

Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending subpart F of 5 CFR part 831 and subpart F of 5 CFR part 842, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.204 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 105-508, 104 Stat. 1388-339; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp.; § 831.621 also issued under section 201(d) of the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251, 100 Stat. 23; subpart S also issued under 5 U.S.C. 834(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, 101 Stat. 1330-275; § 831.2203 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; 104 Stat. 1388-328.

Subpart F—Survivor Annuities

2. In section 831.644, paragraph (d) is revised to read as follows:

§ 831.644 Remarriage.

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(d) (1) If present or future entitlement to a former spouse annuity is terminated because of remarriage before age 55, the entitlement will not be reinstated upon termination of the remarriage by death or divorce.

(2) If present or future entitlement to a former spouse annuity is terminated because of remarriage before age 55, the entitlement will not be reinstated upon annulment of the remarriage unless—

(i) The decree of annulment states that the marriage is without legal effect retroactively from the marriage's inception; and

(ii) The former spouse's entitlement is based on section 4(b)(1)(B) or section 4(b)(4) of Pub. L. 98-615.

(3) If a retiree who is receiving a reduced annuity to provide a former spouse annuity and who has remarried that former spouse (before the former spouse attained age 55) dies, the retiree will be deemed to have elected to

continue the reduction to provide a current spouse annuity unless the retiree requests (or has requested) in writing that OPM terminate the reduction.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508 and 5 U.S.C. 8402(c)(1); §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101-239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; subpart H also issued under 5 U.S.C. 1104.

Subpart F—Survivor Elections

4. In section 842.612, paragraph (h) is added to read as follows:

§ 842.612 Post-retirement election of a fully reduced annuity or one-half reduced annuity to provide a current spouse annuity.

* * * * *

(h) If a retiree who is receiving a reduced annuity to provide a former spouse annuity and who has remarried that former spouse (before the former spouse attained age 55) dies, the retiree will be deemed to have elected to continue the reduction to provide a current spouse annuity unless the retiree requests (or has requested) in writing that OPM terminate the reduction.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 94-036-2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables will be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

EFFECTIVE DATE: March 16, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper or Mr. Peter Grosser, Senior Operations Officers, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, 4700 River Road Unit 139, Riverdale, Maryland 20737-1228; (301) 734-8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56-8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

On October 25, 1994, we published in the **Federal Register** (59 FR 53606-53612, Docket No. 94-036-1) a proposal to amend the regulations by allowing additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that the

fruits and vegetables could introduce injurious insects into the United States. We proposed to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 30 days ending November 25, 1994. We received nine comments by that date. They were from industry representatives and growers, State departments of agriculture, an academic institution, a foreign department of agriculture, and a foreign ambassador. One comment supported the proposal as written. One commenter was concerned about being able to move fruits and vegetables from Puerto Rico into other parts of the United States. The remainder of the commenters opposed the rule for specific fruits or vegetables. We carefully considered all of the comments we received. They are discussed below by topic.

Carambola From Taiwan

We proposed to amend § 319.56-2x to allow the importation of carambola from Taiwan. We specified that carambola would undergo cold treatment for the Oriental fruit fly (*Bactrocera dorsalis*) in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which has been incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1. In accordance with § 319.56-6 of the regulations, carambola would be subject to inspection, disinfection, or both at the port of first arrival. As discussed in the proposal, the pest risk assessment conducted by the Animal and Plant Health Inspection Service (APHIS) determined that any injurious plant pests that might be carried by carambola would be readily detectable by an inspector.

Several commenters expressed concerns about the economic analysis in the Initial Regulatory Flexibility Analysis. These comments are addressed in the Final Regulatory Flexibility Analysis.

One commenter was concerned about U.S. producers' ability to export carambola to the Taiwanese market. Our proposal and decision to allow importation of carambola from Taiwan, as well as other fruits and vegetables, are based solely on whether these importations can be made without significant risk of pest introduction. We have no authority to limit importations based on the presence or absence of reciprocal arrangements. Therefore, we

have made no change based on this comment.

