

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 99-099-2]

RIN 0579-AB17

#### Importation of Unshu Oranges From Japan

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of citrus fruit to allow, under certain conditions, Unshu oranges grown on Kyushu Island, Japan, to be imported into non-citrus-producing areas of the United States. We are also amending the regulations for importing Unshu oranges from Honshu Island, Japan, by requiring fumigation using methyl bromide prior to exportation and by allowing the fruit to be distributed to additional areas in the United States, including citrus-producing areas. In addition, we are removing the requirement for individually wrapping Unshu oranges imported from Japan or the Republic of Korea. These actions would relieve restrictions on the importation into and distribution within the United States of Unshu oranges without presenting a significant risk of introducing citrus canker or other diseases or pests of plants.

**EFFECTIVE DATE:** January 28, 2002.

**FOR FURTHER INFORMATION CONTACT:** Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

**SUPPLEMENTARY INFORMATION:**

#### Background

Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The strain of citrus canker that occurs in Japan infects twigs, leaves, and fruit in a wide spectrum of citrus species.

Currently, the regulations in 7 CFR 319.28 (referred to below as the regulations) prohibit the importation of citrus from Eastern and Southeastern Asia, Japan, Brazil, Paraguay, and other designated areas, with certain exceptions. One exception is for Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, also known as Satsuma) grown in citrus-canker-free areas of Japan or on Cheju Island, Republic of Korea. After meeting certain growing, packing, and inspection requirements, Unshu oranges may be imported from these areas of Japan and Korea into any area of the United States except American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands. Also, under the regulations in 7 CFR 301.11, the interstate movement of Unshu oranges is prohibited from any State or area into which they may be imported into or through any State or area where importation is prohibited under § 319.28.

Unshu oranges eligible for importation into the United States are grown under a system of safeguards in citrus-canker-free areas in Japan and Korea. Unshu oranges are known to be resistant to citrus canker, and the system of safeguards established in the regulations for Unshu oranges approximately 30 years ago has proven effective, as evidenced by the record of citrus-canker-free imports.

On April 18, 2001, we published in the **Federal Register** (66 FR 19892-19898, Docket No. 99-099-1) a proposed rule to amend regulations governing the importation of citrus fruit to allow, under certain conditions, Unshu oranges grown on Kyushu Island, Japan, to be imported into non-citrus-producing areas of the United States. We also proposed to amend the regulations for importing Unshu oranges from Honshu Island, Japan, by requiring fumigation using methyl bromide prior to exportation and by allowing the fruit to be distributed to additional areas in the United States, including citrus-producing areas. Finally, we proposed

to remove the requirement for individually wrapping Unshu oranges imported from Japan or the Republic of Korea.

We solicited comments concerning our proposal for 60 days ending June 18, 2001. We received five comments by that date. These comments were from State agricultural agencies, a citrus growers cooperative, and a university. All of the commenters raised specific concerns regarding the proposed rule. Those concerns are discussed below by topic.

Two commenters opposed allowing Unshu oranges from Japan to enter citrus-producing areas of the United States under any conditions due to the risk of citrus canker. One of the commenters argued that fruit treatments and growing area inspections have not been conclusively proven to eliminate that risk. We believe that the risk of citrus canker being introduced into citrus-producing areas via imported Unshu oranges is almost nonexistent. The pest risk assessment estimated that the probability of the citrus canker bacterium (*Xanthomonas campestris* pv. *citri*) from imported Unshu orange fruits coming in contact with and infecting a suitable host material and establishing was nearly zero. The published literature indicates that no authenticated outbreak of citrus canker has ever been traced back to the importation of infected fruit. In addition, the Unshu oranges are known for their resistance to the disease.

Three commenters opposed removing the requirement to wrap individual oranges, especially given some Unshu oranges from Japan would be allowed into citrus-producing areas and others would not. These commenters argued that once cartons are opened and fruit distributed, it would be difficult to identify the origin of individual oranges. As we noted in the proposed rule, we will continue to require that each box containing fruit will have to be clearly marked with the States into which the fruit may be imported, and from which they are prohibited removal under a Federal plant quarantine. Our experience has shown that Unshu oranges are marketed and retailed by the box. We do not think that wrapping of individual fruits with tissue paper provides additional phytosanitary security; any importers engaged in swapping boxes to misrepresent the

origin (i.e., Kyushu-grown oranges in Honshu boxes) could also engage in swapping or fabricating wrapping papers.

