 9 months in the exporting country prior to the importation into the United States of the descendent plants or, if the mother plant was imported into the exporting country from another country, it must be grown for at least 12 months in the

exporting country prior to importation of the descendent plants into the United States, or treated at the time of importation into the exporting country with a treatment prescribed for pests of that plant by the plant protection service of the exporting country and then grown for at least 9 months in the exporting country prior to importation of the descendent plants into the United States.

Therefore, if plants were grown in another country then brought back to the exporting country shortly before the shipping date as the commenter describes, those plants would not be eligible for importation in growing media under the provisions of § 319.37–8(e).

Two commenters noted that the European Community employs a plant passport system to facilitate the movement of plants among member countries. The commenters stated that they were concerned that the movement of plants among European countries could introduce an unknown pest or disease into Denmark or the Netherlands that was not taken into account by APHIS in its risk analyses, and that such a pest could then be introduced into the United States. One of the commenters was concerned that there may not be adequate safeguards in the plant passport system to ensure that unidentified pests and diseases are detected, while the other commenter stated that APHIS must conduct a risk analysis for pests of Christmas cactus and Easter cactus from each of the countries participating in the European Community's plant passport system.

The plant passport referred to by the commenters is a document that travels with a consignment of plants for planting from their place of production and serves to certify that the material comes from an officially registered producer whose premises are subject to regular plant health inspection by an official plant protection agency to ensure freedom from quarantine pests and diseases. Thus, the plant passport system provides safeguards against the movement of quarantine pests into the Netherlands and Denmark. We note that each of the pest risk analyses prepared for this rulemaking included a pest list for *Schlumbergera* and *Rhipsalidopsis* spp. that, while not comprehensive for all pests of *Schlumbergera* and *Rhipsalidopsis* for all countries in Europe, was intended to identify potential pests that may move into the Netherlands and Denmark from other European countries on *Schlumbergera* and *Rhipsalidopsis* plants moving under the European Community Plant Passport System.

Moreover, though, the provisions of § 319.37–8(e) regarding the origin requirements for seeds and mother plants that are described in the response to the previous comment ensure that the plants eventually offered for importation into the United States are descended from stock that has been found to be free of pests and diseases, and the conditions under which those plants must be grown serve to safeguard them from infestation or infection during their pre-export growth period.

One commenter asserted that the economic analysis is based on out-of-date data from 1998. The commenter stated that APHIS should use more current data to determine the economic impact of the proposed rule.

The economic analysis in the proposed rule cited national data on the volume and sales value of potted and hanging baskets of flowering plants of Christmas cactus and Easter cactus obtained from the National Agricultural Statistics Service.² These data are from the 1998 Census of Horticultural Specialties, reported as part of the 1997 Census of Agriculture. Although the 2002 Census of Agriculture represents a more recent source, the information from the 1998 Census of Horticultural Specialties regarding Christmas cactus and Easter cactus has apparently not been updated for the 2002 Census. Therefore, the 1998 data cited in the proposed rule represent the most recently available national data from published sources regarding domestic Christmas cactus and Easter cactus production.

Another commenter stated that plants in media should not be allowed for importation into the United States because U.S. growers will not be able to effectively compete due to lower production costs in other countries.

Determinations as to whether a new agricultural commodity can be safely imported are based on the findings of pest risk analyses, not on factors such as economic competitiveness. APHIS is bound under international trade agreements to remove restrictions on trade when such restrictions are found by scientific analysis to be unnecessary. In this case, we have conducted pest risk analyses that found that all quarantine pests associated with Christmas cactus and Easter cactus from the Netherlands and Denmark are effectively removed from the import pathway by the measures required under § 319.37–8(e). Based on these analyses, the Secretary of Agriculture

has determined that it is not necessary to prohibit the importation of Christmas cactus and Easter cactus from the Netherlands and Denmark in approved growing media.

Two commenters claimed that the proposed rule will have a significant impact on a large number of small growers. One of these commenters stated that APHIS did not provide any data to support the statement that few local growers specialize in the production of Christmas cactus and Easter cactus and these growers should be able to compete in the market due to the size and quality of their product. The commenter noted that there are relatively few plants that can be marketed during the Christmas season and, therefore, most growers "specialize" in growing these plants, mainly poinsettias and Christmas cactus, for the holiday season.