Two commenters expressed concern that Taiwanese producers use pesticides which are illegal in the United States. The Food and Drug Administration takes samples of imported commodities to determine whether illegal pesticides are present, and seizes shipments that do not meet its standards. Therefore, we have made no change based on this comment.

One commenter stated that there was no mention of the certification procedures to ensure fruits are treated properly and not infested with the Oriental fruit fly, *Bactrocera dorsalis*. We ensure the fruits are treated properly by verifying the results of treatment in accordance with the PPQ Treatment Manual. Cold treatments, as required for carambola from Taiwan, may be conducted either in the country of origin or in the United States, under an inspector's supervision. Treatments may also be conducted on board vessels en route to the United States. In this case, a sealed temperature recording device is read by an inspector upon the fruit's arrival in the United States, and the fruit is released from treatment only if the temperature record indicates the required cold treatment has been successfully completed.

Several commenters stated concerns about the fruit piercing moth (*Othreis* spp.) and fruit borer (*Eucosma notanthes*), which attack carambola. They questioned whether cold or other treatments would kill these pests and raised concerns about the effectiveness of the Taiwanese practice of covering the fruit with pesticide impregnated bags to manage these pests. One commenter felt that there was no way to ensure that all fruit imported into the United States had been bagged in the field. Another commenter felt that there was no guarantee that shipments of carambola from Taiwan would be free of larvae or eggs of the *Eucosma* or that the young larvae in the fruit would have caused sufficient damage for an inspector to detect. Commenters expressed concerns that these pests, if introduced into the United States, could feed on related fruits and become a significant problem for carambola and other crops in Florida.

The fruit borer, *Eucosma notanthes*, is recognized as a pest of carambola. However, routine cultural practices for carambola production in Taiwan, such as the bagging of fruit, provide deterrents against the carambola becoming infested with these pests. In addition, the following pest management activities are carried out to reduce the risk posed by this insect:

Pesticides are applied weekly, from the end of the bloom season until the fruit measures 5 cm in length. Infestation in young fruit results in premature fruit drop. The dropped fruit is collected and destroyed, reducing pest pressure and risk. Fruits are then bagged to prevent adult moths from laying eggs on the growing fruit. APHIS representatives will schedule periodic visits to carambola production areas in Taiwan to monitor these procedures. If an adult moth circumvents the bagging and lays eggs on more mature fruits, the action of the larvae boring into the fruit extrudes frass from the hole as well as exudate from the fruit. These obvious symptoms enhance our confidence in our being able to visually detect any fruit that may be infested.

Bagging fruits to prevent insects from laying their eggs on or in the fruit, and subsequent larval forms boring into the fruit, has proven successful with similar pests and imports of sand pears from Japan and the Republic of Korea. The bagging will also exclude other moths, including *Othreis* spp.

We consider the measures taken in the exporting country, coupled with the safeguards required by the regulations, including inspection and cold treatment, to be adequate to prevent the introduction of injurious plant pests into the United States by carambola from Taiwan. Therefore, we are not making any changes based on these comments.

Onion Bulbs From Indonesia

We proposed to amend § 319.56-2t to allow the importation of onion bulbs, *Allium cepa*, from Indonesia. One commenter stated that onion bulbs from Indonesia should not be allowed entry with the tops due to the risk of introduction of the listed leafminer and noctuids. We are making no change based on this comment, because, as indicated in the proposal, only bulbs of the onion will be allowed. Bulbs with tops will be refused entry.

Jicama From Tonga

We proposed to amend § 319.56-2t to allow the importation of jicama, *Pachyrhizus tuberosus*, from Tonga. One commenter felt that jicama from Tonga should not be admitted until the nematodes mentioned in the pest risk assessment are identified and their impact evaluated. We are making no change based on this comment. The pest risk assessment reported on two root-knot nematodes on this host. As the name implies, attacks by species within this genus result in a root-knot forming on the host material. In general, these are predictable visible symptoms that

inspectors are trained to look for, and APHIS inspects jicama for these nematodes. If these nematodes are detected at the time of importation, the jicama will be rejected.