Three commenters suggested that methyl bromide fumigation should be required for all Unshu oranges entering the United States from Japan, not just for Unshu oranges grown on Honshu. One of these commenters argued that three mealybugs identified in the pest risk assessment (*Planococcus kraunhiae*, *P. lilacinus*, and *Pseudococcus cryptus*) have a relatively wide host range and could move from imported Unshu oranges to other host material and become established in the United States. APHIS' fumigation requirement for the oranges grown on Honshu is an additional protective measure imposed because the Honshu-grown fruit can be distributed in U.S. citrus-producing areas. Because the distribution of Kyushu-grown fruit will be limited to non-citrus-producing areas, we believe that the existing safeguards will be sufficient. During the required inspections by APHIS personnel in Japan and at the U.S. port of entry, APHIS inspectors specifically target mealybugs; any shipments of Unshu oranges from Kyushu or Honshu found to be infested with mealybugs (or any other quarantine significant pest) will be prohibited entry into the United States.

Two commenters suggested that APHIS should update the 1995 pest risk assessment "Importation of Japanese Unshu Orange Fruit into Citrus Producing States," given the age of the document and the fact that Japan's work plan for the Unshu orange program does not refer to some of the pests identified as quarantine significant (e.g., the citrus fruit fly) in the pest risk assessment. We believe that the 1995 risk assessment is still applicable, given that no incidence of citrus canker or finding of a new pest of concern in the Japanese production areas has been reported or recorded since the assessment was prepared. With regard to Japan's work plan, it has not been necessary for that document to address the citrus fruit fly because that pest is not known to occur on Honshu, which has been the only area from which Unshu oranges could be imported into the United States. We will work with Japanese officials to ensure that the programmatic changes resulting from this rule are reflected in an updated work plan.

Two commenters suggested that the risks presented by citrus canker and citrus greening would require that minimal acceptable growing and domestic movement standards within Japan be the same as those imposed on

Florida for movement of commercial citrus. Citrus greening disease and its vector, *Diaphorina citri*, are reported as occurring only in the Ryuku Archipelago in Japan and have not been reported on Honshu or Kyushu. While *D. citri* was detected in southeastern Florida in June 1998—the only reported detection of the pest in the United States—populations of the pest are being controlled through a classical biological control program, according to a pest alert prepared by the University of Florida and the Florida Department of Agriculture and Consumer Services, Division of Plant Industry. Further, *D. citri* breeds exclusively on young flush and feeds on leaves and shoots of citrus, and the citrus greening bacterium is phloem restricted, making the fruit an unlikely pathway for the vector or the disease. With regard to citrus canker, we have noted in this document and elsewhere that Unshu oranges themselves are highly resistant to citrus canker and the required growing conditions in Japan all but eliminate the risk of citrus canker being introduced via Unshu oranges from Japan.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

#### 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. The shipping season for Unshu oranges from Japan is in progress. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year's shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon signature.

#### Executive Order 12866 and Regulatory Flexibility Act

This final 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.

The economic analysis for the changes in this document is set forth below. It provides a cost-benefit analysis as required by Executive Order 12866

and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act.

In the data used to prepare this analysis, the terms "tangerine" and "mandarin" are generally interchangeable. Both refer to varieties of *Citrus reticulata*. For example, National Agricultural Statistics Service (NASS) production data are aggregated under "tangerine," while Census Bureau trade data use the term "mandarin." Because of its familiarity, we use only the term "tangerine" in this analysis.

Unshu oranges (*Citrus reticulata* var. *unshu*) are a variety of tangerine currently allowed to be imported into the United States from citrus canker-free production areas of Japan and Korea. They may be imported into any part of the United States except for commercial citrus-producing areas. This rule amends the provisions regarding the importation of Unshu oranges from Honshu Island, where all such shipments from Japan originated prior to this rule, and allow importations from four prefectures on Kyushu Island. Unshu oranges imported from Honshu Island will no longer be prohibited from being distributed in five citrus-producing States (Arizona, California, Florida, Louisiana, and Texas), and postharvest treatment with methyl bromide will be mandatory. Unshu oranges from Kyushu Island will be prohibited from being distributed in those five citrus-producing States, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, and methyl bromide treatment will not be mandatory. This rule also removes the requirement that imported Unshu oranges be individually wrapped, regardless of whether they come from Japan or Korea.

