

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 352

[Docket No. 00-086-1]

#### Untreated Oranges, Tangerines, and Grapefruit from Mexico Transiting the United States to Foreign Countries

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to allow untreated oranges, tangerines, and grapefruit from Mexico to be moved overland by truck or rail to Corpus Christi and Houston, TX, for export to another country by water. We are proposing this action in response to requests by the port authorities of Corpus Christi and Houston, TX. We are also proposing to require that untreated oranges, tangerines, and grapefruit moving from Mexico through Brownsville, Corpus Christi, Galveston, or Houston, TX, for export by water to another country be shipped in sealed, refrigerated containers. We are proposing this action to provide additional protection against the possible introduction of fruit flies via untreated oranges, tangerines, and grapefruit from Mexico that transit the United States.

**DATES:** We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00-086-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-086-1. If you

use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00-086-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Sponaugle, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1236; (301) 734-8295.

#### SUPPLEMENTARY INFORMATION:

##### Background

The plant quarantine safeguard regulations in 7 CFR part 352 relieve restrictions for certain products or articles that are classified as prohibited or restricted products or articles under our other regulations in title 7. Such articles include fruits and vegetables that are moved into the United States for: (1) A temporary stay where unloading or landing is not intended, (2) unloading or landing for transshipment and exportation, (3) unloading or landing for transportation and exportation, or (4) unloading and entry at a port other than the port of first arrival. Fruits and vegetables that are moved into the United States under these circumstances are subject to inspection and must be handled in accordance with conditions assigned under the safeguard regulations to prevent the introduction and dissemination of plant pests.

##### Authorized Ports

The regulations in § 352.30 address the movement into or through the United States of untreated oranges,

tangerines, and grapefruit from Mexico that transit the United States en route to foreign countries.

The regulations currently allow untreated oranges, tangerines, and grapefruit from Mexico to enter the United States at the ports of Nogales, AZ, or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, TX. The fruit may then be moved, under certain conditions, by truck or railcar to seaports at Brownsville and Galveston, TX, for export by water to another country.

The port authorities of Corpus Christi and Houston, TX, have requested that those ports be added to regulations as ports eligible to export untreated Mexican oranges, tangerines, and grapefruit by water.

The port of Corpus Christi is located midway between the ports of Brownsville and Galveston along the Texas coast. Corpus Christi is the fifth largest U.S. port in terms of trade volume (*i.e.*, 86.8 million short tons of commodities in 1997). The port of Corpus Christi has 295,500 square feet of covered dockside storage and a 100,000-square-foot refrigerated facility. This new facility includes refrigerator and freezer rooms, a treatment facility, and rail and truck docks that are temperature-controlled.

The port of Houston is located on Galveston Bay, approximately 50 miles northwest of the port of Galveston. Houston is the largest U.S. port in terms of trade volume (*i.e.*, approximately 175 million short tons of commodities in 2000). The port of Houston has 128,400 square feet of covered dockside storage, 672,000 square feet of warehouse storage, and a 200,000-square-foot waterfront refrigerated facility. The waterfront refrigerated facility has refrigerator and freezer rooms, a treatment facility, humidity-controlled storage, and enclosed truck and rail bays.

We have considered these requests and have concluded that the risk posed by allowing untreated oranges, tangerines, and grapefruit to transit the United States for export at the ports of Corpus Christi and Houston, TX, would be no different than the risk currently posed by in-transit shipments of untreated oranges, tangerines, and grapefruit moved from Mexico to Brownsville and Galveston, TX, for export. Based on this finding, we are

proposing to amend the regulations to allow untreated oranges, tangerines, and grapefruit from Mexico to be moved overland by truck or rail to Corpus Christi and Houston, TX, for export to another country by water.

#### *Pest Safeguards for Trucks and Railcars*

The regulations currently allow untreated oranges, tangerines, and grapefruit from Mexico to be moved in trucks to a location shipside, or to approved refrigerated storage pending lading aboard ship, in Brownsville or Galveston, TX. Trucks may also be used to move untreated oranges, tangerines, and grapefruit alongside refrigerator cars or aircraft at approved ports of entry listed in § 352.30(b)(2) for movement to a foreign country. Trucks must be of the van-type and must be kept closed from the time they enter into the United States until unloading is to commence. Alternatively, the regulations provide that loads of untreated oranges, tangerines, and grapefruit on trucks may be covered with a tarpaulin that is tightly tied down and that may not be removed or loosened from time of entry into the United States until unloading is to commence.