Currant and Gooseberry, From Argentina and Australia

We proposed to amend § 319.56–2t to allow the importation of currant and gooseberry, *Ribes* spp., from Argentina and Australia. One commenter felt that *Ribes* spp. fruits could harbor the mites that vector the reversion disease, even though the fruit would not carry the pathogen for the disease. The commenter recommended that surface treatment should be required to allow entry for these fruits. We are making no change based on this comment. The reversion disease is not known to occur in Argentina or Australia. Therefore, we believe there is no risk of mites serving as vectors.

White Asparagus From Austria

We proposed to amend § 319.56–2t to allow the importation of white asparagus, *Asparagus officinalis*, from Austria. As specified in the proposal, the only plant part eligible for importation is the shoot, with no visible green on the shoot. One commenter suggested that white asparagus from Austria should be harvested before shoot emergence and washed to eliminate soil. We are making no changes based on this comment. If the asparagus is harvested after shoot emergence, it will not be white, and, therefore, will not be enterable. We will reject all shipments that are not white. In accordance with 7 CFR 330.300, soil contamination is a reason for rejecting shipments of all agricultural products from nearly all countries. Therefore, the asparagus shoots must be completely white and free of soil when presented for inspection and entry.

Sage From Belize

We proposed to amend § 319.56–2t to allow the importation of sage, *Salvia*, from Belize. In accordance with § 319.56–6 of the regulations, sage would be subject to inspection, disinfection, or both at the port of first arrival. As discussed in the proposal, the pest risk assessment conducted by APHIS determined that sage from Belize is not attacked by fruit flies or other injurious plant pests. In addition, any other injurious plant pests that might be carried by sage from Belize would be readily detectable by an inspector.

One commenter was concerned about the rust pathogens in Central America. The commenter questioned the status of rust pathogens in Belize. We have no

evidence that any of these rust pathogens occur in Belize. In addition, our experience with *Salvia* imports from countries where these rust pathogens occur has not demonstrated that imported *Salvia* serves as a pathway.

Blueberry From Argentina

We proposed to amend § 319.56–2t to allow the importation of blueberry, *Vaccinium* spp., from Argentina. We specified that blueberries will undergo cold treatment for the Mediterranean fruit fly (*Ceratitis capitata*) in accordance with the PPQ Treatment Manual.

One commenter suggested that fumigation schedules for *Vaccinium* spp. fruit from Argentina should target *Anastrepha* spp., which has been intercepted on *Vaccinium* spp. in Mexico. We are making no changes based on this comment. Although it is true that a fruit fly of an *Anastrepha* sp. was found in blueberry fruit, the fruit was carried by an airline passenger and is the only record we have of an interception of this species in blueberry fruit. This information was weighed against the larger body of information of repeated commercial importation without any evidence of *Anastrepha* infestation. We believe the interception represented an aberration or incidental report from a possible over-ripe or damaged fruit.

Kiwi From the Republic of Korea

We proposed to amend § 319.56–2t to allow the importation of kiwi, *Actinidia deliciosa*, from the Republic of Korea. One commenter was concerned by the lack of reciprocal commitment from the Republic of Korea to treat California kiwifruit exported to the Republic of Korea fairly in the context of phytosanitary and food issues.

Our proposal and decision to allow importation of kiwi from the Republic of Korea, as well as other fruits and vegetables, are based solely on whether these importations can be made without significant risk of pest introduction. We have no authority to limit importations based on the presence or absence of reciprocal arrangements.

