

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 319, 322, 352, and 353

#### 9 CFR Parts 93 and 94

[Docket No. APHIS–2016–0016]

#### Use of Electronic Information Exchange Systems; Miscellaneous Amendments

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending our regulations regarding the importation or exportation of animals and animal products and plants and plant products to address instances where the current regulations require the use of a hard-copy form or specify that a particular document must be submitted in writing. This final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems when a regulation has a limiting requirement. The amendments we are making in this final rule are not to mandate the use of electronic systems or preclude the use of paper documents; rather, they address those instances where our regulations specify a submission method to the exclusion of other methods.

**DATES:** Effective June 21, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen O'Neill, Chief, Regulatory Analysis and Development, PPD, APHIS, 4700 River Road, Unit 118, Riverdale, MD 20737–1231; (301) 851–3072.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Security and Accountability for Every Port Act of 2006 (“SAFE Act”) requires the interagency establishment

of a single portal system, known as the International Trade Data System (ITDS), to be operated by U.S. Customs and Border Protection (CBP). ITDS is an electronic information exchange capability, or “single-window,” through which individuals and businesses will transmit data required by participating agencies for the importation or exportation of cargo. The goal of ITDS is to eliminate redundant data reporting and replace multiple filings, many of which are on paper. ITDS provides individuals and companies involved in international trade with an electronic format to secure necessary certifications, complete required forms, and provide information about the requirements and regulations relevant to the commodity of interest. The Animal and Plant Health Inspection Service (APHIS) has actively participated in the development of ITDS in cooperation with CBP and other Federal agencies.

As part of the ITDS initiative, CBP developed the Automated Commercial Environment (ACE), a single, centralized, online access point that connects the trade community and partner government agencies. ACE will allow trade participants access to and management of their trade information via reports; expedite legitimate trade by providing CBP with tools to efficiently process imports/exports and move goods quickly across the border; improve communication, collaboration and compliance efforts between CBP and the trade community; facilitate efficient collection, processing and analysis of commercial import and export data; and provide an information-sharing platform for trade data throughout government agencies.

For its part, APHIS is working to enhance trade facilitation in several ways. In some cases, APHIS programs will work within ACE to take required actions. In other cases, legacy systems will be updated to allow for more efficient processing of the information. For example, a new permitting system, E-file, is currently being developed to replace the legacy E-permits system. E-file will be used across APHIS programs, will include advanced functionality, and will provide permitting data directly to ACE to allow for speedier review and admissibility determinations at the ports of arrival. Other APHIS system enhancements will

allow for better communication with our CBP Agriculture colleagues concerning pest identification and allow for expansion of e-certification opportunities with our trading partners. APHIS recognizes the advantages provided by the “single-window” concept and will continue to incorporate those strategies into future planning.

On February 19, 2014, President Obama issued Executive Order (E.O.) 13659, Streamlining the Export/Import Process for America’s Businesses, in order to reduce unnecessary procedural requirements to commerce while continuing to protect our national security, public health and safety, the environment, and natural resources. Pursuant to E.O. 13659, participating Federal agencies are to have capabilities, agreements, and other requirements in place to utilize ITDS and supporting systems such as ACE as the primary means of receiving from users the standard set of data and other relevant documentation required for the release of imported cargo and clearance of cargo for export no later than by December 31, 2016.

Pursuant to E.O. 13659, APHIS has reviewed its regulations in 7 CFR chapter III and 9 CFR chapter I to identify any provisions that may present an obstacle to the use of ACE/ITDS or similar systems by persons importing plants/plant products or animals/animal products that are subject to APHIS’ regulations.

In particular, we looked for instances where the regulations required the use of a hard-copy form or specified that a particular document had to be submitted in writing. Where those limiting sorts of requirements were found, this final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems. The amendments we are making in this final rule do not mandate the use of electronic systems or preclude the use of paper documents; rather, the rule simply addresses those instances where our regulations specify a submission method to the exclusion of other methods.

