

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 371

[Docket No. 05-012-1]

#### Noxious Weed Control and Eradication Act; Delegation of Authority

**AGENCY:** Office of the Secretary and Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document delegates the authority given to the Secretary of Agriculture under the Noxious Weed Control and Eradication Act of 2004 to establish a program to provide financial and technical assistance to control or eradicate noxious weeds. Authority is delegated from the Secretary of Agriculture to the Under Secretary for Marketing and Regulatory Programs; from that official to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Plant Protection and Quarantine. In addition, this document also removes references to statutes that were repealed upon enactment of the Plant Protection Act and statutes that were repealed upon enactment of the Animal Health Protection Act.

**DATES:** *Effective Date:* September 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan V. Tasker, Noxious Weeds Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1237; (301) 734-5225.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Noxious Weed Control and Eradication Act of 2004 (Pub. L. 108-412) amended the Plant Protection Act (PPA, Pub. L. 106-224, 7 U.S.C. 7701-7772) by adding a new subtitle, "Subtitle E—Noxious Weed Control and Eradication" (7 U.S.C. 7781-7786), which authorizes the Secretary of Agriculture to establish a program to provide financial and technical assistance to control or eradicate noxious weeds. This rule delegates that authority from the Secretary of Agriculture to the Under Secretary for Marketing and Regulatory Programs; from that official to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Plant Protection and Quarantine.

This rule also amends the delegations of authority to remove references to statutes that were repealed upon enactment of the PPA and the Animal Health Protection Act (AHPA, Pub. L. 107-171, 7 U.S.C. 8301-8317).

The PPA repealed the following statutes:

1. The Plant Quarantine Act (7 U.S.C. 151-164a, 167);
2. The Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*, 7 U.S.C. 147a note);
3. Parts of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802 through 2813). Section 1 and section 15 of the Federal Noxious Weed Act were not repealed (7 U.S.C. 2801 note; 7 U.S.C. 2814);
4. The Mexican Border Act (7 U.S.C. 149);
5. The Insect Control Act (7 U.S.C. 148 *et seq.*);
6. The Halogen Glomeratus Act (7 U.S.C. 1651 *et seq.*);
7. The Golden Nematode Act (7 U.S.C. 150 *et seq.*);
8. Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f); and
9. Subsections (a) through (e) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

The AHPA repealed the following statutes:

1. Pub. L. 97-46 (7 U.S.C. 147b);
2. Section 101(b) of the Act of September 21, 1944 (7 U.S.C. 429);
3. The Act of August 28, 1950 (7 U.S.C. 2260);

4. Section 919 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2260a);

5. Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306);

6. Sections 6 through 8 and 10 of the Act of August 30, 1890 (21 U.S.C. 102 through 105);

7. The Act of February 2, 1903 (21 U.S.C. 111, 120 through 122);

8. Sections 2 through 9, 11, and 13 of the Act of May 29, 1884 (21 U.S.C. 112, 113, 114, 114a, 114a-1, 115 through 120, 130);

9. The first section and sections 2, 3, and 5 of the Act of February 28, 1947 (21 U.S.C. 114b, 114c, 114d, 114d-1);

10. The Act of June 16, 1948 (21 U.S.C. 114e, 114f);

11. Public Law 87-209 (21 U.S.C. 114g, 114h);

12. The third and fourth provisos of the fourth paragraph under the heading "Bureau of Animal Industry" of the Act of May 31, 1920 (21 U.S.C. 116);

13. The first section and sections 2, 3, 4, and 6 of the Act of March 3, 1905 (21 U.S.C. 123 through 127);

14. The first proviso under the heading "General expenses, Bureau of Animal Industry" under the heading "BUREAU OF ANIMAL INDUSTRY" of the Act of June 30, 1914 (21 U.S.C. 128);

15. The fourth proviso under the heading "Salaries and Expenses" under the heading "Animal and Plant Health Inspection Service" of title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (21 U.S.C. 129);

16. The third paragraph under the heading "MISCELLANEOUS" of the Act of May 26, 1910 (21 U.S.C. 131);

17. The first section and sections 2 through 6 and 11 through 13 of Public Law 87-518 (21 U.S.C. 134 through 134h);

18. Public Law 91-239 (21 U.S.C. 135 through 135b);

19. Sections 12 through 14 of the Federal Meat Inspection Act (21 U.S.C. 612 through 614); and

20. Chapter 39 of title 46, United States Code.

We will further amend title 7 and title 9 of the Code of Federal Regulations in a future rulemaking action to update authority citations for the Plant Protection Act.