Inspection Upon Arrival

One commenter questioned the ability of inspectors to adequately inspect the increasing number of commodities that arrive in the United States. Inspection at the port of first arrival is only one aspect of our approach to plant pest exclusion, and is never the sole means of plant pest exclusion for any commodity. Before a fruit or vegetable is approved for importation into the United States, a plant pest risk assessment is conducted

for the commodity. If a plant pest risk is found to be associated with a commodity proposed for importation, APHIS then determines what, if any, measures can be taken to reduce the risk to a level that would allow the commodity to be safely imported into the United States. For example, in certain cases our regulations impose restrictions such as specific growing and shipping requirements or inspection in the country of origin, or treatment. As a final precaution, all fruits and vegetables are subject to inspection at the port of first arrival. Inspectors are aware of potential pest risks associated with a particular commodity and conduct their inspections accordingly. We consider the measures taken in the exporting countries, coupled with the safeguards required by the regulations, including inspection, to be adequate to prevent the introduction of injurious plant pests into the United States.

General

One commenter stated that pest risk assessments consist only of a cursory look at the interception histories of commodities which are currently prohibited and do not adequately investigate pest problems associated with the commodities in their countries of origin. We do investigate pest problems associated with commodities in their countries of origin during our pest risk assessments. Our current method of performing pest risk assessments is to do an exhaustive search of literature and review our historical plant pest database and interception information. When available, we also use information from other sources, and occasionally conduct on-site investigations in proposed export areas. The pest risk assessments are largely dependent upon literature on plant pest problems in countries of origin. This literature is primarily investigative findings published by scientific communities. Our experience has shown that if a pest causes damage to an economic crop, the scientific community investigates the pest's biology and extent of pest damage in prescribing remedial actions.

One commenter felt that commodities that can be planted or otherwise propagated, such as onion and shallot bulbs, cornsalad, and jicama, should be evaluated by stricter criteria. We are making no change based on this comment. We have long recognized that some products imported for consumption are capable of being propagated and that individuals, occasionally out of curiosity, may plant them. While we do not believe that the extent of the practice makes it a

significant pest risk, we have, in the past, explored three ways of preventing the practice: (1) Prohibit the importation of all commodities that could potentially be propagated; (2) treat all commodities capable of propagation with sprout inhibitor; or (3) devalue the products prior to export. We believe that the first option, prohibition, should be applied only to products that present pest risks that cannot be mitigated in other ways. We have experimented with the second option, using sprout inhibitors, but they do not offer sufficient quarantine security for high-risk products and are not registered for most products. The third option, devaluation, in most cases renders a product unacceptable for the fresh fruit and vegetable market.

Countries are becoming more and more sophisticated in their production and phytosanitary practices, so the quality of fruits and vegetables in general is increasing. Products are graded and inspected during packing and prior to export, and the products are inspected again upon arrival in the United States. All of this reduces the likelihood of a pest entering the United States. If, once a commodity has been imported into the United States, a person chooses to try to propagate that commodity, the person would likely choose the healthiest-looking material, thus further reducing the probability that a plant pest would be spread. The limited degree of risk that remains must be accepted if free trade is to be maintained.

Puerto Rico

One commenter felt that the proposal should not be approved since it would provide foreign countries importation rights and benefits which are currently being denied to other States and Territories. The commenter requested that we review and, if necessary, revise many of our regulations covering Puerto Rico to increase the number and kinds of fruits and vegetables moving into other parts of the United States from Puerto Rico. We will consider specific requests from Puerto Rico to allow the movement of specific fruits and vegetables to other parts of the United States. Once a request is received, we will perform a pest risk assessment to determine if there is significant risk of introducing injurious plant pests into other parts of the United States. After determining that the fruits or vegetables could be moved under certain conditions without significant pest risk, we would publish a proposed rule in the **Federal Register** to allow the movement of those fruits or vegetables into other parts of the United States.

Miscellaneous

We have made minor, editorial changes by removing the references to "South Korea" and by replacing them with "the Republic of Korea," the official name for that country.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the change noted above.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee, 150ff, 151-167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This final rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables has been prohibited because of the risk that they could introduce injurious plant pests into the United States. This rule revises the status of certain commodities from certain countries and localities, allowing their importation into the United States for the first time.

