

Proposed Rules

Federal Register

Vol. 75, No. 249

Wednesday, December 29, 2010

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 319

[Docket No. APHIS-2010-0036]

RIN 0579-AD27

Importation of Clementines From Spain; Amendment to Inspection Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of clementines from Spain by removing from the regulations the number of clementines per consignment intended for export to the United States that are required to be sampled by inspectors of the Animal and Plant Health Inspection Service (APHIS). In place of this number, we propose to state in the regulations that the number to be sampled will be determined by APHIS. By removing from the regulations the number of clementines per consignment from Spain to be sampled, APHIS would have the flexibility to respond to changing risk levels while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before February 28, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0036> to submit or view comments and to view supporting and related materials available electronically.

• **Postal Mail/Commercial Delivery:** Please send one copy of your comment to Docket No. APHIS-2010-0036, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700

River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0036.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. William Wesela, Assistant Director of Preclearance Programs, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-5718.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart–Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–50, 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 spread of plant pests that are new to or not widely distributed within the United States.

The regulations in § 319.56–34 list specific requirements for the importation into the United States of clementines from Spain. Clementines may only be imported if the Government of Spain or its designated representative enters into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) before each shipping season. To minimize the risk of plant pests being introduced into the United States, the regulations also require that growers who produce clementines in Spain for export to the United States be registered with the Government of Spain, and that they agree to follow the requirements of the Mediterranean fruit fly (*Ceratitis capitata*, or Medfly) management program administered by the Government of Spain.

Clementines from Spain must be accompanied by a phytosanitary certificate stating that the fruit meets the conditions of the Medfly management program and the regulations.

Clementines from Spain must also be cut and inspected (*i.e.*, sampled) before undergoing cold treatment in accordance with the regulations, and be sampled at the port of entry.

Specifically, with respect to pre-treatment sampling, paragraph (f) of § 319.56–34 states that APHIS inspectors will cut and inspect 200 fruit randomly selected from throughout each consignment prior to cold treatment. The purpose of this inspection is to look for live Medflies in any stage of development that may be present. If a single Medfly is found, the entire consignment of clementines is rejected. If a single Medfly is found in any two lots from the same orchard during the same shipping season, that orchard is removed from the export program for the remainder of the shipping season.

A cutting and inspection level of 200 fruit per consignment has generally provided APHIS inspectors with the ability to detect for Medfly if they are present at even low levels of infestation. However, in the past year, inspectors from the Department of Homeland Security’s Bureau of Customs and Border Protection have repeatedly discovered high levels of dead larvae in clementine consignments arriving in the United States from Spain. Under the current regulations, APHIS inspectors are unable to adjust the number of fruit sampled prior to cold treatment without an agreement from the national plant protection organization of Spain to sample at a rate higher than we have specified in the regulations. However, when conditions indicate a higher risk of Medfly, our experience indicates that adjusting the sampling rate would detect pests that might otherwise go undetected prior to treatment.

We propose to remove the requirement in paragraph (f) of § 319.56–34 that exactly 200 fruit be sampled before treatment and instead state that the number of fruit to be sampled will be determined by APHIS. The actual sampling level would be included in the bilateral workplan agreed to by APHIS and the Government of Spain, which describes in detail how the regulations are implemented operationally. This change would give

APHIS the flexibility to adjust the sample without going through the rulemaking process, and would be more in line with agreements that we have with other countries exporting fruit to the United States. APHIS would be able to increase the number of fruit sampled if the risk of Medfly larvae in consignments of fruit is determined to have increased, and lower the number if environmental, climatic, or other factors indicate a lower risk.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (*see ADDRESSES* above for instructions for accessing Regulations.gov).

A consignment of clementines consists of one or more lots containing no more than a combined total of 200,000 boxes of clementines that are presented to an inspector for pre-treatment inspection. Under the current regulations that allow for sampling of 200 clementines, the percentage of sampled clementines ranges from 0.02 percent to 0.1 percent per consignment inspected. Even if inspection amounts were increased two or three times when there is a higher pest risk (or reduced when there is a lower pest risk), the percentage of clementines sampled would remain negligible.

While this rule would help reduce the risk of pest introduction, we are unable to quantify the economic impact of decreasing the probability of introducing Medfly into the United States. Medfly introductions can be very costly to producers and to the Federal and State Governments. The mean cost of eradicating six Medfly outbreaks in 2007 was \$13.54 million.

This rule would not have a significant economic effect on producers of clementines or other U.S. entities, regardless of their size or resources. As described, an increase or decrease in the number of fruit sampled due to pest risk level changes would have a negligible effect on the number of clementines imported from Spain.

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 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 319

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

Accordingly, we propose to amend 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. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 319.56–34, paragraph (f) is amended as follows:

a. In the paragraph heading, by removing the words “; rates of inspection”.

b. By removing the words “200 fruit” and adding in their place the words “a sample of clementines determined by APHIS”.

Done in Washington, DC on December 22, 2010.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010-32770 Filed 12-28-10; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AB03

Appliance Labeling Rule

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Proposed rule; request for comment.

SUMMARY: The Commission proposes changing the effective date for its new light bulb labeling requirements (published on July 19, 2010, 75 FR 41696) to January 1, 2012, to provide manufacturers with additional time to incorporate the new label on their packaging. The Commission also proposes not requiring the new label for incandescent bulbs (*e.g.*, 75 watt bulbs) that, as of 2013, will not meet federal energy efficiency standards.

DATES: Written comments must be received on or before January 28, 2011.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in section III of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted using the following weblink: <https://ftcpublic.commentworks.com/ftc/lightbulblabel> (and following the instructions on the Web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (Pub. L. 110-140) (EISA) directed the Commission to consider the effectiveness of its current labeling requirements for “lamps,” commonly referred to as light bulbs, and alternative labeling approaches.¹ Pursuant to this mandate, on July 19, 2010 (75 FR 41696), the Commission published amendments to the Appliance Labeling Rule (Rule) creating new labeling requirements for general service lamps (*i.e.*, medium screw base incandescent, compact fluorescent (CFL), and light-emitting diode (LED) products). These requirements become effective on July 19, 2011. The new requirements feature a “Lighting Facts” label that will provide consumers with information on a bulb’s brightness, annual energy cost, life, color appearance, and energy use.

¹ This document uses the terms lamp, light bulb, and bulb interchangeably.