

# Proposed Rules

Federal Register

Vol. 71, No. 100

Wednesday, May 24, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 00-014-2]

#### Phytosanitary Certificates for Fruits and Vegetables Imported in Passenger Baggage; Availability of a Risk Assessment

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

**ACTION:** Proposed rule; availability of risk assessment and request for comments.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared a risk assessment relative to a previously published proposal to require imported fruits and vegetables to be accompanied by a phytosanitary certificate. The risk assessment considers the plant pest risks associated with fruits and vegetables imported in passenger baggage and the probable impact of phytosanitary certification requirements. We are considering adopting only the proposed requirements that pertain to fruits and vegetables imported in air passenger baggage. We are making the risk assessment available to the public for review and comment.

**DATES:** We will consider all comments that we receive on or before July 24, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the "Search for Open Regulations" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select APHIS-2006-0092 to submit or view public comments and to view supporting and related materials available electronically. After the close

of the comment period, the docket can be viewed using the "Advanced Search" function in Regulations.gov.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 00-014-2, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-014-2.

**Reading Room:** You may read any comments that we receive on the risk assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert L. Griffin, Director, Plant Epidemiology and Risk Analysis Laboratory, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive Suite 1550, Raleigh, NC 27606-5202; (919) 513-1590.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Plant Protection Act (7 U.S.C. 7701-7772 and 7781-7786) authorizes the Secretary of Agriculture to prohibit or restrict the importation and entry into the United States of any plants and plant products, including fruits and vegetables, to prevent the introduction of plant pests or noxious weeds into the United States. Under this authority, the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) administers regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56 through 319.56-8) that prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

The regulations require some fruits and vegetables to be accompanied by a phytosanitary certificate (PC) to ensure

freedom from certain plant pests. PCs are in wide use in international trade. APHIS issues hundreds of thousands of PCs each year to facilitate the export of U.S. agricultural products to countries that require certificates to accompany such products.

On August 4, 1995, we published an advance notice of proposed rulemaking in the **Federal Register** (60 FR 39888-39889, Docket No. 95-046-1). The 1995 advance notice of proposed rulemaking sought comments on whether all fruits and vegetables imported into the United States should be accompanied by a PC. This included commercial shipments of fruits and vegetables as well as produce brought into the United States by individuals for personal use.

On August 29, 2001, we published in the **Federal Register** (66 FR 45637-45648, Docket No. 00-014-1) a proposal to amend the regulations to require that a PC accompany all fruits and vegetables imported into the United States, with certain exceptions. We proposed to require a PC for commercial shipments of produce imported into the United States, as well as for fruits and vegetables brought in by most travelers. We proposed to exempt fruits and vegetables that are dried, cured, frozen, or processed, as well as fruits and vegetables that individuals bring into the United States for personal use through land border ports located along the Canadian and Mexican borders.

We solicited comments concerning our proposal for 60 days ending October 29, 2001. We received a total of 47 comments by that date from domestic growers, importers, and other shippers of fruits and vegetables; farm bureaus, marketing associations, and trade associations; State departments of agriculture; foreign governments; and others. A majority of the comments received generally opposed the proposed rule. A smaller number of comments supported the concept of requiring PCs, but took exception with certain provisions in the proposal.

Several commenters who opposed the proposed rule stated that they did not believe that the risk-reduction benefits of requiring PCs were justified by the potential costs to commercial fruit and vegetable producers, importers, and others of complying with the requirements. Commenters also claimed that requiring phytosanitary certificates

without a risk analysis that considers that broad use would be inconsistent with international trade agreements. In response to these comments, at this time, we are considering adopting only the proposed requirements that pertain to fruits and vegetables imported in air passenger baggage and have prepared a risk assessment that provides the basis for that approach.