These revisions are based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of

agriculture. The pest risk assessments indicate that the fruits or vegetables listed in this rule, under certain conditions, may be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables will be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

Apples

This rule allows apples to be imported into the United States from Spain under certain conditions. Spain's production of apples in 1993 was approximately 821,000 metric tons (mt). Spain's export level over the past 5 years has averaged 20,000 mt. In the unlikely event that Spain's apple exports were fully diverted to the United States, they would represent about 0.4 percent of U.S. production, an amount that would not significantly affect the U.S. market. Moreover, there would not be any off-season advantages, since Spain's main production season, June through September, inclusive, is the same as for U.S. apple producers.

In addition, the United States is a net exporter of apples. Total U.S. utilized production of apples in 1993 was 4,760,682 mt (fresh equivalent). (Utilized production of apples refers to the amount of apples sold plus the quantities of apples used on farms where grown and quantities of apples held in storage, thus those apples actually used in some way.) Imports of fresh apples in 1992 totaled 120,412 mt, or 2.5 percent of domestic utilized production that year, whereas exports totaled 507,614 mt, or 10.7 percent. Given this trade flow, the U.S. market for apples is not expected to exhibit the excess demand in the near future that could encourage increased foreign supply. The main commercial varieties grown in Spain (Golden Delicious, 50 percent; Granny Smith, 30 percent) are common varieties in the United States, and their export, therefore, would not satisfy any special market demand.

Asparagus (White)

This rule allows white asparagus to be imported into the United States from

Austria under certain conditions. Total U.S. asparagus production in 1993 was 2,204,000 hundredweight (cwt), or 99,973 mt. Austria's current production of asparagus is around 400 mt, 95 percent of which is white asparagus.

APHIS expects that annual exports to the United States may reach between 1 and 2 tons. This quantity represents less than 0.002 percent of U.S. production, and therefore will not affect prices received by U.S. growers.

Blueberries

This rule allows blueberries to be imported into the United States from Argentina under certain conditions. Total U.S. blueberry production in 1993 was 170,397,000 pounds, or 77,292 mt. About 40 percent was produced for the fresh fruit market, and about 60 percent was processed. APHIS estimates Argentina's current production of blueberries to be 40 mt per year, and we expect that figure to expand to 200 mt by 1997-98. At present, all blueberry exports from Argentina (80 percent of production) are sent to Europe. If approved for entry into the United States, we expect that 19.2 mt or 60 percent of blueberry exports from Argentina will be directed to U.S. ports. This quantity represents less than 0.03 percent of U.S. production, and therefore will not noticeably affect prices received by U.S. growers.

Carambola

This rule allows carambola to be imported into the United States from Taiwan under certain conditions. Ninety percent of domestic production of carambola takes place in southern Florida, where 60 to 90 growers cultivate a total of about 400 acres. Most of the producers are considered small entities, according to the Small Business Administration definition of annual gross receipts of \$500,000 or less. U.S. production of carambola in 1994 reached between 5 and 6 million pounds, a quantity expected to gradually increase as consumer familiarity with carambola grows. At present, carambola is unknown to most U.S. consumers, and the industry faces the challenges of creating broader market appeal for this fruit.

Besides Florida, a relatively small amount of carambola is produced in Hawaii (58,400 pounds in 1992). A regulatory change last year now allows carambola grown in Hawaii to be marketed on the mainland. The initial volume to be shipped this year is estimated at 1,500 to 3,000 pounds.

Taiwan is reportedly the world's largest producer of carambola. In 1992, 35,738 mt (78.8 million pounds) were

produced, about 12 times that of the United States. However, less than 10 mt (0.03 percent) of Taiwan's production is exported annually, mainly to Hong Kong and Canada. As an initial trial shipment, about 1 mt is expected to be exported to the United States per year.

California is a large and growing domestic market for carambola and the likely destination of carambola from Taiwan. It receives from 40 to 50 percent of Florida's carambola crop. California requires that carambola from Florida be cold treated, and APHIS requires cold treatment for shipments from Hawaii to the mainland. Imports from Taiwan will also require cold treatment.