We believe the regulations pertaining to trucks, as described above, do not provide adequate protection against the introduction of fruit flies into the United States, given that fruit flies are known to exist in some areas in Mexico where oranges, tangerines, and grapefruit are grown, and given that there are citrus-producing areas within the areas that untreated oranges, tangerines, and grapefruit from Mexico may transit while en route to a port of export. We are proposing to revise those regulations to require that untreated oranges, tangerines, and grapefruit being moved by truck from Mexico must be enclosed in sealed, refrigerated containers of the type commonly used by the maritime or commercial trucking industry. This requirement would help to reduce the risk that fruit flies could be introduced into the United States via in-transit shipments of untreated Mexican oranges, tangerines, and grapefruit.

We are also proposing to amend the regulations in § 352.30(b)(4) to reflect the proposed addition of Corpus Christi and Houston, TX, as ports approved to handle untreated oranges, tangerines,

and grapefruit from Mexico. The regulations currently provide that shipments of such fruit may be entered at Nogales, AZ, only for direct rail routing to El Paso, TX, after which they may traverse only the territory bounded on the west by a line drawn from El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Brownsville, TX, through Galveston, TX, and Kinder, LA, to Memphis, TN, and then to Louisville, KY, and due east from Louisville. This area includes railroad routes from Brownsville to Galveston, TX, and routes running directly northward from Galveston. We are proposing to amend the regulations to make it clear that the routing of such shipments may also include railroad routes from Brownsville to Corpus Christi and Houston, TX, and routes running directly northward from Houston.

#### *Miscellaneous*

We are also proposing to update the regulations in § 352.30(e) to reflect recent changes to the regulations in § 319.56–2(h). The regulations in § 352.30(e) currently state that oranges, tangerines, and grapefruit that are moving in transit to foreign countries may be imported into the United States from certain municipalities in Sonora, Mexico, that are listed in § 319.56–2(h) of the regulations. Such importations must be in accordance with applicable conditions in §§ 319.56 through 319.56–8 of the regulations.

The regulations in § 319.56–2(h) list areas in Mexico that are free of certain fruit flies. Currently, those areas include municipalities in the States of Baja California Sur and Chihuahua in addition to Sonora. When these additional States were added to § 319.56–2(h), their addition should have been reflected in § 352.30(e), but that did not occur. Therefore, we are proposing to remove the reference to the State of Sonora from the regulations in § 352.30(e) in order to make it clear that oranges, tangerines, and grapefruit that are moving in transit to foreign countries may be imported into the United States from any municipality in Mexico that is listed in § 319.56–2(h) of the regulations.

#### *Executive Order 12866 and Regulatory Flexibility Act*

This proposed 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. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

The current regulations allow, among other things, untreated oranges, tangerines, and grapefruit from Mexico to enter the United States at six specified land border ports along the U.S.-Mexican border and to be moved overland by truck to maritime ports in Brownsville and Galveston, TX, for ocean export to third countries.

APHIS has received requests from the port authorities of Corpus Christi and Houston to add the maritime ports of Corpus Christi and Houston, TX, to the list of maritime ports authorized to receive untreated oranges, tangerines, and grapefruit from Mexico that have been trucked from land border ports along the U.S.-Mexican border for ocean export to third countries.

Between 1994 and 1999, the volume of in-transit shipments of untreated Mexican citrus was equivalent to a small percentage of the total volume of Mexican citrus entering into U.S. commerce (see Table 1).

TABLE 1.—U.S. IMPORTS OF FRESH CITRUS FROM MEXICO 1994–1999

| Year       | Mexican citrus entering U.S. commerce |                         | Mexican citrus in-transit through the United States |
|------------|---------------------------------------|-------------------------|---|
|            | Value (in U.S. dollars)               | Quantity (in kilograms) | Quantity (in kilograms)                             |
| 1994 ..... | 34,160,043                            | 125,057,000             | 308,698 (0.25% of imports)                          |
| 1995 ..... | 34,874,375                            | 148,652,000             | 435,021 (0.29% of imports)                          |
| 1996 ..... | 38,268,862                            | 140,822,000             | 1,417,929 (1.01% of imports)                        |
| 1997 ..... | 42,790,699                            | 164,587,000             | 45,951 (0.03% of imports)                           |
| 1998 ..... | 42,553,048                            | 171,630,000             | 510,450 (0.30% of imports)                          |
| 1999 ..... | 84,408,899                            | 211,197,000             | 519,878 (0.25% of imports)                          |

The availability of two additional maritime ports in Texas could become an accommodating factor for Mexico's in-transit trade with third countries, since, on average, more than 90 percent of untreated Mexican citrus transiting through the United States between 1995 and 1999 entered the country through a Texas maritime, air, or land port (see table 2).

