

Bonsai Importation Pilot Program Now In Effect

In August 2002, the U.S. Department of Agriculture's Animal Health Inspection Service ("APHIS") published a new regulation in § 319.37-5(q) of the Code of Federal Regulations, effective on September 18, 2002, that substantially restricted the importation of bonsai from foreign countries like Japan and China. Among other things, the new regulation prohibited the importation into the United States of any "artificially dwarfed plant" that had not been grown in the exporting country for at least two years in a special quarantine greenhouse or screenhouse. APHIS took this action to protect against the introduction of longhorned beetles into the United States.

Because the new regulation would have greatly reduced the importation of high-quality bonsai from Asia for at least two years if not longer, in December 2002 the National Bonsai Foundation wrote to APHIS on behalf of U.S. bonsai importers to request that alternative procedures be put into effect. Other participants in this effort included Tom Elias of the U.S.

National Arboretum in Washington, D.C., Brussel Martin of Brussel's Bonsai Nursery in Mississippi, Mike Hansen of MBP Bonsai Studio in Texas, David De Groot of the Pacific Rim Bonsai Collection in Washington State, and Dolly Fassio of El Dorado Bonsai School and Enchanted Gardens Nursery in California.

As NBF stated in its December 2002 letter to APHIS, the special pre-entry quarantine growing conditions required by the new regulation did not generally exist in Asia and would have to be put in place. As a result, the new regulation could seriously disrupt the commercial activities of American bonsai importers and adversely affect the advancement of the art of bonsai in the United States.

NBF requested, as an alternative to the pre-entry quarantine requirements of the new regulation, that U.S. bonsai importers be allowed to bring in bonsai if they agree to keep them for two years in post-entry quarantine conditions similar to those required for the exporting countries, with extra precautions to minimize the possibility of accidental release of a harmful pest. In light of the time it would take to amend the new regulation, NBF also requested the establishment of a pilot program under which U.S. bonsai importers could qualify to import bonsai subject to the alternative post-entry quarantine procedures.

In November 2003, APHIS agreed to implement the pilot program pursuant to a new "Containment Protocol for Artificially Dwarfed Tree Imports." See Appendix A. Under the pilot program, any bonsai importer is eligible to participate in this pilot program if (i) the state in which the bonsai are to be quarantined agrees to participate in the pilot program, (ii) the importer has available or constructs a screenhouse which meets the specified requirements in the Containment Protocol and is approved by the state and APHIS, and (iii) the importer enters into a "Compliance Agreement" (see sample form in Appendix B) with APHIS and the state under which the importer agrees to keep the imported bonsai in the screenhouse for two years and comply with other requirements. The State of Mississippi was the first state to allow an importer to participate in the pilot program.

The pilot program will thus allow U.S. bonsai importers who can meet the stringent requirements of the program to continue to import high-quality bonsai from such countries as Japan and China. If all goes well with this pilot program, APHIS will consider amending the regulation to make the program procedures permanent.

We thank APHIS for its cooperation with the American bonsai community in finding a solution that protects the United States against the introduction of harmful pests while allowing the art of bonsai to continue to flourish in this country.

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APPENDIX A

CONTAINMENT PROTOCOL FOR ARTIFICIALLY DWARFED TREE IMPORTS

Artificially dwarfed trees are currently imported from Asia. Due to interceptions of Cerambycid wood boring insects, which cannot be detected by visual inspections, a new rule was published requiring all importations to meet certain conditions. These include containment of the trees in screened areas for two years to prevent infestation by Cerambycids and to monitor the plants by the NPPO of the country of origin. Importing groups (National Bonsai Foundation) have proposed to locate screen houses in the United States under a Postentry Quarantine like program that will mirror the rule but allow inspection by state and federal inspectors.

Mitigations

Plants will be authorized entry by a departmental permit. All plants will be inspected not more than 14 days before export for evidence of any quarantine organisms by the NPPO of the country of origin. A phytosanitary certificate should be issued for shipments free of quarantine organisms.

On arrival the shipment will be sent to an APHIS plant inspection station for close examination and if quarantine pests are discovered the plants will not be allowed to move forward. If plants are clean, they can move in covered transportation to the approved facility. Plants being moved to facilities will be under APHIS seal.

Sites

The facilities would be located in states that give prior approval. The sites will be approved in advance and according to the recommendations below. States will have the final decision in whether to allow a facility. The decision should be based not only on risk but on availability of personnel to carry out inspections. All facilities must be registered with the state and the APHIS State Plant Health Director. The importer must have a valid Postentry Permit and a compliance agreement signed.

