

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. 01-073-1]

Untreated Citrus from Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the plant quarantine safeguard regulations to remove Brownsville and Hidalgo, TX, as ports of entry for untreated Mexican oranges, tangerines, and grapefruit transiting the United States for export to another country. We are also proposing to remove Brownsville, TX, as an authorized port for the exportation by water of shipments of untreated Mexican oranges, tangerines, and grapefruit. We are proposing these actions because neither port has been used for these purposes in over 20 years. These actions would update the regulations so that they accurately reflect the ports used for the importation and exportation by water of untreated citrus from Mexico.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by May 20, 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. 01-073-1, 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. 01-073-1. If you use e-mail, address your comment to 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. 01-073-1" 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: Ms. Pam Byrne, Senior Operations Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1231; (301) 734-5242.

SUPPLEMENTARY INFORMATION:

Background

The plant quarantine safeguard regulations in 7 CFR part 352 relieve restrictions for certain plants, plant products, plant pests, soil, and other products and articles that are classified as prohibited or restricted in other regulations in title 7, chapter III. Such plant products 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 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 spread of plant pests.

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.

In this document, we are proposing to remove Brownsville and Hidalgo, TX, as ports of entry for untreated oranges, tangerines, and grapefruit from Mexico. In addition, we are also proposing to remove Brownsville, TX, as an authorized port for the exportation by water of such fruit. We are proposing these actions because it has been more than 20 years since any shipments of untreated citrus from Mexico have been imported into the United States through either port. Additionally, the port of Hidalgo, TX, no longer handles cargo; that port now handles only pedestrians and passenger vehicles. It has also been more than 20 years since Brownsville, TX, has been used for the export of untreated Mexican citrus by water to another country.

Removing Brownsville and Hidalgo, TX, as ports of entry for untreated citrus from Mexico and removing Brownsville, TX, as an authorized port of export for such fruit would update the regulations in § 352.30 so that they accurately reflect the ports that are used for those purposes.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are proposing to amend the plant quarantine safeguard regulations to remove Brownsville and Hidalgo, TX, as ports of entry for untreated Mexican oranges, tangerines, and grapefruit transiting the United States for export to another country. We are also proposing to remove Brownsville, TX, as an authorized port for the exportation by water of shipments of untreated Mexican oranges, tangerines, and grapefruit. We are proposing these actions because neither port has been used for these purposes in over 20 years. These actions would update the regulations so that they accurately reflect the ports used for the importation and exportation by water of untreated citrus from Mexico.

Since the ports of Brownsville and Hidalgo, TX, have not been used for any shipments of untreated citrus from Mexico in over 20 years, this proposed action would have no economic effect on any entity. Small entities located at or around the ports of Brownsville and Hidalgo, TX, will not be affected by this proposed rule for the same reason that no economic entity of any size will be affected.

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 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 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.

§ 352.30 [Amended]

2. Section 352.30 would be amended as follows:

a. In paragraph (b)(2), by removing the words “Brownsville,” and “Hidalgo,”.

b. In paragraph (b)(3)(iii), by removing the words “Brownsville or”.

c. In paragraph (c)(1), by removing the words “Brownsville, or”.

d. In paragraph (c)(3), in the paragraph heading and in paragraphs (c)(3)(i) and (c)(3)(ii), by removing the words “Brownsville or” each time they appear.

Done in Washington, DC, this 18th day of March 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–6838 Filed 3–20–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV02–928–2]

Papayas Grown in Hawaii; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Order to terminate and reschedule referendum.

SUMMARY: This document directs that the continuance referendum scheduled to be held March 4 through March 22, 2002 among eligible growers of Hawaii papayas be terminated and rescheduled for May 6 through May 31, 2002. Rescheduling is necessary due to complications encountered with timely delivery of ballots by mail. Rescheduling will ensure that eligible growers receive their ballots with time to review them and vote. A referendum is necessary to determine whether eligible growers of Hawaii papayas favor continuance of the marketing order regulating the handling of papayas grown in the production area.

DATES: The rescheduled referendum will be conducted from May 6, through May 31, 2002. To vote in this referendum, growers must have been producing Hawaii papayas during the period July 1, 2000, through June 30, 2001.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agent at 2202 Monterey Street, Suite 102 B, Fresno, California, 93721, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), US Department of Agriculture (USDA), 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: J. Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, at 2202 Monterey Street, Suite 102 B, Fresno, California 93721; telephone (559) 487–5901; or Melissa Schmaedick, Marketing Order Administration

Branch, Fruit & Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; telephone (202) 720–2491.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 928 (7 CFR part 928), hereinafter referred to as the “order” and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act,” it is hereby directed that the March 4 through March 22, 2002 referendum be terminated and that a rescheduled referendum be conducted from May 6 through May 31, 2002 to ascertain whether continuance of the order is favored by producers. Only growers that were engaged in the production of Hawaii papayas during the period of July 1, 2000, through June 30, 2001, may participate in the rescheduled continuance referendum.

A continuance referendum to be conducted among growers of papayas in Hawaii had been scheduled for the period March 4, through March 22, 2002. Notice of this referendum order was issued on January 31, 2002 and published in the February 6, 2002 issue of the **Federal Register** (67 FR 5526). Termination of this referendum is necessary due to complications encountered with timely delivery of ballots by mail. Given this delay, we can no longer ensure that adequate time will be given to all eligible voters to fully review, contemplate and cast their ballots within the allotted referendum period. All ballots pertaining to the March referendum period will be considered invalid.

The USDA has determined that a rescheduled referendum to determine if growers of papayas in the production area favor continuance of their marketing order will be held from May 6 through May 31, 2002. Rescheduling of the referendum period will ensure proper distribution and ample review for all eligible growers voting in the referendum. New ballots and voting instruction will be issued to all growers of record subsequent to this Notice.

The USDA has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order programs. The USDA would continue the order if either two-thirds of the growers voting in the referendum or growers of two-thirds of the volume of Hawaii papayas represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the USDA will consider the results of the referendum