Average prices received by U.S. carambola producers between 1989 and 1993 ranged from about \$0.67 to \$1.55 per pound. Farm prices in Taiwan vary from \$0.60 to \$4.00 per kg (\$0.27 to \$1.81 per pound), depending on the quality, size of production, and season. While prices are generally lower in Taiwan, high quality carambolas suitable for export sell well in Taiwan's domestic market. Relatively high farm prices and the fruit's well-established domestic market largely explain Taiwan's limited exports.

Carambola is sensitive to chilling, which can cause the skin to turn brown and become pitted. Since all carambola entering California will require cold treatment, effects of the treatment on the appearance and marketability of the fruit will be similar, whether the carambola comes from Florida, Hawaii, or Taiwan.

We received four comments disagreeing with the results of our Initial Regulatory Flexibility Analysis for carambola from Taiwan. They were from three domestic growers associations and an academic institution. The commenters were concerned with unfair competition and the impact on domestic producers. None of the commenters provided additional data, however, to dispute our figures. We carefully considered all of the comments. The comments and responses are summarized below.

One commenter stated that the classification of U.S. carambola producers as "small entities" does not change the fact that U.S. citizens are making their livelihood from producing carambola. Examination of the possible impact on U.S. carambola producers as "small entities" is required by the Regulatory Flexibility Act. No other significance is attached to the "small entities" classification.

One commenter felt that the United States is currently in a trade deficit with Taiwan, and allowing carambolas to be

imported will only increase this deficit. APHIS bases its decisions to allow importation of fruits and vegetables on whether these importations can be made without significant risk of pest introduction. We have no authority to limit importations based on the size of a trade deficit.

Two commenters raised concerns that since the carambola is still a relatively unknown product in the United States, the marketing efforts for carambola by U.S. carambola producers would provide free benefits to Taiwan, and, Taiwan would gain as a result. While carambola imported from Taiwan may well benefit from U.S. efforts, U.S. producers may also benefit from Taiwanese marketing efforts.

All four commenters were concerned about the impact on U.S. carambola producers and disagreed with our evaluation that allowing the importation of carambola from Taiwan would have a positive impact on the U.S. economy. Since the extent of the impact is not known, one commenter questioned, "Why experiment on an unknown outcome with the livelihood of American Citizens and small businesses?" The commenter also stated, "The carambola as a commercial crop in the U.S. is still an emerging industry with many unknowns. It would only seem wise to concentrate all of our resources on establishing the domestic side of this industry before allowing additional unknown elements to be added to the equation." Three commenters questioned our conclusion that a loss of income by U.S. producers would be positive for the U.S. economy.

The level of expected near-term imports is very small compared to U.S. carambola production (less than 0.1 percent). In fact, all of Taiwan's current carambola exports equals less than one percent of current U.S. production. If carambola retail prices in the United States declines with imports from Taiwan, then U.S. consumers will gain and U.S. producers will lose. The impact for the economy will be positive if the gains exceed the losses.

Assuming the market for carambola expands, and fruit from Taiwan is routinely imported, domestic producers' income will be less than it would be otherwise, due to a price decline and/or lower volumes than would be sold were there not imports. The critical question is what this reduction in income will be. There is no evidence to suggest that it will be significant.

From a broader perspective, sales and income lost by domestic producers should be balanced against benefits to U.S. consumers in terms of greater availability and/or lower prices. Again,

lack of information on how much carambola prices can be expected to decline as a result of imports, and the responsiveness of producers and consumers to a decline, precludes estimation of consumers' gains and domestic producers' losses. Nevertheless, APHIS believes that the net benefit to the U.S. economy will be positive.

Currants and Gooseberries

This rule allows currants and gooseberries to be imported into the United States from Argentina under certain conditions. Argentina's area of *Ribes* spp. production totals only four hectares, one of which is being used for experiments on the suitability of various species. The Economic Research Service, U.S. Department of Agriculture, estimates the annual crop at 30 mt, of which 40 percent, or 12 mt, could be exported to the United States.