Construction standards

A metal screen enclosure with a concrete (or otherwise impenetrable) floor with screened drains would be the minimum acceptable enclosure. Containment would have to include metal screen of at least 1.6mm. This mesh size would restrict escape of larger wood boring insects such as Cerambycidae and Buprestidae. The screen facility should only be entered through vestibules. The vestibules should meet arthropod standards. They should be 6 feet minimum with self-closing doors. Vestibule doors will have tight seals and sweeps on the floor. The floor would have to be impermeable to insects, with screened drains. The structure would have to be resistant to winds. Plants will be on benches raised at least 50cm above the floor to facilitate locating emerged insects.

The building should be subdivided so that shipments can be kept apart. This will facilitate release of shipments and tracking areas in the exporting countries where there are problems with Cerambycids.

Inspections

An initial facility approval inspection will be by a team of at least one federal and state inspector. After the initial inspection and approval plants can be established in the greenhouse. It will be the responsibility of the importer to inform the state not less than two weeks before the plants are to be established. It will also be the importer's responsibility to obtain permission from the State when the plants arrive to move plants into the

facility. The state will reserve the right to be present when the plants are unloaded. Transportation companies should be notified that there may be delays associated with unloading the containers. If problems are encountered with transportation companies not adequately safeguarding material the importer and their facility will be canceled from the program. APHIS seals are not to be broken until instructed to do so by a State or Federal inspector. The State will make every effort to inspect the facility within one week of the arrival of the plants. The State and an APHIS inspector located in that State will receive notice from the plant inspection station of plant genera listed as Postentry in 319.37-7 (a) & (b). After establishment, inspections would be at least quarterly for examination of the condition of both the plants and the facility. If actionable pests are discovered in a section, plants located in that entire section will be destroyed or if the greenhouse is not divided in sections then the entire greenhouse will be destroyed. If exit holes are discovered the entire operation will be quarantined and subject to destruction until the matter is investigated.

Facility should be equipped with light traps and sticky traps to detect insect infestations.

Waste material properly disposed

Waste material (dead trees or infested trees) would be incinerated or heated to 170° F for 30 minutes. Waste material or infested trees should be safeguarded and sterilized with agreement of the state inspector. However, any finding of insect or insect damage would be preserved until Plant Health Inspector could verify it.

Unauthorized access prohibited

Access to the facility would have to be restricted to authorized personnel. Authorized personnel should be trained in proper procedures to follow when examining plants, as well as when entering and leaving the screenhouse. A fence or equivalent security measures should surround the facility. Alarms for unauthorized access should be installed. Inventory control should be strict. All plants going in and out should be accounted for. Detailed records would have to be kept by each facility. These records should include details on cultural practices and pesticide application. Dates, times and name of pesticide used should be recorded.

All plants in the program must be labeled with a registration number and a record kept of the location of this plant. All records should include reference to the individual plants and registration numbers. Specific requirements can be set up with the state on a facility by facility basis but all should include the basic information above. Genera listed in CFR

319.37 (a) & (b) as Postentry must also be labeled as required by this program.

Rules to follow when insects or damage are discovered

If insects are found the state inspector should be contacted immediately.

The APHIS State Plant Health Director should also be contacted. It is very important to contain the pest as soon as possible. The screenhouse should be sealed and no entry permitted until authorized by an inspector. Actions taken will depend upon individual circumstances and the type of pest that is found. Destruction of all plants may occur. Some pests other than Cerambycids may also require action. Pests found during postentry quarantine for disease will be handled in the normal manner for that pathogen. The Postentry period for certain genera are met by use of this two year program except if identification of a pathogen found would require a longer period of Postentry.

Other Requirements

The States where the program is in force will have the right to add other components to the program whenever applicable. All other requirements must be met for applicable genera. All plants must enter bare root and be established in growing media pursuant to state approval.

Penalties

Failure to comply with these programs will result in the facility and company's expulsion from the program. Violation of the two year term of Postentry will result in termination from the program and recommendations for a fine of not less than 10,000 dollars. Willful neglect causing a release of a quarantine pest will result in criminal charges as well as an assessment of a fine and immediate expulsion from the program. Failure to comply with the instructions of a state inspector will result in expulsion from the program. The program itself may be canceled by the state it is in or by APHIS when it is determined that the risk is too high to allow more plants to be imported. Numbers of plants that can be imported must be agreed upon in advance by the state and the importer and cannot exceed the holding capacity of the facility. In no case can plants be kept outside awaiting room in the screenhouse. These plants must be destroyed immediately if no room is available. If states cannot service a program all possible consideration will be given to the importer as to alternatives but if none are found to be satisfactory to the State or APHIS then the plants must be destroyed.