In many cases, however, we found our regulations require importers or shippers to provide documents such as import permits or certificates upon arrival in the United States without specifying the medium in which those

documents must be provided. We do not believe that provisions written in that manner require any changes since the language used already allows for the use of electronic systems.

**Effective Date**

This final rule amends the regulations regarding the importation or exportation of animals and animal products and plants and plant products to address instances where the regulations require the use of a hard-copy form or specify that a particular document must be submitted in writing. Where those limiting sorts of requirements exist, this final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems without precluding the use of other methods already in place. Accordingly, the Administrator of APHIS has determined that good cause exists under 5 U.S.C. 553 to publish this final rule without prior notice and opportunity for public comment.

Since prior notice and other public procedures with respect to this final rule are impracticable, unnecessary, and contrary to the public interest, there is good cause under 5 U.S.C. 553 for making this final rule effective upon publication.

Finally, since a notice of proposed rulemaking is not required pursuant to 5 U.S.C. 553, APHIS is not required to prepare and make available for public comment an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

**Executive Order 12866**

This rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

**Paperwork Reduction Act**

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List 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 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

7 CFR Part 352

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

7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 319, 322, 352, and 353 and 9 CFR parts 93 and 94 are amended as follows:

**Title 7—Agriculture**

**PART 319—FOREIGN QUARANTINE NOTICES**

■ 1. The authority citation for part 319 continues to read as follows:

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

**§ 319.6 [Amended]**

■ 2. In § 319.6, paragraph (e)(4) is amended by removing the words “written permission” and adding the word “authorization” in their place.

■ 3. Section 319.8–4 is revised to read as follows:

**§ 319.8–4 Notice of arrival.**

Immediately upon arrival at a port of entry of any shipment of cotton or covers, the importer shall submit to an inspector or, in the case of Guam, through the Customs officer of the Government of Guam, notice of such arrival using a form provided for that purpose (Form PPQ–368). Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method.

(Approved by the Office of Management and Budget under control number 0579–0049)

**§ 319.40–4 [Amended]**

■ 4. In § 319.40–4, paragraph (a) is amended by removing the words “A written” and adding the word “An” in their place.

**§ 319.40–9 [Amended]**

■ 5. In § 319.40–9, paragraph (b)(1) is amended by removing the words “in writing or by telephone” and adding the words “by any authorized method” in their place.

**PART 322—BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT**

■ 6. The authority citation for part 322 continues to read as follows:

**Authority:** 7 U.S.C. 281; 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 7. Section 322.7 is amended as follows:

■ a. By removing the period at the end of paragraph (b)(3) and adding the word “, or” in its place.

■ b. By adding paragraph (b)(4). The addition reads as follows:

**§ 322.7 Notice of arrival.**

\* \* \* \* \*

(b) \* \* \*

(4) Using a U.S. Government electronic information exchange system or other authorized method.

\* \* \* \* \*

■ 8. Section 322.31 is amended as follows:

■ a. By removing the period at the end of paragraph (b)(3) and adding the word “, or” in its place.

■ b. By adding paragraph (b)(4). The addition reads as follows:

**§ 322.31 Notice of arrival.**

\* \* \* \* \*

(b) \* \* \*

(4) Using a U.S. Government electronic information exchange system or other authorized method.

\* \* \* \* \*

**PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS**

■ 9. The authority citation for part 352 continues to read as follows:

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

■ 10. Section 352.7 is revised to read as follows:

**§ 352.7 Notice of arrival.**

Immediately upon arrival of any shipment of plants or plant products (including noxious weeds) subject to this part and covered by a specific permit, the importer shall submit to an inspector notice of such arrival using a form provided for that purpose (Form PPQ–368) and, where relevant, the proposed routing to the proposed U.S.

port of exit. Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method. Notice of arrival shall not be required for other products or articles subject to this part since other available documentation meets the requirement for this notice.