TABLE 2.—FRESH UNTREATED MEXICAN CITRUS IN TRANSIT THROUGH THE UNITED STATES

| Year       | Mexican citrus in transit entering a Texas port (in kilograms) | Mexican citrus in transit entering other ports (in kilograms) |
|------------|--|---|
| 1994 ..... | 282,021 (91%).   | 26,677  |
| 1995 ..... | 390,713 (90%).   | 44,308  |
| 1996 ..... | 1,290,013 (91%).   | 127,916   |
| 1997 ..... | 45,951 (100%).   | 0   |
| 1998 ..... | 483,032 (95%).   | 27,418  |
| 1999 ..... | 413,229 (80%).   | 106,649   |

This proposed rule would benefit exporters and shippers in the area around the ports of Corpus Christi and Houston, TX, and may provide the local populations with additional income opportunities, the amount of which would depend on the volume of the in-transit untreated Mexican oranges, tangerines, and grapefruit exported from the ports of Corpus Christi and Houston, TX. Mexican exporters and foreign importers of the untreated oranges, tangerines, and grapefruit may benefit from the availability of additional ports that could handle their shipments.

This proposed rule would also require that untreated oranges, tangerines, and grapefruit from Mexico that are moving through Brownsville, Corpus Christi, Galveston, or Houston, TX, for export by water to another country be shipped in sealed, refrigerated containers. We do

not expect that this proposed requirement would have any significant effects on exporters or shippers of citrus fruit from Mexico because untreated citrus intended for export to another country is almost always shipped from Mexico in refrigerated containers in order to ensure that the quality of fruit is maintained during land transit and movement by sea to a foreign destination.

Movement from Mexico to the fruits' final destination in a foreign country can take several days, and sometimes more than a week, depending on the destination. Since this proposed change reflects current standard industry shipping practices, APHIS does not believe that any entities would be adversely affected by the proposed requirement. Nonetheless, we invite interested persons to submit information regarding the potential economic effects of this proposed requirement.

*Economic Effects on Small Entities*

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. Small entities at the ports of Corpus Christi and Houston, TX, would be affected by the proposed rule to the extent that they would benefit from handling in-transit shipments of untreated oranges, tangerines, and grapefruit arriving at their port. However, neither the number of firms that may be affected nor the proportion that can be considered small is known. Net benefits to U.S. firms overall are expected to be minimal because it is unlikely that the availability of Corpus Christi and Houston, TX, as export ports for untreated Mexican citrus would significantly affect the volume of in-transit oranges, tangerines, and grapefruit from Mexico moving through the United States.

*Summary*

This proposed rule would benefit the Mexican exporters and the foreign importers of untreated oranges, tangerines, and grapefruit, as well as the

ports of Corpus Christi and Houston, TX, which could handle in-transit shipments of Mexican oranges, tangerines, and grapefruit. It is likely that small entities at the ports of Corpus Christi and Houston, TX, may share in these benefits, but their number and the extent to which they may benefit are not known. Overall, U.S. firms would benefit to the extent that the trade is not simply a diversion from one maritime port to another, but rather that additional in-transit trade in untreated Mexican oranges, tangerines, and grapefruit occurs.

This proposed rule contains no new information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

*Executive Order 12988*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

*Paperwork Reduction Act*

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**List of Subjects in 7 CFR Part 352**

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 7 CFR part 352 as follows:

**PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS**

1. The authority citation for part 352 would continue to read as follows:

**Authority:** 7 U.S.C. 2260, 7711–7714, 7731, and 7734; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

2. Section 352.30 would be amended as follows:

a. By revising paragraphs (b)(3)(iii) and (b)(4)(i).

b. In paragraph (c)(1), by removing the words “or Galveston” and adding in their place the words “Corpus Christi, Galveston, or Houston”.

c. By revising paragraph (c)(3).

d. By revising paragraph (e).

**§ 352.30 Administrative instructions: Certain oranges, tangerines, and grapefruit from Mexico.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) *Trucks.* Trucks may be used to haul such fruit from Mexico to shipside, or to approved refrigerated storage pending lading aboard ship, in Brownsville, Corpus Christi, Galveston, or Houston, TX, or alongside refrigerator cars or aircraft at the ports named in paragraph (b)(2) of this section for movement to a foreign country. The fruit hauled in such trucks must be enclosed in sealed, refrigerated containers of the type commonly used by the maritime or commercial trucking industry.

