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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00–119–1]

Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products; Phytosanitary Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Policy statement.

SUMMARY: This document gives notice that we intend to begin consistently and routinely enforcing an existing requirement that a phytosanitary certificate of inspection accompany restricted articles, other than certain greenhouse-grown plants from Canada, that are offered for importation into the United States under our foreign quarantine regulations for nursery stock, plants, roots, bulbs, seeds, and other plant products. While the regulations provide that a phytosanitary certificate must accompany such items, this provision has not been consistently enforced with regard to all shipments of restricted articles arriving at U.S. ports of entry. Therefore, we are providing this notification to alert affected importers and members of the public that we intend to enforce this provision on a consistent, uniform basis. This action is necessary in order to more effectively mitigate the risk of introduction of foreign plant pests associated with the importation of these commodities into the United States.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, CITES and Plant Inspection Station Coordinator, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

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 into the United States. 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), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Nursery stock, plants, and other propagative plant material that cannot be feasibly inspected, treated, or handled to prevent them from introducing plant pests new to or not known to be widely prevalent in or distributed within and throughout the United States are listed in the regulations as prohibited articles. Prohibited articles may not be imported into the United States, unless imported by the U.S. Department of Agriculture (USDA) for experimental or scientific purposes under specified safeguards.

Nursery stock, plants, and other propagative plant material that can be inspected, treated, or handled to prevent them from spreading plant pests are listed in the regulations as restricted articles. Restricted articles may be imported into the United States if they are imported in compliance with conditions that may include permit and phytosanitary certificate requirements, inspection, treatment, or postentry quarantine.

Paragraph (a) of § 319.37–4 of the regulations requires that any restricted article offered for importation into the United States, other than certain greenhouse-grown plants from Canada, be accompanied by a phytosanitary certificate of inspection (phytosanitary certificate). Section 319.37–1 of the regulations defines a phytosanitary certificate as a document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description

of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States, and which contains any specific additional declarations required under the regulations.

A phytosanitary certificate documents the origin of the shipment and ensures inspection in the country of origin by a member of the national plant protection organization, thus helping to ensure the shipment of clean commodities. Phytosanitary certificates are governed under the International Plant Protection Convention (IPPC), a multilateral treaty which is acknowledged by the World Trade Organization in the Agreement on the Application of Sanitary and Phytosanitary Measures as the source for international standards for phytosanitary measures affecting trade.

Phytosanitary certificates are recognized as an internationally accepted form of pest risk mitigation. Pest risk mitigation at the place of origin is often viewed as the most viable means of preventing the introduction of plant pests. Signatories to the IPPC, which include the United States and over 100 other countries, agree that pest risk mitigation is a responsibility of the exporting country, and that they are willing and able to issue phytosanitary certificates.

To date, the Animal and Plant Health Inspection Service (APHIS) has not consistently and routinely enforced the phytosanitary certificate requirement in § 319.37–4 in all instances involving the importation of restricted articles under the regulations. Until now, our policy has been not to reject a shipment based solely on the lack of a phytosanitary certificate. We have enforced the requirement that a phytosanitary certificate accompany shipments of restricted articles in those situations where our regulations require that the phytosanitary certificate include an additional declaration, proof of treatment, or both. In other cases, our policy has provided APHIS inspectors the latitude to allow entry of the shipment, even though it is not

accompanied by a phytosanitary certificate.

Growth in Plant and Seed Trade

In recent years, the amount of nursery stock, plants, and other propagative plant material imported into the United States has grown dramatically. For example, based on APHIS records, over 694 million plants were imported into the United States in FY 1999, compared to 456 million plants in FY 1993. Seed

imports into the United States have increased from 8.7 million kilograms in FY 1997 to 12 million kilograms in FY 1999. Based on Foreign Agricultural Trade of the United States (FATUS) data, the value of nursery stock, plants, and bulbs imported into the United States increased, in 1999 dollars, by 89 percent, from approximately \$275 million in 1990 to \$520 million in 1999. The above data for nursery stock, plants, and bulbs include certain greenhouse-

grown plants from Canada, some of which are not subject to the phytosanitary requirement described in this notice. The value of seed imports over the same 1990 through 1993 period increased, in 1999 dollars, by 144 percent, from approximately \$188 million to \$459 million. The increased value of imports of these products coming from some of the United States' principal trading partners and regions is shown in Table 1.