With the term "specialize," APHIS meant to indicate growers specializing in the production of Christmas cactus and Easter cactus to the exclusion of other genera. There are a number of small growers who include these plants in their production systems along with other plants. The impact of competition in one commodity in a multiple-commodity system would be less than for a grower specializing in this one commodity alone. Given that Christmas cactus and Easter cactus represent only a small fraction of total domestic sales of potted flowering plants and the information available to us indicating that few growers specialize in the production of Christmas cactus and Easter cactus to the exclusion of other genera, we do not expect significant effects on the overall supply and price of potted flowering plants sold in the United States or a resulting significant economic impact on a large number of small entities.

One commenter stated that the economic analysis in the proposed rule failed to mention that the two largest growers of Christmas cactus and Easter cactus in the world are seeking access to the U.S. market. The commenter claimed that the economic analysis is flawed because it does not include this information. The commenter recommended that the economic analysis look at the volume of product produced by those companies, instead of the number of companies that would potentially participate in this program. The commenter noted that the volume of plants grown by each of these two companies dwarfs the total amount grown by all U.S. growers combined.

The economic analysis in the proposed rule stated that because Christmas cactus and Easter cactus

² Source: <http://www.nass.usda.gov/census/census97/horticulture>, tables 8 and 10. Holiday cacti are reported as *Zygocactus/Schlumbergera*.

comprise a small fraction of the domestic supply of potted flowering plants and relatively few producers in the Netherlands and Denmark are expected to be involved in the program, no significant change in supply and price is expected. One commenter claims that this conclusion is faulty. The commenter stated that the analysis should be based on the size of the U.S. market, the number of domestic growers producing the commodities, and how well the market is served. In addition, the analysis should take into account the size of the producers in the Netherlands and Denmark. This information would show whether there would be a significant change in supply and price if the proposed rule is approved.

The above two comments are addressed in the response below. APHIS does not have information regarding the volume of Christmas cactus and Easter cactus in media that will be imported under this program. However, these plants have been imported in bare-root form and as rootless cuttings for many years. The imported bare-rooted plants and cuttings are used by U.S. growers to establish their own plants. Imports may fluctuate from year-to-year based on market factors such as expected demand for the product and the availability of the propagative material for producing the final product. From October 2004 to September 2005, a volume of 2,853,832 plant units of bare-rooted Christmas cactus and Easter cactus was imported into the United States (APHIS Import Database, 2004/2005). "Plant units" refer to individual plants or plant pieces. Ninety-nine percent of the plant units were imported from the Netherlands and Denmark, and only 1 percent from other countries.

APHIS does not have published domestic sales data for Christmas cactus and Easter cactus for 2004/2005 to compare to the above mentioned import data. As mentioned previously, the most recently available published data are from the 1998 Census of Horticultural Specialties, as presented in table 1 of the economic analysis (see "Executive Order 12866 and Regulatory Flexibility Act" below). The prediction of exact outcomes regarding supply and price would therefore be precluded in view of the limited availability of data on domestic supply and elasticities for Christmas cactus and Easter cactus. However, given the small fraction of total domestic sales of potted flowering plants that Christmas cactus and Easter cactus represent, APHIS does not expect significant effects on the overall supply and price of potted flowering plants sold in the United States.

Furthermore, it should be emphasized that APHIS regulates based on phytosanitary concerns, and not market competitiveness. Pest risk assessments by APHIS have determined that Christmas cactus and Easter cactus established in approved growing media and imported under the conditions in § 319.37–8(e) will not result in the introduction and dissemination of a plant pest or noxious weed into the United States.

The alternative to this rule would be to continue the current practice of importing only bare-rooted Christmas cactus and Easter cactus from the Netherlands and Denmark. The benefit of this rule is to provide exporters with the option of shipping rooted cuttings with some growing media attached as an alternative to the current bare-root process, which allows the plants established from these cuttings to be marketable sooner. The bare-root process requires the removal of all media from the roots, which may cause considerable damage to the plant. Importing the plants in growing media will therefore shorten the time required to establish plants from these cuttings, and avoid the damage caused to the plants by the process of removing the growing media from the roots.

All three commenters noted that APHIS has initiated a comprehensive review of its regulations regarding the importation of nursery stock and suggested that it was ill-advised or premature to be considering amendments to those regulations prior to the completion of that review and the codification of any changes deemed necessary as a result of the review.