(4) *Bonded rail movement—(i) Routing.* Shipments of such fruit may move by direct route, in Customs bond and under Customs seal, without diversion or change of Customs entry en route, from the port of entry to the port of exit en route to Canada or to an approved North Atlantic port in the United States for export to another foreign country, as follows: The fruit may be entered at Nogales, AZ, only for direct rail routing to El Paso, TX, after which it shall traverse only the territory bounded on the west by a line drawn from El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Brownsville, TX, through Galveston, TX, and Kinder, LA, to Memphis, TN, and then to Louisville, KY, and direct northward routes therefrom. Such fruit may also enter the United States from Mexico at any port listed in paragraph (b)(2) of this section for direct eastward rail movement in Customs bond and under Customs seal, without diversion en route, for reentry into Mexico.

\* \* \* \* \*

(c) \* \* \*

(3) *Exportation from Brownsville, Corpus Christi, Galveston, or Houston by water.* (i) Such fruit laden in refrigerated holds for export from Brownsville, Corpus Christi, Galveston, or Houston, TX, must be stowed in

closed compartments if the ship is to call at other Gulf or South Atlantic ports in the United States. The compartments are not to be opened while the ship is in such other Gulf or South Atlantic ports.

(ii) Such fruit for export from Brownsville, Corpus Christi, Galveston, or Houston, if not laden in refrigerated holds, must be stowed in closed compartments separate from other cargoes. Bulkheads of such compartments shall be kept closed. The hatches of compartments containing such fruit shall be closed and the tarpaulin battened down and sealed with Plant Protection and Quarantine Programs seals. The seals must remain unbroken while the ship is in any Gulf or South Atlantic port in the United States or its waters. Vents and ventilators leading to compartments in which the fruit is stowed must be screened with fine mesh screening. Advance notice of arrival of ships carrying untreated Mexican oranges, tangerines, or grapefruit shall be given to the inspector at such Gulf or South Atlantic port of call.

\* \* \* \* \*

(e) *Untreated fruit from certain municipalities in Mexico.* Oranges, tangerines, and grapefruit in transit to foreign countries may be imported from certain municipalities in Mexico listed in § 319.56–2(h) of this chapter in accordance with the applicable conditions in §§ 319.56 through 319.56–8 of this chapter.

\* \* \* \* \*

Done in Washington, DC, this 28th day of November, 2001.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–30000 Filed 12–3–01; 8:45 am]

**BILLING CODE 3410–34–U**

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**FEDERAL HOUSING FINANCE BOARD**

**12 CFR Chapter IX**

**[No. 2001–27]**

**RIN 3069–AB09**

**Multiple Federal Home Loan Bank Memberships**

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Solicitation of comments; extension of public comment period.

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**SUMMARY:** On October 3, 2001, the Federal Housing Finance Board (Finance Board) published a solicitation of comments in the **Federal Register** (66

FR 50366 (October 3, 2001)) on the implications for the Federal Home Loan Bank System (FHLBank System) raised by the structural changes that have been occurring in its membership base. The solicitation was prompted by the submission of several petitions, each requesting that the Finance Board permit a single depository institution to become a member of two Federal Home Loan Banks concurrently. The petitions also raised a number of other broad issues affecting the FHLBank System.

The Finance Board has received a number of requests for an extension of the January 2, 2002 deadline for written comments on the solicitation. In order to provide interested parties ample opportunity to comment, the Finance Board is extending the comment period for the solicitation from January 2, 2002 to March 4, 2002.

**DATES:** The comment period on the solicitation is extended to March 4, 2002.

**ADDRESSES:** Comments should be mailed to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or to [bakere@fhfb.gov](mailto:bakere@fhfb.gov). Comments will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** James L. Bothwell, Managing Director, (202) 408–2821; Scott L. Smith, Acting Director, (202) 408–2991, Office of Policy, Research and Analysis; Arnold Intrater, Acting General Counsel, (202) 408–2536; Neil R. Crowley, Deputy General Counsel, (202) 408–2990, or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

Dated: November 29, 2001.

By the Board of Director of the Federal Housing Finance Board.

**J. Timothy O’Neill,**  
*Chairman.*

[FR Doc. 01–29978 Filed 12–3–01; 8:45 am]

**BILLING CODE 6725–01–P**