

§ 356.8

mitigation of forfeiture while the property is in the custody of the Deputy Administrator.

(b) A petition filed with the Deputy Administrator need not be in any particular form, but must contain the following:

- (1) A description of the property;
- (2) The time, date, and place of seizure;
- (3) Evidence of the petitioner’s interest in the property such as contracts, bills of sale, invoices, security interests, certificates of title; and
- (4) A statement of all facts and circumstances relied upon by the petitioners to justify remission or mitigation of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner’s attorney at law. If the petitioner is a business, the petition must be signed by a partner, officer, or petitioner’s attorney at law.

(d) Upon receiving the petition, the Deputy Administrator shall decide whether or not to grant relief. In making a decision, the Deputy Administrator shall consider the information submitted by the petitioner, as well as any other available information relating to the matter, and may require that testimony be taken concerning the petition.

(e) If the Deputy Administrator finds that the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law or finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Deputy Administrator may remit or mitigate the same upon terms and conditions as he deems reasonable and just. However, remission or mitigation will not be made if such action would frustrate the purposes of the Act or Convention. As an example, this section does not allow remission or mitigation with respect to terrestrial plants that are without documentation required under 50 CFR chapter I.

(f) The Deputy Administrator shall notify the petitioner in writing concerning whether the petition was granted or denied, and shall state the reasons therefor. If the petition is denied fully or in part, the petitioner

may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Deputy Administrator’s notification concerning the original petition. The Deputy Administrator shall notify the petitioner in writing concerning the action taken in response to the supplemental petition, and shall state the reasons therefor.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 356.8 Return procedure.

If, at the conclusion of proceedings, seized property is to be returned to the person determined to be the owner or agent thereof, the Deputy Administrator shall issue a letter or other document to the person determined to be owner or agent thereof authorizing its return. This letter shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the person determined to be the owner or agent, the seized property, and if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by Plant Protection and Quarantine, the seized property is authorized to be released.

§ 356.9 Filing of documents.

(a) Any document required by this subpart to be filed or served within a certain period of time, will be considered filed or served as of the time of receipt by the party with or upon whom filing or service is required.

(b) Saturdays, Sundays, and federal holidays shall be included in computing the time allowed for the filing or serving of any document or paper; except that when such time expires on a Saturday, Sunday or federal holiday, such period shall be extended to include the next following business day.

PART 360—NOXIOUS WEED REGULATIONS

- Sec. 360.100 Definitions.
- 360.200 Designation of noxious weeds.

360.300 Permits for movement of noxious weeds.

AUTHORITY: 7 U.S.C. 2803 and 2809; 7 CFR 2.22, 2.80, and 371.2(c).

§ 360.100 Definitions.

(a) As used in this part, words in the singular form shall be deemed to import the plural and vice versa, as the case may require.

(b) As used in this part, the terms as defined in section 3 of the Act (7 U.S.C. 2802) shall apply with equal force and effect. In addition and except as may be provided otherwise in this part the following words shall be construed, respectively, to mean:

Department. The U.S. Department of Agriculture.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service of the Department, or any other officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

Plant Protection and Quarantine Programs. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department.

[41 FR 49988, Nov. 12, 1976]

§ 360.200 Designation of noxious weeds.¹

Pursuant to the provisions of section 10 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2809) the Secretary of Agriculture, after publication of the required notice of proposal and after public hearing on the proposal when requested by any interested person, has determined based upon the information received at any such hearing and other information available to the Secretary, that the following plants are within

¹One or more common names of weeds are given in parentheses after most scientific names to help identify the weeds represented by such scientific names; however, a scientific name is intended to include all weeds within the genus or species represented by the scientific name, regardless of whether the common name or names are as comprehensive in scope as the scientific name.

the definition of a "noxious weed" in section 3(c) of the Act (7 U.S.C. 2802(c)) and that their dissemination in the United States may reasonably be expected to have, to a serious degree, an effect specified in said section 3(c) of the Act:

(a) *Aquatic weeds:*

Azolla pinnata R. Brown (mosquito fern, water velvet)

Eichornia azurea (Swartz) Kunth (anchored waterhyacinth, rooted waterhyacinth)

Hydrilla verticillata (Linnaeus f.) Royle (hydrilla)

Hygrophila polysperma T. Anderson (Miramar weed)

Ipomoea aquatica Forsskal (water-spinach, swamp morning-glory)

Lagarosiphon major (Ridley) Moss

Limnophila sessiliflora (Vahl) Blume (ambulia)

Melaleuca quinquinervia (Cav.) Blake (broad-leaf paper bark tree).

Monochoria hastata (Linnaeus) Solms-Laubach

Monochoria vaginalis (Burman f.) C. Presl

Ottelia alismoides (L.) Pers.

Sagittaria sagittifolia Linnaeus (arrowhead)

Salvinia auriculata Aublet (giant salvinia)

Salvinia biloba Raddi (giant salvinia)

Salvinia herzogii de la Sota (giant salvinia)

Salvinia molesta D.S. Mitchell (giant salvinia)

Sparganium erectum Linnaeus (exotic bur-reed)

(b) *Parasitic weeds:*

Aeginetia spp.