As stated earlier in this document, our determination as to whether a particular commodity can be safely imported is based on our consideration of the risks associated with that commodity. In this case, we have conducted pest risk analyses that found that all quarantine pests associated with the importation of Christmas cactus and Easter cactus in growing media from the Netherlands and Denmark are effectively removed from the import pathway by the measures required under § 319.37–8(e). Based on these analyses, the Secretary of Agriculture has determined that it is not necessary to prohibit the importation of Christmas cactus and Easter cactus from the Netherlands and Denmark in approved growing media. APHIS is bound under international trade agreements to remove technical barriers to trade in the event that such barriers are found by scientific analysis to be unnecessary. Given this finding, we do not believe it is appropriate to delay publication of this final rule until

we have completed the review of the nursery stock regulations.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Miscellaneous

In this final rule, we are making a nonsubstantive editorial change to § 319.37–8(e). Specifically, we are correcting the numbering of a footnote and amending the text of that footnote to reflect the current numbering of the preceding footnote.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations governing the importation of plants and plant products by adding Christmas cactus (*Schlumbergera* spp.) and Easter cactus (*Rhipsalidopsis* spp.) from the Netherlands and Denmark to the list of plants that may be imported in an approved growing medium subject to specified growing, inspection, and certification requirements. This change will allow Christmas cactus and Easter cactus established in growing media to be imported into the United States from the Netherlands and Denmark under certain conditions.

The United States is a net importer of live trees and plants. Imports of these products were valued at \$843.8 million in 2003. In 2003, \$147.1 million worth of live trees and plants were imported from the Netherlands, which accounted for 17 percent of all U.S. imports of these products. The value of live trees and plants imported into the United States from Denmark amounted to \$1.1 million. Total imports of unrooted cuttings and slips into the United States were valued at \$39.4 million in 2003; the value of unrooted cuttings and slips imported from the Netherlands and Denmark amounted to \$0.9 million and \$0.8 million, respectively (Source: World Trade Atlas, 2004).

The value of live trees and plants exported from the United States amounted to \$196.4 million in 2003. The Netherlands was the second largest importing country. Exports of live trees and plants from the United States to the Netherlands amounted to \$33.9 million, and the value of live trees and plants exported to Denmark was \$0.3 million. U.S. exports of unrooted cuttings and slips were valued at \$10.8 million in 2003, with \$0.2 million of the exports

going to the Netherlands and no exports to Denmark (Source: World Trade Atlas, 2004).

According to the 1998 Census of Horticultural Specialties, the value of potted *Zygocactus* and *Schlumbergera*³ plants sold in the United States amounted to \$5 million in 1998, and the sales value of hanging baskets of these

plants was \$680,000 (table 1). *Zygocactus* and *Schlumbergera* represented a small proportion of the potted flowering plant industry in the United States. Less than 4 percent of the operations selling pots and hanging baskets of potted flowering plants in 1998 sold these plants, which accounted for only 0.9 percent of the number of

potted plants sold and for only 0.6 percent of the sales value. Similarly, *Zygocactus* and *Schlumbergera* accounted for only 4.1 percent of the number and 3.4 percent of the sales value of hanging baskets of potted flowering plants. A wide variety of potted flowering plants are sold in the United States.

TABLE 1.—POTS AND HANGING BASKETS OF POTTED FLOWERING PLANTS OF ZYGOCACTUS AND SCHLUMBERGERA SOLD IN THE UNITED STATES (1998)

Item	Number of operations	Volume and value of sales			
		Total		Wholesale	
		Number (1,000)	Sales value (\$1,000)	Number (1,000)	Sales value (\$1,000)
Potted plants:					
<i>Zygocactus/Schlumbergera</i>	175	2,386	\$5,332	2,248	\$4,953
All potted flowering plants	5,008	251,684	848,086	234,164	710,386
<i>Zygocactus/Schlumbergera</i> as a percentage of all	3.5%	0.9%	0.6%	1.0%	0.7%
Hanging baskets:					
<i>Zygocactus/Schlumbergera</i>	57	109	\$680	108	\$671
All potted flowering plants	1,514	2,676	20,044	2,251	14,962
<i>Zygocactus/Schlumbergera</i> as a percentage of all	3.8%	4.1%	3.4%	4.8%	4.5%

Source: Census of Horticultural Specialties (1998, <http://www.nass.usda.gov/census/census97/horticulture/horticulture.htm>).

The Regulatory Flexibility Act requires agencies to specifically consider the economic impact of their rules on small entities. As determined by the Small Business Administration, the small entity size standard for floriculture production (North American Industry Classification System [NAICS] code 111422) is \$750,000 or less in annual receipts. Flower, nursery stock, and florists' supplies merchant wholesalers (NAICS code 424930) are considered to be small if they employ 100 or fewer individuals (<http://www.census.gov/naics>, <http://www.sba.gov>).

Table 1 shows the number of operations involved in growing Christmas cactus and Easter cactus plants in the United States in 1998. There were 175 operations involved in producing pots and 57 operations involved in producing hanging baskets of potted flowering plants of *Zygocactus* and *Schlumbergera*. Over 90 percent of the plants were sold through wholesale outlets. However, information is not available regarding the size of these grower operations or sales outlets. The number of either small or large entities that could be affected by the rule can therefore not be determined at present.