Because Unshu oranges are not grown in the United States, entities that might be affected by this rule will be producers of other tangerine varieties, assuming Unshu oranges can be considered a substitute fruit. Annual receipts of \$750,000 or less is the small-entity criterion set by the Small Business Administration for establishments primarily engaged in the production of citrus fruits. Most tangerine producers in the United States are small entities. Although the 1997 *Census of Agriculture* excluded information on California's "honey tangerine" growers to avoid disclosing data for individual farms, the information that is available for "other tangerine" growers in California and other States indicates that most operations are small.

Quantities of Unshu oranges imported from Japan and Korea between 1994 and 1999 are shown in Table 1. Unshu orange imports from Japan between 1994 and 1999 averaged 240 metric tons per year.

TABLE 1—UNSHU ORANGE IMPORTS BY THE UNITED STATES FROM JAPAN AND KOREA

[In metric tons]

Year	Japan	Korea	Total
1994 .....	324	.....	324
1995 .....	232	43	275
1996 .....	165	214	379
1997 .....	144	887	1,031
1998 .....	224	31	255
1999 .....	349	377	726

Source: Ministry of Agriculture, Forestry and Fisheries, Japan.

Japan's Ministry of Agriculture, Forestry and Fisheries is unable to project future Unshu orange exports to the United States that may result from this final rule. For the purposes of this analysis, therefore, we estimated that the level of imports would be double the 1994–1999 average, i.e., 480 metric tons per year. Adding to this amount the average of yearly imports from Korea shown in Table 1, namely, 310 metric tons, would mean 790 metric tons of Unshu oranges imported annually. The estimated increase in imports from Japan may be too high, but we do not have information that would allow a more factually based projection. A high estimate of the potential increase in Japan's Unshu orange exports to the United States lends confidence to our conclusion regarding the potential economic effect on U.S. tangerine producers.

U.S. tangerine production, imports, and domestic supplies are shown in Table 2. U.S. net imports were less than 4 percent of the domestic supply in 1997–98. In addition, as Table 2 shows, the United States shifted from being a net exporter from 1994 through 1996 to being a net importer of tangerines beginning in 1996, reflecting increased demand for imported varieties. Annual exports from 1994 through 1998 were fairly constant at about 33,400 metric tons. Imports, however, increased sharply, from about 20,000 metric tons in 1994–95, to about 42,800 metric tons in 1997–98.

TABLE 2—U.S. FRESH TANGERINE PRODUCTION AND IMPORTATION [In metric tons]

Year	U.S. production <sup>1</sup>	Net imports <sup>2</sup>	Domestic supply <sup>3</sup>
1994–95 .....	190,046	–13,794	176,251
1995–96 .....	220,985	–9,477	211,508
1996–97 .....	255,020	1,742	256,762
1997–98 .....	220,878	8,848	229,726

<sup>1</sup>Excludes processed fruit. Source: Production data from NASS, *Agricultural Statistics*, Tables 5–23 and 5–24.

<sup>2</sup>“Net imports” are imports minus exports. Calendar year data arranged to correspond to NASS cross-year production data. Net import data source: *World Trade Atlas*, Global Trade Information Services, Inc., based on data from U.S. Department of Commerce, Bureau of the Census.

<sup>3</sup>U.S. production (excluding processed fruit) plus net imports.

Comparing Unshu orange imports shown in Table 1 with U.S. tangerine supplies shown in Table 2, it is apparent that Unshu orange imports comprise a small portion of total supply. From 1994–95 to 1997–98, they averaged only 0.23 percent of U.S. tangerine supply, and when only the fruit imported from Japan is considered, 0.11 percent. The hypothesized import level, 790 metric tons a year, represents only 0.36 percent of the average annual tangerine domestic supply over this 4-year period. This very small percentage suggests that any effect of Unshu orange imports, as a substitute fruit, on the sales and prices of other tangerine varieties as a whole would not be significant.