The risk assessment that we prepared pertains to the plant pest risk posed by fruits and vegetables imported in air passenger baggage. We are making the risk assessment, titled "Qualitative Assessment of Plant Pest Risk Associated with Fruits and Vegetables in Passenger Baggage and the Probable Impact of Phytosanitary Certification Requirements," available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

After reviewing the comments, if it still appears to be an appropriate course of action, we anticipate issuing a final rule to PCs for fruits and vegetables imported for personal use by air passengers. We may at some future time, reconsider some of the other provisions discussed in the original proposed rule, such as requiring PCs for certain commercial shipments.

The risk assessment may be viewed on the Internet on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov). You may also request paper copies of the risk assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the risk assessment when requesting copies. The risk assessment is also available for review in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice).

**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.

Done in Washington, DC, this 18th day of May 2006.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–7923 Filed 5–23–06; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[REG–139059–02]

RIN 1545–BB86

#### Expenses for Household and Dependent Care Services Necessary for Gainful Employment

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations regarding the credit for expenses for household and dependent care services necessary for gainful employment. The proposed regulations reflect statutory amendments under the Deficit Reduction Act of 1984, the Omnibus Budget Reconciliation Act of 1987, the Family Support Act of 1988, the Small Business Job Protection Act of 1996, the Economic Growth and Tax Relief Reconciliation Act of 2001, the Job Creation and Worker Assistance Act of 2002, and the Working Families Tax Relief Act of 2004. The proposed regulations affect taxpayers who claim the credit for household and dependent care services and dependent care providers.

**DATES:** Written or electronic comments must be received by August 22, 2006.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG–139059–02), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–139059–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS and REG–139059–02).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Sara Shepherd (202) 622–4960; Concerning submissions of comments or a request for a public hearing, Richard Hurst, [richard.a.hurst@irs.counsel.treas.gov](mailto:richard.a.hurst@irs.counsel.treas.gov), or (202) 622–7180 (not toll free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed amendments to the Income Tax

Regulations, 26 CFR part 1, relating to the credit for household and dependent care services necessary for gainful employment (the credit) under section 21 of the Internal Revenue Code (Code).

The credit was originally enacted as section 44A. Final regulations under section 44A were published as "1.44A–1 through 1.44–4 on August 27, 1979 (section 44A regulations). Section 44A was amended and renumbered section 21 by sections 423 and 471, respectively, of the Deficit Reduction Act of 1984 (Pub. L. 98–369, 98 Stat. 494). Section 21 was amended by section 10101 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203, 101 Stat. 1330), section 703 of the Family Support Act of 1988 (Pub. L. 100–485, 102 Stat. 2343), section 1615 of the Small Business Job Protection Act of 1996 (Pub. L. 104–188, 110 Stat. 1755), section 204 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16, 115 Stat. 38), section 418 of the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107–147, 116 Stat. 21), and sections 203 and 207 of the Working Families Tax Relief Act of 2004 (Pub. L. 108–311, 118 Stat. 1166), as well as other legislation that enacted clerical and conforming changes.

Section 21 allows a nonrefundable credit for a percentage of expenses for household and dependent care services necessary for gainful employment. For taxable years beginning after December 31, 2004, the credit is available to a taxpayer if there are one or more qualifying individuals with respect to that taxpayer. For those years, a *qualifying individual* is defined in section 21(b)(1) as the taxpayer's dependent (as defined in section 152(a)(1)) who has not attained age 13, the taxpayer's dependent who is physically or mentally incapable of self-care and who has the same principal place of abode as the taxpayer for more than one-half of the taxable year, or the taxpayer's spouse who is physically or mentally incapable of self-care and who has the same principal place of abode as the taxpayer for more than one-half of the taxable year.

For taxable years beginning before January 1, 2005, the credit is available to taxpayers who maintained households that include one or more qualifying individuals. For those years, a *qualifying individual* is defined in section 21(b)(1) as the taxpayer's dependent (as defined in section 151(c) as then in effect) under age 13, the taxpayer's dependent who is physically or mentally incapable of self-care, or the taxpayer's spouse who is physically or mentally incapable of self-care.