However, few growers in the United States specialize in the exclusive production of Christmas cactus and Easter cactus. A number of small

growers include these plants in their production systems along with other plants. The impact of competition in one commodity in a multiple-commodity system would be less than for a grower specializing in this one commodity alone. U.S. producers should be able to compete in the market due to the size and quality of their product. Growers from the Netherlands and Denmark also have to incur additional shipping costs and phytosanitary compliance costs when shipping to the United States.

The rule will likely benefit importers and consumers in the United States. Importing the plants in growing media will shorten the time required to establish plants from these cuttings, and avoid the damage caused to the plants by the process of removing the growing media from the roots. Consumers will likely benefit from an increased availability of the plants.

Given the small fraction that Christmas cactus and Easter cactus comprise of total domestic sales of potted flowering plants (table 1), APHIS does not expect significant effects on the overall supply and price of potted flowering plants sold in the United States. Furthermore, it should be emphasized that APHIS regulates based on phytosanitary concerns, and not market competitiveness. Pest risk assessments by APHIS have determined

that Christmas cactus and Easter cactus from the Netherlands and Denmark established in approved growing media and imported under the conditions in § 319.37–8(e) will not result in the introduction and dissemination of a plant pest or noxious weed into the United States.

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

Executive Order 12988

This final rule allows *Schlumbergera* spp. and *Rhipsalidopsis* spp. plants to be imported in approved growing media into the United States from the Netherlands and Denmark. State and local laws and regulations regarding imported *Schlumbergera* spp. and *Rhipsalidopsis* spp. plants will be preempted while the plants are in foreign commerce. Potted plants are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

³ *Zygocactus* is an older synonym of *Schlumbergera*. Taxonomically, Easter cactus was

classified in the genus *Schlumbergera*; today it is classified in the genus *Rhipsalidopsis*.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of Christmas cactus and Easter cactus in growing media from the Netherlands and Denmark under the conditions specified in the regulations will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS's NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.⁴ Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0266.

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 rule, please contact Mrs. Celeste Sickles, APHIS's Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

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

■ Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues 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.

§ 319.37–8 [Amended]

■ 2. Section 319.37–8 is amended as follows:

■ a. In the introductory text of paragraph (e), by removing the period after the word “*Saintpaulia*” and by adding, in alphabetical order, entries for “*Rhipsalidopsis* spp. from the Netherlands and Denmark” and “*Schlumbergera* spp. from the Netherlands and Denmark.”.

■ b. By redesignating footnote 11a as footnote 11 and, in the text of newly redesignated footnote 11, by removing the words “footnote 11” and adding the words “footnote 10” in their place.

■ c. By adding, at the end of the section, the following OMB control number citation: “(Approved by the Office of Management and Budget under control number 0579–0266)”.

Done in Washington, DC, this 27th day of March 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–3126 Filed 3–30–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1435

RIN 0560–AH37

Transfer of Sugar Program Marketing Allocations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the sugar program regulations of the Commodity Credit Corporation (CCC). The provisions for transferring sugar marketing allocation when a mill closes and growers request to move their allocation are amended. A regulatory deadline, the 20th of each month, for the program's information reporting requirements is added. Also, each cane processor, cane refiner and beet processor will be required to provide an annual report prepared by a Certified Public Accountant (CPA) that verifies the company's data submitted to CCC.

DATES: *Effective Date:* March 31, 2006.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Commodity Credit Corporation (CCC) published a proposed rule on September 7, 2005 (70 FR 53103). Public comments were accepted until November 7, 2005. The rule proposed three changes to the Sugar Program Regulations at 7 CFR part 1435.

First CCC proposed to amend the regulations for transferring sugar marketing allocation when a mill closes. The proposed rule provided that the closed mill's allocation would be distributed based on the production history of the growers requesting to move their allocation.

To understand the change that was proposed, it is necessary to understand the relationship between processors, growers, and how allocations have been determined.

The Sugar Program was authorized by section 359 of the Agricultural Adjustment Act of 1938, as amended by the Farm Security and Rural Investment Act of 2002 (the “2002 Act”) (7 U.S.C. 1359aa *et seq.*). The 2002 Act requires CCC to periodically analyze market factors and establish a national sugar marketing allotment to limit the

⁴ Go to <http://www.regulations.gov>, click on the “Advanced Search” tab and select “Docket Search.” In the Docket ID field, enter APHIS–2005–0040, click on “Submit,” then click on the Docket ID link in the search results page. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.