One seedless variety that is similar to the Unshu orange is the Satsuma. In the United States, it is commercially grown only in California, where there were 1,368 acres of bearing and 753 acres of nonbearing (young) trees as of May 1999, according to the California Department of Food and Agriculture. Satsuma production statistics are not recorded at the national or State level. Nearly all commercial production takes place in Fresno, Kern, and Tulare Counties, CA. Of these, only Fresno County maintains information specific to Satsumas. In 1997–98, there were 2,332 metric tons of Satsuma produced on 470 acres in Fresno County. Based on those production levels, we estimate that the entire area of California planted with Satsuma annually produces 6,785 metric tons of fruit and could potentially produce 10,520 metric tons of fruit. The hypothesized quantity of Unshu orange imports, 790 metric tons, represents 11.6 and 7.5 percent, respectively, of the estimated California Satsuma production levels (i.e., the estimated annual production and estimated potential production levels).

Direct access to California markets will allow Unshu orange imports from

Honshu Island to compete more directly for California's Satsuma consumers. However, prices of the two varieties are not competitive. Wholesale prices for Satsuma in 1997–98 were about 40 to 50 cents per pound. Wholesale prices for Unshu oranges for the past 6 to 7 years have been around \$1.40 to \$1.50 per pound (\$45 to \$48 per 32-pound container). One company has been the sole importer of Unshu oranges from Japan for more than 10 years.

Information from the U.S. Department of Commerce, Bureau of the Census, shows that the average price of all tangerines imported by the United States from 1994 to 1998 was more in line with Satsuma prices, at about 47 cents per pound. A price difference of this magnitude implies distinct markets; it is highly unlikely that Satsuma customers will be willing to pay a threefold premium for a substitute variety. There may be latent demand for Unshu oranges in the United States, but the extent to which this demand draws away consumers of Satsuma and other domestic tangerine varieties is expected to be marginal. More likely, Unshu orange sales in citrus-producing States and elsewhere will be to an expanding base of niche customers willing to pay the premium price for Unshu oranges.

The effect on the demand for other *Citrus reticulata* varieties from increased levels of Unshu orange imports is expected to be negligible. Even when the analysis focuses more narrowly on a similar tangerine variety, the Satsuma, the higher prices paid for Unshu oranges strongly indicate a distinct market, with any effect on Satsuma sales likely to be insignificant.

An increase in the importation of Unshu oranges is expected, given the addition of Unshu oranges grown on Kyushu Island and the opportunity for Unshu oranges from Honshu Island to be marketed in U.S. citrus-producing States. The requirement that shipments from Honshu Island be fumigated using methyl bromide will not affect the volume of Unshu oranges exported, since all shipments from that island are already fumigated voluntarily. Whether the fruit continues to be wrapped after individual fruit wrappers are no longer required will probably be determined largely by customer preference.

As explained, increases in the quantity of Unshu oranges imported from Japan are not expected to have a significant economic effect on U.S. tangerine producers, whether the producer is a small or large entity.

**Cost-Benefit Analysis and Analysis of Alternatives**

Economic effects on U.S. producers and consumers resulting from this rule are expected to be insignificant. As described, projected Unshu orange imports represent about one-third of 1 percent of domestic tangerine supply. This small amount is unlikely to affect the demand for other tangerines, especially given that Unshu orange prices are triple those of other tangerines. U.S. retailers and consumers of Unshu oranges will benefit, particularly those in citrus-producing States that currently do not have direct access to them.

Alternatives to this rule would be to either maintain existing import regulations or propose restrictions different from those set forth here. The risk assessment supports neither alternative. Japanese sources and U.S. destinations can be expanded without jeopardizing the U.S. citrus industry. The economic effect will be positive, but very minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

**Executive Order 12988**

This final rule allows Unshu oranges to be imported into the United States from Japan. State and local laws and regulations regarding Unshu oranges imported under this rule will be preempted while the fruit is in foreign commerce. Fresh Unshu oranges are generally imported for immediate distribution and sale to the consuming public, and 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 final rule. The assessment provides a basis for the conclusion that the importation of Unshu oranges grown at approved locations in Japan and imported into certain areas of the United States under the conditions specified in this final rule will not present a risk of introducing or disseminating citrus canker, citrus fruit fly, and mealybugs 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), as amended (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) APHIS' NEPA 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**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0173.

