

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This proposed rule would add Atlanta, GA, and Agana, GU, as ports of entry through which individuals and companies would be able to import nursery stock. This action would save business costs to concerned individuals and companies, making the routing of nursery stock materials to other authorized entry ports unnecessary.

We are amending the regulations governing the importation of nursery stock and other articles by designating the ports of Atlanta, Georgia, and Agana, Guam, as plant inspection stations. The addition of the two plant inspection stations will help reduce transportation time and costs to importers who must currently import plants through inspection stations that are considerably distant from the importers' facilities.

The United States imported about 700 million plant units in 2002, about 4.6 percent over the previous year and 21 percent above 2000 level.¹ Nursery stock imports were valued at \$591 million in 2002, an increase of about 135 percent over a decade ago. The major sources are Canada (50.4 percent), Netherlands (25.5 percent), Costa Rica (3.9 percent), Mexico (2.7 percent), and Taiwan (2.2 percent). Nursery stock exports were valued at \$250 million in 2002, about 13 percent over 1992 total.²

Planting seeds are imported from many countries, with a few countries accounting for the major proportion of U.S. total planting seed imports. The leading suppliers are Chile (\$105.8 million), Canada (\$105 million), the Netherlands (\$36.5 million), Argentina (\$21.2 million), China (\$17.9 million), Japan (\$14 million), Finland (\$11.1 million), Australia (\$8.3 million), Denmark (\$7.5 million), and India (\$7.1

million) in 2001.³ These 10 countries accounted for \$334.4 million, or about 84 percent, of total U.S. planting seed imports.

Nursery Stock Industry

The availability of good quality nursery stock and seeds contributes to domestic production of food grains, field crops, cotton, oil crops, vegetables, herbs, flowers, trees, and shrubs. Presently, imported nursery stock and seeds can enter the United States with a phytosanitary certificate through 14 approved plant inspection stations. Atlanta, GA, and Agana, GU, though not listed as approved Federal plant inspection stations, currently serve as ports of entry for other restricted articles that do not require a permit. The new facilities in Georgia and Guam have the capacity and resources to handle the importation of nursery stock and seeds, which will allow them to be listed as plant inspection stations.

This action may result in reduced costs for importers by making the routing of nursery stock materials through another plant inspection station unnecessary when the materials are destined for the regions of Atlanta, GA, or Agana, GU. Importers and distributors both in Atlanta, GA, and Agana, GU, should benefit from transportation cost savings and reduced plant injury that can result during transport.

The Agana International Airport serves Guam and surrounding islands, which are growing tourist centers. Currently, most of the nursery stock imported into Guam is routed through Hawaii. Very little is imported from Asian sources because of the time and cost involved in shipping to Federal plant inspection stations in Hawaii and then to Guam. Additionally, plant mortality is high due to the additional time involved routing through Honolulu, HI, which is a major factor apart from the shipping cost. The direct air cargo cost from Narita, Japan, to Honolulu, HI, is \$11.96 per kilogram and from Hawaii to Guam is \$6.65 per kilogram for a total routing cost from Narita to Guam of \$18.61 per kilogram. The direct air cargo cost from Narita to Guam is \$7.04 per kilogram. Thus, as Agana becomes an approved Federal plant inspection station, importers will benefit from direct importation of nursery stock materials from Japan, Taiwan, China, the Philippines, and other Asian countries through reduced transportation costs. Presently there are

20 establishments engaged in nursery stock trade in Guam. The number of establishments that import nursery stock may increase because of the reduced transportation costs, reduced time, and lower probability of damaged plants.

The Hartsfield Atlanta International Airport is becoming a major air cargo hub. It is an entry port for other restricted articles that do not require a permit and is much closer to most nursery stock importers from the surrounding areas and States (northern Alabama, North Carolina, South Carolina, southern Virginia, Kentucky, and Tennessee) than any of the other closest Federal plant inspection stations in Miami, FL, New Orleans, LA, and Orlando, FL. There are about 470 retail nursery companies in Georgia alone, of which 141 are in metropolitan areas. Nursery retailers from the surrounding areas that import products would benefit from reduced routing costs and reduced mortality of plants that usually occurs from multiple box openings for inspection and from the longer time elapsed between the place of origin and the final destination.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The Small Business Administration (SBA) has established the size standards for determining which economic entities meet the definition of a small firm. A retail nursery or lawn and garden store (NAICS code 444220)⁴ is defined as a small business if it employs 100 or fewer workers. Resort hotels, golf courses, and local governments that use nursery stock for parks and landscaping could be affected. Additionally, specialized groups such as horticultural societies, arboreta, and individual plant hobbyists who import and exchange nursery stock and small lots of seed could also be affected.

Nationally, there are 6,845 establishments that are engaged in selling trees, shrubs, other plants, seeds, bulbs, mulch, and related products (NAICS 444220). About 470 of these are in Georgia, including the Atlanta metropolitan area. There are 20 companies currently engaged in nursery stock trade in Guam. Over 99 percent are small entities. However, specialized groups such as horticultural societies, arboreta, several resort hotels, golf courses, and local governments that use imported plants for landscaping

¹ USDA/APHIS/PPQ, WADS Database, June 2003.

² USDA/ERS, *Foreign Agricultural Trade of the United States*, June 30, 2003.

³ USDA/FAS, FAS Online: U.S. Planting Seed Trade Archives (http://www.fas.usda.gov/seed_arc.html)

⁴ U.S. Census Bureau, 1997 Economic Census, Wholesale Trade-Subject Series, August 2000.