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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 352

[Docket No. 01-073-2]

Untreated Citrus From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending 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 removing Brownsville, TX, as an authorized port for the exportation by water of shipments of untreated Mexican oranges, tangerines, and grapefruit. We are taking these actions because neither port has been used for these purposes in over 20 years. These actions will update the regulations so that they accurately reflect the ports used for the importation and exportation by water of untreated citrus from Mexico.

EFFECTIVE DATE: August 15, 2002.

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. Those regulations have allowed 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, and be moved, under certain conditions, by truck or railcar to seaports at Brownsville and Galveston, TX, for export by water to another country.

In a proposed rule published in the **Federal Register** on March 21, 2002 (67 FR 13103-13104, Docket No. 01-073-1), we proposed to amend the regulations by removing Brownsville and Hidalgo, TX, as ports of entry for untreated oranges, tangerines, and grapefruit from Mexico. In the same document, we also proposed to remove Brownsville, TX, as an authorized port for the exportation by water of such fruit.

We solicited comments concerning our proposal for 60 days ending May 20, 2002. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the plant quarantine safeguard regulations by removing 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 removing Brownsville, TX, as an authorized port for the exportation by water of shipments of untreated Mexican oranges, tangerines, and grapefruit. We are taking these actions because neither port has been used for these purposes in over 20 years. These actions will 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 action will 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 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 will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final 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 are amending 7 CFR part 352 as follows:

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

1. The authority citation for part 352 is revised to read as follows:

Authority: 7 U.S.C. 7711–7714, 7731, 7734, and 8311; 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 is 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 10th day of July, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–17796 Filed 7–15–02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[Doc # FV–02–706 IFR]

Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on adjusting representation on the Mushroom Council (Council) to reflect shifts in production since the original producer regions were established and the increased volume of imports. These adjustments are required by the Mushroom Promotion, Research, and Consumer Information Order (Order) and would result in changing the number of Council members in three of the four producer regions and adding a fifth region to provide an importer position on the Council.

DATES: Effective date: July 17, 2002. Comments must be received by August 15, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), Department of Agriculture (USDA), Stop 0244, Room 2535–S, 1400 Independence

Avenue, SW., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to:

malinda.farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at <http://www.ams.usda.gov/fv/rpdocketlist.htm>.

FOR FURTHER INFORMATION CONTACT:

Deborah S. Simmons, Research and Promotion Branch, FV, AMS, USDA, Room 2535–S, Stop 0244, Washington, DC 20250–0244; telephone (202) 720–9915 or (888) 720–9917 (toll free); e-mail to deborah.simmons@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order (Order) [7 CFR Part 1209]. The Order is authorized under the Mushroom Promotion, Research and Consumer Information Act of 1990 (Act) (7 U.S.C. 6101–6112).

Executive Orders 12866 and 12988

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

In addition, this rule has been reviewed under E.O. 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act allows producers and importers to file a written petition with USDA if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with law. In any petition, the person may request a modification of the Order or an exemption from the Order. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a final decision on behalf of the Department. If the petitioner disagrees with the Judicial Officer's decision, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*],

AMS has examined the economic impact of this rule on small entities that would be affected by this rule. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (importers) as having receipts of no more than \$5 million. Under these definitions, the majority of producers and importers that would be affected by this rule would be considered small entities. Producers and importers of less than 500,000 pounds or less of mushrooms for the fresh market are exempt from the Order.

According to the Council, there are approximately 137 non-exempt producers and 135 non-exempt importers who are eligible to serve on the Council.

The overall impact would be favorable for producers and importers because the producers and importers would have more equitable representation on the Council.

The addition of one importer position on the Council would mean two additional nominees. However, this rule would also reduce the number of producer nominees from 18 to 16. Therefore, there is no increase in overall burden, but only a change in the type of respondent under the Order.

As such, with regard to the information collection requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], there are no new requirements contained in this rule. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0505–0001. This rule, however, does add a new category of respondents—importers. The estimated burden for importer nominee information is 0.50 hours per response with two responses once every three years. This is the same burden that applies to producer nominees. Since producer nominees are reduced by this rule from 18 to 16, the estimated total annual burden on respondents associated with nominee background forms is 2.7 hours. The estimated cost of providing nomination information by eighteen persons eligible to be nominated to serve as members on the Council remains at \$27.00 or \$1.50 per person.

In terms of alternatives to this rule, this action reflects the volume thresholds and procedures that have been established previously under the