TABLE 1.—VALUE OF U.S. IMPORTS OF NURSERY STOCK AND SEED FROM MAJOR TRADING PARTNERS AND REGIONS, IN 1990 AND 1999, EXPRESSED IN 1999 DOLLARS

Region	1990 million dollars	1999 million dollars	Percentage increase in imports, 1990–1999
Nursery Stock, Bulbs, etc.			
Asia	\$17.19	31.14	81
Canada	94.17	234.35	149
European Union	128.03	187.30	46
Latin America	27.71	49.03	77
Mexico	7.41	13.65	84
Seeds—Field and Garden:			
Asia	57.59	100.09	74
Canada	49.01	94.29	92
European Union	29.29	65.95	125
Latin America	37.42	173.99	365
Mexico	6.36	14.23	124

Source: FATUS, USDA ERS. 1990 values are expressed in 1999 dollars, using a CPI inflation factor of 1.2821.

Just as important as the increased amounts of nursery stock, plants, and other propagative plant material being imported into the United States, more varieties and types of these commodities are being shipped here from a greater number of foreign regions as a result of improved transportation modes and technologies, as well as the general movement towards a more globalized marketplace.

The expanded trade in these commodities has placed a greater demand on APHIS' inspection services. It has also presented us with new challenges in better understanding the pest complexes and potential pest risks associated with the importation of these commodities from a wider variety of sources. Consequently, our need for verifiable information as to the place of origin, as provided in a phytosanitary certificate, has become vital with respect to each shipment of nursery stock, plants, and other propagative plant material offered for importation into the United States.

Safeguarding Report

In 1998, we asked the National Plant Board (NPB) to review our efforts to safeguard American agriculture and plant resources. The NPB assembled 43 stakeholders from States, industry,

academe, and environmental groups to conduct extensive research, interviews, site visits, and other interactions with APHIS and its stakeholders, and to prepare a thorough analysis of the challenges facing the safeguarding system. The 1999 report, "Safeguarding American Plant Resources, A Stakeholder Review of the APHIS-PPQ Safeguarding System,"¹ evaluates APHIS' pest exclusion measures, international pest information systems, use of permits, and detection and response efforts. The report also provides a number of recommendations and action plans for improving APHIS' safeguarding efforts. Among its recommendations, the report urges APHIS to more vigorously pursue offshore pest mitigation measures, including the use of phytosanitary certificates consistent with the IPPC, as a means of supplementing its existing inspection efforts at U.S. ports of entry.

Change in Policy

In light of the increased quantities, types of articles, and sources of nursery stock, plants, and other propagative

plant material offered for importation into the United States, coupled with the findings of the Safeguarding Report, which advocates greater use of offshore mitigating measures such as phytosanitary certificates, we have reevaluated our current policy of selective enforcement of the phytosanitary certificate requirement in § 319.37–4(a). We have decided that it is necessary for us to enforce the phytosanitary certificate requirement provided in § 319.37–4(a) on a consistent, mandatory basis with respect to all restricted articles offered for importation into the United States in order to effectively mitigate the risk of those articles introducing foreign plant pests into the United States.

Analysis

This policy statement does not entail new regulatory requirements. Rather, its purpose is to inform importers and the general public that we will enforce an existing phytosanitary certificate requirement on a mandatory, consistent basis, which is a change from our previous policy. Importers and members of the general public will not be allowed to import restricted nursery stock, plants, or other propagative plant material into the United States without

¹ The Safeguarding Report is available upon written request from the person listed under **FOR FURTHER INFORMATION CONTACT**. It is also available on the Internet at <http://www.aphis.usda.gov/ppq/safeguarding>.

an accompanying phytosanitary certificate.