**List of Subjects in 7 CFR Part 319**

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

**PART 319—FOREIGN QUARANTINE NOTICES**

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

**Authority:** 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.28 is amended as follows:

a. Paragraphs (b)(2), (b)(3), (b)(4), and (b)(6) are redesignated as paragraphs (b)(3), (b)(4), (b)(6), and (b)(7), respectively.

b. Paragraph (b) introductory text is revised, paragraph (b)(5) is added, and newly redesignated paragraphs (b)(6)(i) and (b)(7) are revised.

c. New paragraph (b)(2) is added.

**§ 319.28 Notice of quarantine.**

\* \* \* \* \*

(b) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [Citrus unshiu Marcovitch, Tanaka]), also known as Satsuma, grown in Japan or on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for those areas specified in paragraph (b)(7) of this section: *Provided*, that each of the following safeguards is fully carried out:

\* \* \* \* \*

(2) In Unshu orange export areas and buffer zones on Kyushu Island, Japan, trapping for the citrus fruit fly (*Bactrocera tsunoneonis*) must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry and Fisheries and the U.S. Department of Agriculture. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

\* \* \* \* \*

(5) Each shipment of oranges grown on Honshu Island, Japan, must be fumigated with methyl bromide after harvest and prior to exportation to the United States. Fumigation must be at the rate of 3 lbs./1,000 cu. ft. for 2 hours at 59 °F or above at normal atmospheric pressure (chamber only) with a load factor of 32 percent or below.

(6) \* \* \*

(i) The individual boxes in which the oranges are shipped must be stamped or printed with a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

\* \* \* \* \*

(7) The Unshu oranges may be imported into the United States only through a port of entry listed in § 319.37–14, except as follows:

(i) Unshu oranges from Honshu Island, Japan, may not be imported into American Samoa, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands.

(ii) Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only), or Cheju Island, Republic of Korea, may not be imported into American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana

Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.

\* \* \* \* \*

Done in Washington, DC, this 28th day of January 2002.

**W. Ron DeHaven,**

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

[FR Doc. 02-2492 Filed 1-31-02; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 01-122-1]

#### Change in Disease Status of Slovakia and Slovenia Because of BSE

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations by adding Slovakia and Slovenia to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in native-born animals in those regions. Slovakia and Slovenia are currently listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. Therefore, the effect of this action is a continued restriction on the importation of ruminants that have been in Slovakia or Slovenia and meat, meat products, and certain other products of ruminants that have been in either of those countries. This action is necessary in order to update the disease status of Slovakia and Slovenia regarding bovine spongiform encephalopathy.

**DATES:** This interim rule is effective February 1, 2002. We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by April 2, 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. 01-122-1, 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. 01-122-1. 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. 01-122-1" 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:** Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Issues Management Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of cattle and is not known to exist in the United States. It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants with BSE are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States.

Paragraph (a)(1) of § 94.18 lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. Paragraph (b) of § 94.18 prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraphs (a)(1) or (a)(2). Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in 9 CFR part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service may deny the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (see § 93.404(a)(3)).

Currently, Slovakia and Slovenia are among the regions listed in § 94.18(a)(2), which are regions that present an undue risk of introducing BSE into the United States. (Slovakia is currently listed in § 94.18(a)(2) as "the Slovak Republic.") However, on October 5, 2001, a case of BSE was confirmed in a native-born animal in Slovakia. A case of BSE was confirmed in a native-born animal in Slovenia on November 21, 2001. Therefore, in order to update the disease status of these regions regarding BSE, we are amending the regulations by removing Slovakia and Slovenia from the list in § 94.18(a)(2) of regions that present an undue risk of introducing BSE into the United States and adding Slovakia and Slovenia to the list in § 94.18(a)(1) of regions where BSE is known to exist. The effect of this action is a continued restriction on the importation of ruminants that have been in Slovakia or Slovenia and on the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in either of those countries.

#### Miscellaneous

As noted above, the regulations in § 94.18(a)(2) have referred to Slovakia