DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 335

[Docket No. 93-026-1]

RIN 0579-AA61

Introduction of Nonindigenous Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and notice of public hearings.

SUMMARY: We are proposing to establish comprehensive regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. This action appears to be necessary because the plant pest regulations under which the movement of certain nonindigenous organisms are currently regulated do not adequately address the introduction of nonindigenous organisms that may potentially be plant pests. The proposed regulations would provide a means of screening certain nonindigenous organisms prior to their introduction to determine the potential plant pest risk associated with a particular introduction.

DATES: Consideration will be given only to comments received on or before March 27, 1995. We will also consider comments made at public hearings to be held on March 6, 1995, in Kansas City, MO; March 7, 1995, in Sacramento, CA; and March 10, 1995, in Washington, DC. Each public hearing will begin at 10 a.m. and is scheduled to end at 5:00 p.m.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 93-026-1. Comments received may be inspected 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 comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room. The public hearings will be held at the following locations:

 Kansas City: Kansas City Airport Marriott, 775 Brasilia Avenue, Kansas City, MO;

- 2. Sacramento: Holiday Inn Holidome, 5321 Date Avenue, Sacramento, CA;
- 3. Washington, DC: Jefferson Auditorium, U.S. Department of Agriculture, South Building, 14th Street and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew H. Royer, Chief Operations Officer, Biological Assessment and Taxonomic Support, Operational Support, Plant Protection and Quarantine, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during February. Telephone: (301) 436–8896 (Hyattsville); (301) 734–8896 (Riverdale).

SUPPLEMENTARY INFORMATION:

Public Hearings

Public hearings are scheduled to be held in Kansas City, MO, on March 6, 1995; in Sacramento, CA, on March 7, 1995; and in Washington, DC, on March 10, 1995.

A representative of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), will preside at each public hearing. Any interested person may appear and may be heard in person, by attorney, or by other representative. Written statements may be submitted and will be made part of the meeting record. Persons who wish to speak at a public hearing will be asked to provide their name and organization. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

Each public hearing will begin at 10 a.m. and is scheduled to end at 5 p.m., local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. If the number of speakers at the hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

The purpose of the hearings is to give interested persons an opportunity for the oral presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to the comments at the hearing, except to clarify or explain provisions of the proposed rule.

Background

The Secretary of Agriculture has authority under the Federal Plant Pest

Act, as amended (7 U.S.C. 150aa through 150jj) and the Plant Quarantine Act, as amended (7 U.S.C. 151 through 164a, 167) to regulate the movement of articles to prevent the introduction and dissemination into and within the United States of plant diseases, injurious insects, and other plant pests, hereinafter referred to as plant pests. APHIS has been delegated the authority to administer these and other related statutes and has promulgated regulations implementing these statutes in 7 CFR chapter III.

Many of the regulations in 7 CFR chapter III are designed to protect against the inadvertent dissemination of plant pests that may be associated with certain plants, plant parts, or other articles. For example, the foreign quarantine notices in 7 CFR part 319 contain regulations that restrict the importation and entry of, among other things, foreign cotton, sugarcane, fruits and vegetables, and coffee in order to prevent the entry of plant pests.

The regulations in 7 CFR chapter III also provide for the issuance of permits for the movement of plant pests into (importation) or through (transit shipment) the United States, or interstate. A person may apply to APHIS for a permit using the application process set forth in the plant pest regulations in 7 CFR 330.200. Under those regulations, APHIS will review an application and make a determination as to whether the movement of the plant pest can be accomplished in a manner that will prevent its dissemination. If adequate safeguards can be put into place to prevent the dissemination of the plant pest, APHIS may issue a permit for the movement into or through the United States, or interstate, of the plant pest.

The scope of the plant pest regulations in 7 CFR 330.200 is limited to the movement of known plant pests; the movement of nonindigenous organisms not known to present a plant pest risk, as well as the release of such organisms into the environment, are not addressed. A report on nonindigenous species prepared by the U.S. Congress' Office of Technology Assessment (OTA), "Harmful Non-Indigenous Species in the United States," (OTA-F-565, Washington, DC; U.S. Government Printing Office, September 1993) (referred to below as the OTA report) recommends that APHIS more closely examine any proposed introduction (importation, interstate movement, or release into the environment) into the United States of a nonindigenous organism. The OTA report cited losses in the billions of dollars that can be attributed to the negative effects of