(Approved by the Office of Management and Budget under control number 0579-0049)

## PART 353—EXPORT CERTIFICATION

■ 11. The authority citation for part 353 continues to read as follows:

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

### § 353.1 [Amended]

- 12. Section 353.1 is amended as follows:
- a. In the definition of *export certificate for processed plant products*, by adding the words “or an approved electronic equivalent” after the words “Form 578”.
- b. In the definition of *phytosanitary certificate*, by adding the words “or an approved electronic equivalent” after the words “Form 577”.
- c. In the definition of *phytosanitary certificate for reexport*, by adding the words “or an approved electronic equivalent” after the words “Form 579”.

### § 353.2 [Amended]

- 13. Section 353.2 is amended by removing the words “(PPQ Form 577)”, “(PPQ Form 579)”, and “(PPQ Form 578)”.
- 14. In § 353.5, paragraph (a) is revised as follows:

#### § 353.5 Application for certification.

(a) To request the services of an inspector, a written application (PPQ Form 572) shall be made as far in advance as possible, and shall be filed in the office of inspection at the port of certification. Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method.

\* \* \* \* \*

## Title 9—Animals and Animal Products

### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 15. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

### § 93.101 [Amended]

- 16. Section 93.101 is amended as follows:
- a. In paragraph (d) introductory text, footnote 4 is amended by adding the words “or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/)” after the numbers “20737-1231”.
- b. In paragraph (f)(2)(iii)(B) introductory text, by adding the words “, available electronically or through other authorized method” after the words “Form 17-8”.

### § 93.103 [Amended]

- 17. In § 93.103, paragraph (a)(1) introductory text, footnote 8 is amended by adding the words “or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/)” after the numbers “20737-1231”.
- 18. In § 93.206, paragraph (c) is added to read as follows:

#### § 93.206 Declaration and other documents for poultry.

\* \* \* \* \*

(c) Any declaration, permit, or other document for poultry required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

### § 93.215 [Amended]

- 19. In § 93.215, paragraph (a)(2) is amended by removing the word “paper” and adding the word “document” in its place, and by removing the words “attached to” and adding the words “included with” in their place.
- 20. In § 93.305, paragraph (c) is added to read as follows:

#### § 93.305 Declaration and other documents for horses.

\* \* \* \* \*

(c) Any declaration, permit, or other document for horses required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

- 21. In § 93.407, paragraph (c) is added to read as follows:

#### § 93.407 Declaration and other documents for ruminants.

\* \* \* \* \*

(c) Any declaration, permit, or other document for ruminants required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

### § 93.421 [Amended]

- 22. In § 93.421, paragraph (a)(2) is amended by removing the word “paper” and adding the word “document” in its place, and by removing the words “attached to” and adding the words “included with” in their place.
- 23. In § 93.506, paragraph (c) is added to read as follows:

#### § 93.506 Declaration and other documents for swine.

\* \* \* \* \*

(c) Any declaration, permit, or other document for swine required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

### § 93.519 [Amended]

- 24. In § 93.519, paragraph (a)(2) is amended by removing the word “paper” and adding the word “document” in its place, and by removing the words “attached to” and adding the words “included with” in their place.
- 25. In § 93.704, paragraph (b) is revised to read as follows:

#### § 93.704 Import permit.

\* \* \* \* \*

(b) *Import permit required.* Any person who desires to import a hedgehog or tenrec must submit an application (VS Form 17-129) for an import permit. Applications are available from the Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231 or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/). A separate application must be prepared for each shipment.

\* \* \* \* \*

- 26. In § 93.802, paragraph (b) is revised to read as follows:

#### § 93.802 Import permit.

\* \* \* \* \*

(b) An application for an import permit may be obtained from the Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231 or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/).