Alectra spp.

Cuscuta spp. (dodders), other than following species:

Cuscuta americana Linnaeus

Cuscuta appplanata Engelm

Cuscuta approximata Babington

Cuscuta attenuata Waterfall

Cuscuta boldinghii Urban

Cuscuta brachycalyx (Yuncker) Yuncker

Cuscuta californica Hooker & Arnott

Cuscuta campestris Yuncker

Cuscuta cassyoides Nees ex Engelm

Cuscuta ceanothii Behr

Cuscuta cephalanthii Engelm

Cuscuta compacta Jussieu

Cuscuta corylii Engelm

Cuscuta cuspidata Engelm

Cuscuta decipiens Yuncker

Cuscuta dentatasquamata Yuncker

Cuscuta denticulata Engelm

Cuscuta epilinum Weihe

Cuscuta epithimum (Linnaeus) Linnaeus

Cuscuta erosa Yuncker

Cuscuta europaea Linnaeus

Cuscuta exalta Engelm

Cuscuta fasciculata Yuncker

Cuscuta glabrior (Engelm) Yuncker

Cuscuta globulosa Bentham

- Cuscuta glomerata* Choisy
Cuscuta gronovii Willdenow
Cuscuta harperi Small
Cuscuta howelliana Rubtsoff
Cuscuta indecora Choisy
Cuscuta jepsonii Yuncker
Cuscuta leptantha Engelm
Cuscuta mitriformis Engelm
Cuscuta nevadensis I. M. Johnston
Cuscuta obtusiflora Humboldt, Bonpland, & Kunth
Cuscuta occidentalis Millspaugh ex Mill & Nuttall
Cuscuta odontolepis Engelm
Cuscuta pentagona Engelm
Cuscuta planiflora Tenore
Cuscuta plattensis A. Nelson
Cuscuta polygonorum Engelm
Cuscuta rostrata Shuttleworth ex Engelm
Cuscuta runyonii Yuncker
Cuscuta salina Engelm
Cuscuta sandwichiana Choisy
Cuscuta squamata Engelm
Cuscuta suaveolens Seringe
Cuscuta suksdorfii Yuncker
Cuscuta tuberculata Brandege
Cuscuta umbellata Humboldt, Bonpland, & Kunth
Cuscuta umbrosa Beyrich ex Hooker
Cuscuta vetchii Brandege
Cuscuta warneri Yuncker
Orobanche spp. (broomrapes), other than the following species:
Orobanche bulbosa (Gray) G. Beck
Orobanche californica Schlechtendal & Chamisso
Orobanche cooperi (Gray) Heller
Orobanche corymbosa (Rydberg) Ferris
Orobanche dugesii (S. Watson) Munz
Orobanche fasciculata Nuttall
Orobanche ludoviciana Nuttall
Orobanche multicaulis Brandege
Orobanche parishii (Jepson) Heckard
Orobanche pinorum Geyer ex Hooker
Orobanche uniflora Linnaeus
Orobanche valida Jepson
Orobanche vallicola (Jepson) Heckard
Striga spp. (witchweeds)
(c) *Terrestrial weeds*:
Ageratina adenophora (Sprengel) King & Robinson (crofton weed)
Alternanthera sessilis (Linnaeus) R. Brown ex de Candolle (sessile joyweed)
Asphodelus fistulosus Linnaeus (onionweed)
Avena sterilis Linnaeus (including *Avena ludoviciana* Durieu) (animated oat, wild oat)
Borreria alata (Aublet) de Candolle
Carthamus oxyacantha M. Bieberstein (wild safflower)
Chrysopogon aciculatus (Retzius) Trinius (pilipiliula)
Commelina benghalensis Linnaeus (Benghal dayflower)
Crupina vulgaris Cassini (common crupina)
Digitaria scalarum (Schweinfurth) Chiovenda (African couchgrass, fingergrass)
Digitaria velutina (Forsskal) Palisot de Beauvois (velvet fingergrass, annual conchgrass)
Drymaria arenarioides Humboldt & Bonpland ex Roemer & Schultes (lightning weed)
Emex australis Steinheil (three-cornered jack)
Emex spinosa (Linnaeus) Campdera (devil's thorn)
Galega officinalis Linnaeus (goatsrue)
Heracleum mantegazzianum Sommier & Levier (giant hogweed)
Imperata brasiliensis Trinius (Brazilian satintail)
Imperata cylindrica (Linnaeus) Raeuschel (cogongrass)
Ipomoea triloba Linnaeus (little bell, aiea morning-glory)
Ischaemum rugosum Salisbury (murainograss)
Leptochloa chinensis (Linnaeus) Nees (Asian sprangletop)
Lycium ferocissimum Miers (African boxthorn)
Melastoma malabathricum Linnaeus
Mikania cordata (Burman f.) B. L. Robinson (mile-a-minute)
Mikania micrantha Humboldt, Bonpland, & Kunth
Mimosa invisa Martius (giant sensitive plant)
Mimosa pigra Linnaeus var. *pigra* (catclaw mimosa)
Nassella trichotoma (Nees) Hackel ex Arechavaleta (serrated tussock)
Opuntia aurantiaca Lindley (jointed prickly pear)
Oryza longistaminata A. Chevalier & Roehrich (red rice)
Oryza punctata Kotschy ex Steudel (red rice)
Oryza rufipogon Griffith (red rice)
Paspalum scrobiculatum Linnaeus (Kodo-millet)
Pennisetum clandestinum Hochstetter ex Chiovenda (kikuyugrass)
Pennisetum macrourum Trinius (African feathergrass)
Pennisetum pedicellatum Trinius (kyasumagrass)
Pennisetum polystachion (Linnaeus) Schultes (missiongrass, thin napiergrass)
Prosopis alata R. A. Philippi
Prosopis argentina Burkart
Prosopis articulata S. Watson
Prosopis burkartii Munoz
Prosopis caldenia Burkart
Prosopis calingastana Burkart
Prosopis campestris Griseback
Prosopis castellanosi Burkart
Prosopis denudans Benth
Prosopis elata (Burkart) Burkart
Prosopis farcta (Solander ex Russell) Macbride
Prosopis ferox Grisebach
Prosopis fiebrigii Harms
Prosopis hassleri Harms
Prosopis humilis Gillies ex Hooker & Arnott
Prosopis kuntzei Harms