Although published data on U.S. *Ribes* spp. production is not available, trade statistics show the United States to be a net importer. In 1992, 64 mt of currants and gooseberries were exported, and 264 mt of currants were imported. The quantity of *Ribes* spp. expected to be imported from Argentina is only 6 percent of 1992 net imports for the United States. APHIS does not expect this relatively small change in the quantity imported to significantly affect the market for U.S. producers.

Eggplant

This rule allows eggplant to be imported into the United States from the Republic of Korea under certain conditions. U.S. commercial production of eggplant in 1993 was 776,000 cwt (35,199 mt). The Republic of Korea's annual production of eggplant in 1993 totaled 22,751 mt, of which 30.3 mt were exported to Japan and Guam. If all of the Republic of Korea's eggplant exports were sent to the United States, it will represent less than 0.09 percent of U.S. commercial production.

Even in the very unrealistic scenario that the Republic of Korea's eggplant exports are fully diverted to the United States, the quantities will not be large enough to affect the U.S. market.

Kiwi

This rule allows kiwi to be imported into the United States from the Republic of Korea under certain conditions. Utilized U.S. production of kiwi in 1992 totaled 47,700 mt. Imports of kiwi into the United States for 1992 were estimated at 20,236 mt, or more than 40 percent of domestic production. The Republic of Korea's annual production of kiwi in 1993 totaled 8,538 mt, of

which none was exported. Assuming 5 percent of the Republic of Korea's production (426.9 mt) were exported to the United States, this amount will represent only about 0.6 percent of U.S. supply (produced domestically and imported) in 1991.

Even in the very unrealistic scenario that the Republic of Korea exports 5 percent of its kiwi production to the United States, the quantities will not be large enough to affect the U.S. market.

Lettuce

This rule allows lettuce to be imported into the United States from Israel and the Republic of Korea under certain conditions. Total U.S. production of head, leaf, and romaine lettuce in 1993 was 82,790,000 cwt (3,755,330 mt). In Israel, insect-free lettuce produced in greenhouses for the 1993/94 season reached about 4,480,000 pounds. Exports planned for 1994/95 are estimated at 1,600,000 pounds. If all of these exports were destined for the United States, they would comprise less than 0.02 percent of U.S. production and, therefore, will not noticeably affect the U.S. market.

The Republic of Korea's annual production of leaf lettuce in 1993 totaled 149,611 mt, of which 23.9 mt were exported to Japan, Guam, Hong Kong, and Saipan. If all of the Republic of Korea's lettuce exports were sent to the United States, it would represent only about 0.0006 percent of U.S. production.

Even in the very unrealistic scenario that the Republic of Korea's lettuce exports are fully diverted to the United States, the quantities will not be large enough to affect the U.S. market.

The aggregate economic impact of this rule is expected to be positive. U.S. consumers will benefit from a greater availability of fruits and vegetables. U.S. importers will also benefit from a greater availability of fruits and vegetables to import.

The alternative to this rule was to make no changes in the fruits and vegetables regulations. After consideration, we rejected this alternative since there was no pest risk reason to maintain the prohibitions on the affected produce.

In the course of rulemaking, if we had come across evidence indicating that importation of any of the concerned fruits or vegetables would pose a significant risk of plant pest introduction, we would have considered either developing alternative requirements regarding that importation or continuing to prohibit the importation of that fruit or vegetable. However, our initial pest risk

assessments and our review of public comments on the proposal indicated that importation of any of the concerned fruits and vegetables would pose no significant risk of plant pest introduction.

This rule contains no paperwork or recordkeeping requirements.