Disclaimer

APHIS and the State governments will not be responsible for financial losses the owner of the plants incurs due to necessary quarantine actions taken to prevent the introduction of exotic pests into the United States. Further any costs incurred during the operation of this program such as treatments and destruction costs will be the responsibility of the importer.

APPENDIX B

COMPLIANCE AGREEMENT

This agreement is entered into this _____ day of _____, 2003 between the Animal & Plant Health Inspection Service (Plant Protection & Quarantine) of the U.S. Department of Agriculture ("APHIS"), the Department of Agriculture of the State of _____ ("SDA") and _____ (the "Importer"(collectively, the "Parties").

WHEREAS, APHIS has established a Pilot Program under which a Special Post-Entry Permit has been issued to the Importer to allow it to import artificially dwarfed trees ("bonsai") subject to certain post-entry quarantine procedures which require the Importer to keep the imported bonsai in a pre-approved screenhouse for 2 years and comply with other requirements pursuant to the Containment Protocol set forth in Appendix A hereto (the "Containment Protocol").

WHEREAS, the Importer has constructed a screenhouse that has been approved by APHIS and SDA as complying with the specifications set forth in the Containment Protocol; and

WHEREAS, the Parties wish to set forth their respective obligations to assure the Importer's continued compliance with the Containment Protocol.

NOW THEREFORE, the Parties agree as follows:

(1) The Importer shall accompany each shipment of bonsai with the standard phytosanitary certificate of inspection from a plant inspection official in the country of origin (see § 319.37-1.), but the Importer need not comply with the certification required by § 319.37-5(q).

(2) The Importer shall import the bonsai in a sealed container.

(3) At the port of entry into the United States, the APHIS inspector shall confirm that the shipment of bonsai is accompanied by the phytosanitary certificate and shall inspect the bonsai. The APHIS inspector shall not take samples for testing unless the bonsai are obviously contaminated with pests. If found free of obvious pests, the inspector shall not give the bonsai any special insecticide treatment, such as application of methyl bromide, and shall reseal the container for reshipment to the Importer's approved screenhouse.

(4) If the bonsai are cleared by the APHIS inspector at the port of entry, the Importer shall transport them in an exclusively dedicated covered vehicle (e.g., truck) to the approved screenhouse. The bonsai being moved to the approved screenhouse shall be under APHIS seal which assures that the shipment is not opened until inspected by the SDA inspector. Upon arrival at the approved screenhouse, all shipping boxes and crates may only be opened, and all repotting and other actions with respect to the bonsai may only be performed, inside the approved screenhouse. No shipping boxes or crates may be removed from the approved screenhouse or discarded without specific instructions from the SDA inspector.

(5) The Importer shall inform the SDA not less than 2 weeks before the bonsai are to arrive at the approved screenhouse, by sending a written notice to _____. The number of bonsai to be placed in the screenhouse must be agreed upon in advance by the SDA and the Importer, and cannot exceed the holding capacity of the screenhouse.

(6) APHIS seals are not to be broken until instructed to do so by the SDA inspector. The SDA shall reserve the right to be present when the bonsai are unloaded at the approved screenhouse. The SDA shall make every effort to inspect the approved screenhouse within 1 week of the arrival of the bonsai at the screenhouse.

(7) The Importer shall grow the bonsai for at least 2 years in sterile growing media in the approved screenhouse, and all trimmings and dead plants shall be retained in the screenhouse for inspection by SDA inspectors before being destroyed;

(8) On at least a quarterly basis, the SDA inspectors shall inspect the screenhouse, the bonsai being grown therein and the surrounding area for compliance with the Containment Protocol and any evidence of pests of quarantine significance to the United States. The SDA reserves the right to inspect the Importer on a more frequent basis.

(9) If the Importer discovers pests inside the screenhouse, the Importer shall contact the SDA and the APHIS State Plant Health Director immediately, and shall take steps to contain the pests as soon as possible. The screenhouse should be sealed and no entry permitted until authorized by an APHIS or SDA inspector.

(10) If pests are found, the SDA and APHIS shall consult with the Importer to determine the appropriate action to take, which will depend upon individual circumstances and the type of pest that is found.

(11) The Importer shall comply with and be subject to all other requirements in the Containment Protocol, and understands that penalties may be imposed for failure to do so. The Importer also understands and agrees that APHIS and the SDA shall not be responsible for financial losses that the Importer incurs due to reasonably necessary quarantine actions taken to prevent the introduction of exotic pests into the United States. Further, the Importer agrees to pay any reasonably necessary costs incurred during the operation of this program, such as treatments and destruction costs.

_____ For the U.S. Department of Agriculture

_____ For the State Department of Agriculture

_____ For the Importer