Prosopis pallida (Humboldt & Bonpland ex Willdenow) Humboldt, Bonpland, & Kunth
Prosopis palmeri S. Watson
Prosopis reptans Benth. var. *reptans*
Prosopis rojasiana Burkart
Prosopis ruizlealii Burkart
Prosopis ruscifolia Grisebach
Prosopis sericantha Gillies ex Hooker & Arnott
Prosopis strombulifera (Lamarck) Benth.
Prosopis torquata (Cavanilles ex Lagasca y Segura) de Candolle
Rottboellia exaltata Linnaeus f. (itchgrass, raulgrass)
Rubus fruticosus Linnaeus (complex) (wild blackberry)
Rubus moluccanus Linnaeus (wild raspberry)
Saccharum spontaneum Linnaeus (wild sugarcane)
Salsola vermiculata Linnaeus (wormleaf salsola)
Setaria pallide-fusca (Schumacher) Stapf & Hubbard (cattail grass)
Solanum torvum Swartz (turkeyberry)
Solanum viarum Dunal (tropical soda apple)
Tridax procumbens Linnaeus (coat buttons)
Urochloa panicoides Beauvois (liverseed grass)

[48 FR 20039, May 4, 1983, as amended at 49 FR 25223, June 20, 1984; 57 FR 8838, Mar. 13, 1992; 60 FR 35832, July 12, 1995]

§ 360.300 Permits for movement of noxious weeds.

(a) The Deputy Administrator shall issue a written permit for the movement of a noxious weed into or through the United States if application is made for such movement and if he determines that such movement under conditions specified in the permit would not involve a danger of dissemination of the noxious weed in the United States; otherwise such a permit shall not be issued. Application for such movement shall be made by filing a completed form of application with the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road, Unit 136, Riverdale, Maryland 20737-1236.¹

(b) All such permits issued shall contain in written form in the permit any conditions (other than those conditions

specified in this part) under which the permit is to be granted, e.g. conditions with respect to shipment, storage, and destruction.

(c) If the permit is denied, the applicant shall be furnished the reasons therefor.

(d) The Deputy Administrator may revoke any outstanding permit issued under this section if he determines that there has been a failure to comply with any provision of the Act or this section, including conditions written on the permit. Upon request, any permit holder will be afforded an opportunity for a hearing with respect to the merits or validity of any such revocation involving his permit.

(Approved by the Office of Management and Budget under control number 0579-0054)

(44 U.S.C. 35)

[41 FR 49988, Nov. 12, 1976, as amended at 48 FR 57466, Dec. 30, 1983; 59 FR 67611, Dec. 30, 1994]

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

Sec.

361.1 Definitions.

361.2 General restrictions on the importation of seed and screenings.

361.3 Declarations and labeling.

361.4 Inspection at the port of first arrival.

361.5 Sampling of seeds.

361.6 Noxious weed seeds.

361.7 Special provisions for Canadian-origin seed and screenings.

361.8 Cleaning of imported seed and processing of certain Canadian-origin screenings.

361.9 Recordkeeping.

361.10 Costs and charges.

AUTHORITY: 7 U.S.C. 1581-1610; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 62 FR 48460, Sept. 16, 1997, unless otherwise noted.

§ 361.1 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

¹ Such forms of application are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road, Unit 136, Riverdale, Maryland 20737-1236, or local PPQ offices which are listed in telephone directories.