\* \* \* \* \*

### § 93.804 [Amended]

- 27. Section 93.804 introductory text is amended by adding the words “or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/)” after the numbers “20737-1231” and by

removing the words “It must state:” and adding the words “Forms may be provided to the inspector using a U.S. Government electronic information exchange system or other authorized method. The completed form must state:” in their place.

■ 28. In § 93.905, paragraph (b) is added to read as follows:

**§ 93.905 Declaration and other documents for live fish, fertilized eggs, and gametes.**

\* \* \* \* \*

(b) Any declaration, permit, or other document for live fish, fertilized eggs, and gametes required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

\* \* \* \* \*

**PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

■ 29. The authority citation for part 94 continues 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 371.4.

**§ 94.6 [Amended]**

■ 30. In § 94.6, paragraph (d) is amended by adding the words “or visit [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/)” at the end of the sentence.

**§ 94.15 [Amended]**

■ 31 In § 94.15, paragraphs (b)(1) and (c)(1) are amended by adding the words “or by visiting [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/)” after the numbers “20737–1231”.

■ 32. In § 94.24, paragraph (b)(2) is revised to read as follows:

**§ 94.24 Restrictions on importation of meat and edible products from ovines and caprines due to bovine spongiform encephalopathy.**

\* \* \* \* \*

(b) \* \* \*

(2) The person importing the gelatin obtains a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors by filing a permit application on VS Form 16–3. Permit applications are available from

APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20737–1231, or at [http://www.aphis.usda.gov/animal\\_health/permits/](http://www.aphis.usda.gov/animal_health/permits/). Forms may be submitted using a U.S. Government electronic information exchange system or other authorized method. The application for such a permit must state the intended use of the gelatin and name and address of the consignee in the United States.

**§ 94.27 [Amended]**

■ 33. In § 94.27, the introductory text of paragraph (b) is amended by adding the words “Notification may be made using a U.S. Government electronic information exchange system or other authorized method.” after the words “before such transit.”

Done in Washington, DC, this 15th day of June 2016.

Kevin Shea,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2016–14616 Filed 6–20–16; 8:45 am]

**BILLING CODE 3410–34–P**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 747**

**RIN 3133–AE59**

**Civil Monetary Penalty Inflation Adjustment**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The NCUA Board (Board) is amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** This interim final rule is effective July 21, 2016. Comments must be received on or before July 21, 2016.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *NCUA Web site:* <https://www.ncua.gov/regulation-supervision/>

<Pages/rules/proposed.aspx>. Follow the instructions for submitting comments.

- *Email:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on ‘Civil Monetary Penalty Inflation Adjustment’” in the email subject line.

- *Fax:* (703) 518–6319. Use the subject line described above for email.

- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

- *Hand Delivery/Courier:* Same as mail address.

**Public Inspection:** All public comments are available on the agency’s Web site at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA’s law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546 or send an email to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Ian Marena, Senior Trial Attorney, at 1775 Duke Street, Alexandria, VA 22314, or telephone: (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

- I. Legal Background
- II. Calculation of Adjustments
- III. Regulatory Procedures

**I. Legal Background**

*A. Statutory Requirements and Overview of Changes Enacted in 2015*

The Debt Collection Improvement Act of 1996<sup>1</sup> (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990<sup>2</sup> (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. The Board most recently adjusted CMPs within its jurisdiction in September 2015.<sup>3</sup>

In November 2015, Congress further amended the CMP inflation requirements in the Bipartisan Budget Act of 2015,<sup>4</sup> which contains the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 amendments).<sup>5</sup> This

<sup>1</sup> Public Law 104–134, sec. 31001(s), 110 Stat. 1321–373 (Apr. 26, 1996). The law is codified at 28 U.S.C. 2461 note.

<sup>2</sup> Public Law 101–410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

<sup>3</sup> 80 FR 57284 (Sept. 23, 2015).

<sup>4</sup> Public Law 114–74, 129 Stat. 584 (Nov. 2, 2015).

<sup>5</sup> 129 Stat. 599.