This rule relates to internal agency management. Therefore, this rule is

exempt from the provisions of Executive Order 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the Federal Register. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121. Finally, this action is not a rule as defined by 5 U.S.C. 601 et seq., the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects

7 CFR Part 2

Authority delegations (Government agencies).

7 CFR Part 371

Organization and functions (Government agencies).

Accordingly, 7 CFR parts 2 and 371 are amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949-1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

2. In § 2.22, paragraph (a)(2) is amended as follows:

a. By removing paragraphs (a)(2)(ii) through (a)(2)(vi), paragraphs (a)(2)(ix) through (a)(2)(xvii), and paragraph (a)(2)(xix).

b. By redesignating paragraphs (a)(2)(vii) and (a)(2)(viii) as paragraphs (a)(2)(ii) and (a)(2)(iii), paragraph (a)(2)(xviii) as (a)(2)(iv), and paragraphs (a)(2)(xx) through (a)(2)(xli) as paragraphs (a)(2)(v) through (a)(2)(xxv), respectively.

c. By revising newly redesignated paragraphs (a)(2)(iv), (a)(2)(xi), (a)(2)(xv), and (a)(2)(xxxi) to read as set forth below.

§ 2.22 Under Secretary for Marketing and Regulatory Programs.

- (a) \* \* \*
(2) \* \* \*

(iv) Section 18 of the Federal Meat Inspection Act, as amended, as it pertains to the issuance of certificates of

condition of live animals intended and offered for export (21 U.S.C. 618);

\* \* \* \* \*

(xi) Virus-Serum-Toxin Act (21 U.S.C. 151-159).

\* \* \* \* \*

(xv) The Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 note; 2814).

\* \* \* \* \*

(xxxi) Plant Protection Act, as amended (7 U.S.C. 7701-7786).

\* \* \* \* \*

Subpart N—Delegations of Authority by the Under Secretary for Marketing and Regulatory Programs

3. In § 2.80, paragraph (a) is amended as follows:

a. By removing paragraphs (a)(2) through (a)(6), paragraphs (a)(9) through (a)(17), and paragraph (a)(19).

b. By redesignating paragraphs (a)(7) and (a)(8) as paragraphs (a)(2) and (a)(3), paragraph (a)(18) as (a)(4), and paragraphs (a)(20) through (a)(56) as paragraphs (a)(5) through (a)(41), respectively.

c. By revising newly redesignated paragraphs (a)(4), (a)(11), (a)(16), and (a)(36) to read as set forth below.

§ 2.80 Administrator, Animal and Plant Health Inspection Service.

(a) \* \* \*

(4) Section 18 of the Federal Meat Inspection Act, as amended, as it pertains to the issuance of certificates of condition of live animals intended and offered for export (21 U.S.C. 618).

\* \* \* \* \*

(11) Virus-Serum-Toxin Act (21 U.S.C. 151-159).

\* \* \* \* \*

(16) The Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 note; 2814).

\* \* \* \* \*

(36) Plant Protection Act, as amended (7 U.S.C. 7701-7786).

\* \* \* \* \*

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

4. The authority citation for part 371 continues to read as follows:

Authority: 5 U.S.C. 301.

5. In § 371.3, paragraph (b)(2)(x) is revised to read as follows:

§ 371.3 Plant protection and quarantine.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(x) Plant Protection Act, as amended (7 U.S.C. 7701-7786).

\* \* \* \* \*

6. In § 371.4, paragraph (b) is amended as follows:

a. By removing paragraphs (b)(3)(i) through (b)(3)(viii), and paragraph (b)(3)(x).

b. By redesignating paragraphs (b)(3)(ix) as paragraph (b)(3)(i) and paragraphs (b)(3)(xi) through (b)(3)(xxiv) as paragraphs (b)(3)(ii) through (b)(3)(xv), respectively.

c. By revising newly redesignated paragraph (b)(3)(i) to read as set forth below.

§ 371.4 Veterinary Services.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(i) Section 18 of the Federal Meat Inspection Act, as amended, as it pertains to the issuance of certificates of condition of live animals intended and offered for export (21 U.S.C. 618).

\* \* \* \* \*

For Part 2, Subpart C:

Dated: September 20, 2005.

Mike Johanns,

Secretary of Agriculture.

For Part 2, Subpart N:

Dated: September 20, 2005.

Charles D. Lambert,

Acting Under Secretary for Marketing and Regulatory Programs.

For Part 371:

Dated: September 20, 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05-19044 Filed 9-22-05; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

RIN 0518-AA02

National Arboretum

AGENCY: Agricultural Research Service; Research, Education, and Economics; USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is modifying the rules of conduct at the United States National Arboretum (USNA) and the schedule of fees to be charged for certain uses of the facilities, grounds, and services at the USNA.