Executive Order 12778

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding fruits and vegetables imported under this rule will be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule; and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the importation of fruits and vegetables under the conditions specified in this rule will not present a significant risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) National Environmental Policy Act Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons

wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR parts 300 and 319 is amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 300.1, paragraph (a) is revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992 and includes all revisions through March 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.56-2r [Amended]

4. In § 319.56-2r, paragraph (a)(1) is amended by adding, in alphabetical order, "Spain,".

5. In § 319.56-2r, paragraph (g)(1) is amended by adding "Spain," immediately before "Sweden".

6. In § 319.56-2t, the table is amended by revising "South Korea" to read "Republic of Korea" and by adding in alphabetical order, the following:

§ 319.56-2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina			
* * *	Currant	<i>Ribes</i> spp	Fruit.
* * *	Gooseberry	<i>Ribes</i> spp	Fruit.
Australia	Currant	<i>Ribes</i> spp	Fruit.
	Gooseberry	<i>Ribes</i> spp	Fruit.
Austria	Asparagus, white	<i>Asparagus officinalis</i>	Shoot. ³
Belize			
* * *	Sage	<i>Salvia officinalis</i>	Leaf and stem.
El Salvador	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
	Dill	<i>Anethum graveolens</i>	Above ground parts.
Honduras			
* * *	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
Indonesia			
* * *	Onion	<i>Allium cepa</i>	Bulb.
	Shallot	<i>Allium ascalonicum</i>	Bulb.
Nicaragua	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
Peru			
* * *	Cornsalad	<i>Valerianella</i> spp	Whole plant.
* * *	Lambsquarters	<i>Chenopodium album</i>	Above ground parts.

Country/locality	Common name	Botanical name	Plant part(s)
* Republic of Korea *	* Eggplant	* <i>Solanum melongena</i>	* Fruit.
* * * *	* Kiwi	* <i>Actinidia deliciosa</i>	* Fruit.
* * * *	* Lettuce	* <i>Lactuca sativa</i>	* Leaf.
* Tonga *	* * * *	* * * *	* * * *
* * * *	* Jicama	* <i>Pachyrhizus tuberosus</i>	* Root.
* * * *	* * * *	* * * *	* * * *

³No green may be visible on the shoot.

7. In § 319.56-2x, paragraph (a), the table is amended by adding, in alphabetical order, the following:

§ 319.56-2x Administrative instructions: conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Blueberry	<i>Vaccinium</i> spp	Fruit.
* El Salvador	* Garden bean	* <i>Phaseolus vulgaris</i>	* Pod or shelled.
* Israel *	* * * *	* * * *	* * * *
* * * *	* Lettuce	* <i>Lactuca sativa</i>	* Leaf.
* Taiwan	* Carambola	* <i>Averrhoa carambola</i>	* Fruit.
* * * *	* * * *	* * * *	* * * *

Done in Washington, DC, this 9th day of March 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-6370 Filed 3-15-95; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act "Appliance Labeling Rule"

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces non-substantive amendments to its Appliance Labeling

Rule ("Rule"). Specifically, the Commission is amending the Rule's water flow rates disclosure requirements for showerheads and faucets to specify that the metric disclosures "liters per minute" and "liters per cycle" be abbreviated as "L/min" and "L/cycle" rather than "Lpm" and "Lpc."

EFFECTIVE DATE: May 16, 1995.

FOR FURTHER INFORMATION CONTACT: Terrence J. Boyle, Attorney, (202) 326-3016, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act of 1975 ("EPCA") directed the Commission to issue rules requiring various categories of home appliances and other products to be labeled with information about their energy consumption and efficiency.¹ Pursuant to EPCA, the Commission on November 19, 1979, issued the Appliance Labeling

Rule requiring label disclosures of energy operating costs and/or efficiency for seven categories of products.²

The Energy Policy Act of 1992 ("EPA 92") amended EPCA to add showerheads, faucets, water closets and urinals as covered products. As amended, EPCA establishes for showerheads and faucets a national maximum water flow rate standard of 2.5 gallons per minute at 80 pounds per square inch ("psi") water pressure and, for those products, adopted the testing methods of the American Society of Mechanical Engineers ("ASME") Standard A112.18.1M as "the proper protocols for measuring the water usage."³ EPA 92 also directed the Commission to issue rules requiring these plumbing products to be permanently marked with their water flow rates and to bear disclosures "consistent with the marking and

¹ 42 U.S.C. 6291, 6294.

² 44 FR 66466.

³ 42 U.S.C. 6293(b) (7)(A) and (8)(A).