Phytosanitary certificates must be obtained from an official agency of the country where the goods originate. Typically, the commodity to be imported must be inspected by a plant protection official of the foreign country, who must certify where in the country of origin the restricted article was grown or acquired its phytosanitary status and state that the shipment is free of injurious plant diseases and plant pests. The certifying country usually charges a fee for these services. The actual fee varies from country to country and is based solely on the criteria that the issuing country deems appropriate. As points of reference, Canada charges C\$17 Canadian dollars (\$11.25US) and Mexico charges 244 Mexican new pesos (\$24.86US). Costs associated with shipment certification that result from this notice are costs that may not have been borne previously, only because phytosanitary certificate requirements have not been regularly and uniformly enforced.

The percentage of restricted nursery stock, plants, and other propagative plant material that currently enters the United States without phytosanitary certification is not known. We do not maintain such data. However, based on our own informal observations at ports of entry, we believe that the vast majority of imported commercial plant and seed shipments are accompanied by a phytosanitary certificate. We have found that phytosanitary certificates are more likely to be absent in small shipments imported by tourists, hobbyists, homeowners, small businesses, or importers who are newcomers to the plant trade. Mandatory, consistent enforcement of the phytosanitary certification requirement for all restricted nursery stock, plants, and other propagative plant material imported into the United States will help minimize the plant pest risks associated with these imports without subjecting affected importers and members of the general public to any costs that they are not already expected to bear.

Therefore, we intend to begin consistently enforcing, in accordance with § 319.37-4(a), the requirement that a phytosanitary certificate must accompany all shipments of restricted articles imported into the United States, except for certain greenhouse-grown plants from Canada.

Authority: 7 U.S.C. 166, 450, 7711-7714, 7718, 7731, 7732, and 7751-7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 17th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-18299 Filed 7-20-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-148-AD; Amendment 39-12308; AD 2001-13-26]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-10-10, -15, -30, and -40 Series Airplanes, and Model MD-10-10F and -30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-10-10, -15, -30, and -40 series airplanes, and Model MD-10-10F and -30F series airplanes, that requires a general visual inspection to detect chafing or damage of the feeder cables of the external ground power in the forward cargo compartment between certain fuselage stations; and repair, if necessary. This amendment also requires installation of spiral wrap on the feeder cables of the external ground power. This action is necessary to prevent chafing of the feeder cables during removal of the sump panels of the cargo floor, which could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the forward cargo compartment. This action is intended to address the identified unsafe condition.

DATES: Effective August 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton,

Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5343; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-10 series airplanes, was published in the **Federal Register** on November 29, 2000 (65 FR 71076). That action proposed to require a general visual inspection to detect chafing or damage of the feeder cables of the external ground power in the forward cargo compartment between certain fuselage stations; and repair, if necessary. The action also proposed to require installation of spiral wrap on the feeder cables of the external ground power.

Change to the Applicability of Notice of Proposed Rulemaking (NPRM)

On May 9, 2000, the FAA issued a Type Certificate (TC) for McDonnell Douglas Model MD-10-10F and MD-10-30F series airplanes. Model MD-10 series airplanes are Model DC-10 series airplanes that have been modified with an Advanced cockpit. The feeder cables of the external ground power in the forward cargo compartment installed on Model MD-10-10F and MD-10-30F series airplanes (before or after the modifications necessary to meet the type design of a Model MD-10 series airplane) are identical to those on the affected Model DC-10 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition. In addition, the manufacturer's fuselage number and factory serial number are not changed during the conversion from a Model DC-10 to Model MD-10. We find that Model MD-10-10F and MD-10-30F series airplanes were not specifically identified by model in the applicability of the NPRM; however, they were identified by manufacturer's fuselage numbers in McDonnell Douglas Alert Service Bulletin DC10-24A147, Revision 02, dated March 6, 2000 (which was referenced in the applicability statement of the NPRM for determining the specific affected airplanes). Therefore, we have revised