

§ 355.11 General permits.³

(a) On or after March 26, 1985 no person shall engage in business as an importer, exporter, or reexporter of any terrestrial plants listed in 50 CFR 17.12 or 23.23 unless such person has obtained a general permit for engaging in such business from Plant Protection and Quarantine.

(b) An application for a general permit shall be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, 4700 River Road, Unit 139, Riverdale, Maryland 20737-1236. The completed application shall include the following information:⁴

- (1) Date of application;
- (2) Applicant's name, mailing address, and telephone number;
- (3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;
- (4) If the applicant is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address of each partner, officer, director, holder, and owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;
- (5) The address of all applicants' business locations, including but not limited to locations of nurseries, growing

fields, propagating beds, holding beds and similar facilities where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;

(6) A brief and complete description of the nature of the applicant's business as it relates to engaging in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;

(8) Name, address, and telephone number of the person authorized to make records or plant inventories available for examination by inspectors or other duly authorized representatives of the Secretary; and

(9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) after the following language: "I hereby certify that the information in this application is complete and accurate to the best of my knowledge and belief."

(c) Each application for a general permit must be accompanied by a check or money order for \$70 made payable to Plant Protection and Quarantine. The fee shall not be refunded if the application is denied or abandoned.

(d) After receipt and review of the application by Plant Protection and Quarantine, a general permit for the importation, exportation, and reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 shall be issued if the applicant has submitted an application containing all information requested in paragraph (b) of this section, if the applicant has paid the fee in accordance with paragraph (c) of this section, and if a general permit of the applicant or anyone responsibly connected with the business of the applicant has not been and is not denied, suspended or revoked pursuant to paragraph (i) of this section.

(e) The applicant shall be notified in writing by Plant Protection and Quarantine of the approval or denial of any request for a general permit. If a general permit is denied, the notification shall state the reasons therefor. If a general permit is denied, the applicant

³ This permit is named a "general permit" in order to avoid confusion with "permits" obtained under the Act from the U.S. Department of the Interior to accompany the importation, exportation, or reexportation of plants under U.S. Department of the Interior regulations, and to avoid confusion with "permits" obtained from Plant Protection and Quarantine for the importation of plants under the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*) and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*).

⁴ Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, 4700 River Road, Unit 139, Riverdale, Maryland 20737-1236, or from local offices at any of the ports designated in 50 CFR part 24. Telephone numbers and addresses of local offices are listed in telephone directories.

may request a hearing pursuant to paragraph (i)(1) of this section and may submit to Plant Protection and Quarantine, in writing, reasons why the permit should not have been denied. Such submissions of the applicant shall not be considered a new application if submitted within 60 days following the receipt of notification of the denial by the applicant.

(f) Upon receipt of an incomplete or improperly executed application, the applicant shall be notified by Plant Protection and Quarantine of the deficiency of the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the receipt of the notification by the applicant, the application shall be considered abandoned.

(g) Upon receipt of an application filed with an insufficient fee, or without a fee, the application and any fee submitted will be returned to the applicant.

(h) A general permit shall be valid for 2 years from the date of issuance unless suspended or revoked pursuant to paragraph (i) of this section. A new application must be submitted for the renewal of the general permit. A general permit shall not be transferred, tampered with, amended or otherwise altered in any manner or form by any person.

(i)(1) Any application for a general permit may be denied and any general permit which has been issued may be suspended or revoked for a time specified by the Deputy Administrator for any of the reasons provided in paragraph (i)(2) of this section. Before such action is taken, the applicant or permittee will be informed of the reasons for the proposed action, and upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, such denial, suspension or revocation may become effective pending final determination in the proceeding, if the permittee has been convicted or a criminal violation of the Act, or of

any regulation, permit, or certificate issued under the Act. Such denial, suspension or revocation shall be effective upon oral or written notification, whichever is earlier, to the permittee. In the event of oral notification of the denial, suspension or revocation, written confirmation shall be given to the permittee as promptly as circumstances allow. This denial, suspension or revocation shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(2) An application for a general permit may be denied and any general permit which has been issued may be suspended or revoked if:

(i) Any requirement of this subpart is not complied with, or

(ii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been criminally convicted or had a civil penalty imposed for a violation of the Act or of any regulation, permit, or certificate issued under the Act, or

(iii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23.

(3) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the applicant or permittee if the person is a partner, officer, director, holder, or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

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