

**§ 319.37-3 Permits.**

(a) The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs:

(1) Articles subject to treatment and other requirements of § 319.37-6;

(2) Articles subject to the postentry quarantine conditions of § 319.37-7;

(3) Bulbs of *Allium sativum* spp. (garlic), *Crocasmia* spp. (montebretia), *Glad-iolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand;

(4) Articles of *Cocos nucifera* (coco-nut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-wil-liam) from any country or locality ex-cept Canada;

(5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or lo-cality except Canada;

(6) Seeds of trees or shrubs from any country or locality except Canada;

(7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flow-ering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;

(8) Articles (except seeds) of *Castanea* spp. (chestnut) or *Castanopsis* spp. (chinquapin) destined to California or Oregon;

(9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wis-consin;

(10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Vir-ginia, or Wisconsin;

(11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado,

Michigan, New York, Washington, or West Virginia;

(13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;

(14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada and destined to California, Idaho, Montana, Oregon, or Utah; and

(16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon.

(17) *Solanum tuberosum* true seed from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37-5(o)).

(b) An application for a written per-mit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quar-antine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236) at least 30 days prior to arrival of the article at the port of entry. The completed applica-tion shall include the following infor-mation:<sup>4</sup>

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles in-tended to be imported;

(3) Country(ies) or locality(ies) where grown;

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) After receipt and review of the ap-plication by Plant Protection and Quarantine Programs, a written permit indicating the applicable conditions for importation under this subpart shall be

<sup>4</sup>Application forms are available without charge from the Animal and Plant Health In-spection Service, Plant Protection and Quar-antine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, local offices which are listed in telephone directories.

issued for the importation of articles described in the application if such articles under the conditions specified in the application appear to be eligible to be imported into the United States. Even though a written permit has been issued for the importation of an article, such article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) are necessary with respect to such article.<sup>5</sup>

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is

<sup>5</sup>Section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150ee (b) and (c)), any product or article, including any articles subject to this subpart, which is moving into or through the United States, and which he has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against prohibited and restricted articles which are not in compliance with the provisions of this subpart.

a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) are necessary with respect to such article.<sup>5</sup>

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

(44 U.S.C. 35)

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**§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 or, in the case of greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section, 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.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in the Plant Protection and Quarantine