shall specify that comments will be accepted from the public on the filed petition during a 60 day period commencing with the date of the notice. During the comment period, any interested person may submit to the Administrator, written comments, regarding the filed petition, which shall become part of the petition file.

(3) The Administrator shall, based upon available information, furnish a response to each petitioner within 180 days of receipt of a completed petition. The response will either:

(i) Approve the petition in whole or in part; or

(ii) deny the petition.

The petitioner shall be notified in writing of the Administrator's decision. The decision shall be placed in the public petition file in the offices of APHIS and notice of availability published in the FEDERAL REGISTER.

(e) *Extensions to determinations of nonregulated status.* (1) The Administrator may determine that a regulated article does not pose a potential for plant pest risk, and should therefore not be regulated under this part, based on the similarity of that organism to an antecedent organism.

(2) A person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request shall include information to establish the similarity of the antecedent organism and the regulated articles in question.

(3) APHIS will announce in the FEDERAL REGISTER all preliminary decisions to extend determinations of nonregulated status 30 days before the decisions become final and effective. If additional information becomes available that APHIS believes justifies changing its decision, it will issue a revised decision.

(4) If a request to APHIS to extend a determination of nonregulated status under this part is denied, APHIS will inform the submitter of that request of the reasons for denial. The submitter may submit a modified request or a separate petition for determination of nonregulated status without prejudice.

(f) *Denial of a petition; appeal.* (1) The Administrator's written notification of denial of a petition shall briefly set forth the reason for such denial. The written notification shall be sent by certified mail. Any person whose petition has been denied may appeal the determination in writing to the Administrator within 10 days from receipt of the written notification of denial.

(2) The appeal shall state all of the facts and reasons upon which the person relies, including any new information, to show that the petition was wrongfully denied. The Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. An informal hearing may be held by the Administrator if there is a dispute of a material fact. Rules of Practice concerning such a hearing will be adopted by the Administrator.

[58 FR 17057, Mar. 31, 1993, as amended at 59 FR 67611, Dec. 30, 1994; 62 FR 23957, May 2, 1997]

§ 340.7 Marking and identity.

(a) Any regulated article to be imported other than by mail, shall, at the time of importation into the United States, plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents;

(2) Country and locality where collected, developed, manufactured, reared, cultivated or cultured;

(3) Name and address of shipper, owner, or person shipping or forwarding the organism;

(4) Name, address, and telephone number of consignee;

(5) Identifying shipper's mark and number; and

(6) Number of written permit authorizing the importation.

(b) Any regulated article imported by mail, shall be plainly and correctly addressed and mailed to APHIS through any USDA plant inspection station listed in § 319.37–14 of this chapter and shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents;

(2) Country and locality where collected, developed, manufactured, reared, cultivated, or cured;

(3) Name and address of shipper, owner, or person shipping or forwarding the regulated article; and

(4) Number of permit authorizing the importation;

(c) Any regulated article imported into the United States by mail or otherwise shall, at the time of importation or offer for importation into the United States, be accompanied by an invoice or packing list indicating the contents of the shipment.

[52 FR 22908, June 16, 1987. Redesignated at 58 FR 17056, Mar. 31, 1993, as amended at 58 FR 17059, Mar. 31, 1993; 62 FR 23958, May 2, 1997; 72 FR 43523, Aug. 6, 2007]

§ 340.8 Container requirements for the movement of regulated articles.

(a) *General requirements.* A regulated article shall not be moved unless it complies with the provisions of paragraph (b) of this section, unless a variance has been granted in accordance with the provisions of paragraph (c) of this section.[12]

(b) *Container requirements*—(1) *Plants and plant parts.* All plants or plant parts, except seeds, cells, and subcellular elements, shall be packed in a sealed plastic bag of at least 5 mil thickness, inside a sturdy, sealed, leakproof, outer shipping container constructed of corrugated fiberboard, corrogated cardboard, wood, or other material of equivalent strength.

(2) *Seeds.* All seeds shall be transported in a sealed plastic bag of at least 5 mil thickness, inside a sealed metal container, which shall be placed inside a second sealed metal container. Shock absorbing cushioning material shall be placed between the inner and outer metal containers. Each metal container shall be independently capable of protecting the seeds and preventing spillage or escape. Each set of metal containers shall then be enclosed in a sturdy outer shipping container constructed of corrugated fiberboard, corrugated cardboard, wood, or other material of equivalent strength.

(3) *Live microorganisms and/or etiologic agents, cells, or subcellular elements.* All regulated articles which are live (non-inactivated) microorganisms, or etiologic agents, cells, or subcellular elements shall be packed as specified below:

(i) *Volume not exceeding 50 ml.* Regulated articles not exceeding 50 ml shall be placed in a securely closed, watertight container (primary container, test tube, vial, etc.) which shall be enclosed in a second, durable watertight container (secondary container). Several primary containers may be enclosed in a single secondary container, if the total volume of all the primary containers so enclosed does not exceed 50 ml. The space at the top, bottom, and sides between the primary and secondary containers shall contain sufficient nonparticulate absorbent material (e.g., paper towel) to absorb the entire contents of the primary container(s) in case of breakage or leakage. Each set of primary and secondary containers shall then be enclosed in an outer shipping container constructed of corrugated fiberboard, corrugated cardboard, wood, or other material of equivalent strength.

(ii) *Volume greater than 50 ml.* Regulated articles which exceed a volume of 50 ml. shall comply with requirements specified in paragraph (b)(3)(i) of this section. In addition, a shock absorbing material, in volume at least equal to that of the absorbent material between the primary and secondary containers, shall be placed at the top, bottom, and sides between the secondary container and the outer shipping container. Single primary containers shall not contain more than 1,000 ml. of material. However, two or more primary containers whose combined volumes do not exceed 1,000 ml. may be placed in a single, secondary container. The maximum amount of micro-organisms or etiologic agents, cells, or subcellular elements which may be enclosed within a single outer shipping container shall not exceed 4,000 ml.

(iii) *Dry ice.* If dry ice is used as a refrigerant, it shall be placed outside the secondary container(s). If dry ice is

[12] The requirements of this section are in addition to and not in lieu of any other packing requirements such as those for the transportation of etiologic agents prescribed by the Department of Transportation in Title 49 CFR or any other agency of the Federal government.