

Historical and designated licensees may apply for lottery licenses, subject to certain limitations if they are affiliated or associated with another licensee holding a license for that same item from the same country of origin. Licensees may fail to qualify for a license for a specific item from a specific country in the following year if they do not meet certain requirements. Licensees must (i) Apply for the license each year, (ii) pay an annual fee, and (iii) have imported at least 85 percent of the final license amount from the previous year. To avoid ineligibility due to the 85 percent rule, licensees may surrender up to 100 percent of the license, but must import 85 percent of any quantity not surrendered.

Section 6.25(b)(i) of the Dairy Tariff-Rate Import Quota Licensing Program regulation currently provides, beginning with the 2016 quota year, an additional import requirement which applies only to historical licensees, that any historical licensee who surrenders more than 50 percent of the license amount for the same item from the same country during at least three of the most recent five years will be issued a license thereafter, in an amount equal to the average amount imported under that license for those five quota years.

The only non-technical modifications to the program since 1996 have been temporary suspensions of the provision in section 6.25(b) providing for the reduction in the license amount. Citing changed market conditions, including reduced export subsidies from the European Union, USDA temporarily suspended the provision three times: for five years from 1998–2002, for two years from 2009 to 2010, and most recently for five years from 2011 to 2015.

Upon promulgating the Dairy Tariff-Rate Import Quota Licensing Program regulation in 1996, the Secretary of Agriculture determined that this regulation resulted to the fullest extent practicable in a fair and equitable allocation of the right to import dairy products subject to licensing. The regulation also maximized the utilization of the tariff-rate quotas for such articles, taking due account of any special factors which may have affected or may be affecting the trade in the products. Regarding section 6.25(b), in light of the small number of licenses available to new entrants or others who wish to increase imports of a given article, USDA determined that it was sound public policy to reallocate license amounts that were consistently not being used and the 6.25(b) reduction provision would increase the amount available in the non-historical pool, while still giving historical licensees a

fair opportunity to demonstrate that they are using their licenses.

Many stakeholders, particularly importers holding historical licenses, believe that section 6.25(b)(i) no longer serves its original purpose and have requested its elimination. They point out that in the last decade, for those items with low fill-rates, the non-historical license fill-rates are no higher than the historical license fill-rates. Stakeholders have also proposed as an alternative to eliminating section 6.25(b)(i), that the standard against which historical license fill-rates are measured should not be 50 percent, but rather the industry overall average fill-rate for each year. Under this type of rule, a historical license for a particular item would only be reduced if the licensee imported less than 50 percent of the industry's average imports of that item for three out of the most recent five years.

The U.S. dairy market has changed a great deal since the Dairy Tariff-Rate Import Quota Licensing Program regulation was promulgated in 1996. In the intervening years there have been significant advances in technology and telecommunications, and certain processes such as issuing new or reallocated licenses can now be managed in less time. Stakeholders have requested changes to some of the timelines and deadlines in the current regulation. For example, some would prefer that reallocation be done prior to October 1 of each year. Permitting reallocation earlier in the year would provide more time to identify supplies and arrange shipping and handling for entry into U.S. Customs territory before the quota year ends on December 31.

Some stakeholders have requested a review of the method for calculating the annual fee, which is currently levied per license, but could be levied in other ways such as per kilogram. A small number of importers control a large percentage of the quota allocations. These import licenses enable the licensee to import certain dairy products at the lower in-quota tariff-rate and, under the current licensing program, much of this value likely accrues to these licensed importers, due to the extent of control they have over imported dairy products subject to licensing. Given the length of time since the initial historical allocations were made almost 60 years ago, suggestions have been made that a more equitable license allocation system could be implemented.

USDA is requesting public comment on all of the issues mentioned above, or on any other part of the regulation at 7 CFR part 6, Subpart—Dairy Tariff-Rate

Import Quota Licensing. In particular, comments are invited on these questions:

(1) Does the historical and nonhistorical license system still serve a purpose?

(2) Should any provisions of the current regulation be modified in light of significant advances in technology and telecommunications?

(3) Should methods be developed for issuing licenses that would increase competition among importers?

(4) Should licenses be auctioned or issued on another basis?

(5) Should section 6.25(b)(i) regarding historical license reductions be eliminated, revised, or indefinitely suspended?

(6) Should the basis upon which license fees are assessed be changed from the current flat-fee per license?

(7) Should the deadlines for the surrender and reallocation of licenses in section 6.26 be changed to allow earlier reallocations?

Dated: January 31, 2013.

**Suzanne E. Heinen,**

*Administrator, Foreign Agricultural Service.*

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2011-0060]

RIN 0579-AD59

### Importation of Fresh Citrus Fruit From Uruguay, Including Citrus Hybrids and *Fortunella* spp., Into the Continental United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as *Citrus* hybrids and the *Citrus*-related genus *Fortunella*, from Uruguay into the continental United States. As a condition of entry, the fruit would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments, pest monitoring and pest control practices, orchard sanitation and packinghouse procedures designed to exclude the quarantine pests, and treatment. The fruit would also be required to be

accompanied by a phytosanitary certificate issued by the national plant protection organization of Uruguay with an additional declaration confirming that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. This action would allow for the importation of fresh citrus fruit, including *Citrus* hybrids and the *Citrus*-related genus *Fortunella*, from Uruguay while continuing to provide protection against the introduction of plant pests into the United States.

**DATES:** We will consider all comments that we receive on or before April 8, 2013.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0060-0001>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2011-0060, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS 2011-0060> or in our reading room, which 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) 799-7032 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith C. Jones, Regulatory Coordination Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 851-2289.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–57, 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 dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of Uruguay has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow sweet oranges (*Citrus sinensis* (L.) Osbeck),

lemons (*C. limon* (L.) Burm. f.), four species of mandarins (*C. reticulata* Blanco, *C. clementina* Hort. ex Tanaka, *C. deliciosa* Ten., and *C. unshiu* Marcow, *Citrus* hybrids, and two species of the *Citrus*-related genus *Fortunella* (*F. japonica* Thunb. Swingle and *F. margarita* (Lour.) Swingle) to be imported into the continental United States. Hereafter we refer to these species as “citrus fruit.” As part of our evaluation of Uruguay’s request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room).

The PRA, titled “Importation of Fresh Citrus Fruit, including Sweet Orange (*Citrus sinensis* (L.) Osbeck), Lemon (*C. limon* (L.) Burm. f.), Mandarin (*C. reticulata* Blanco, *C. clementina* Hort. ex Tanaka, *C. deliciosa* Ten., *C. unshiu* Marcow.), Citrus Hybrids, and the Citrus-Related Genus *Fortunella* (*F. japonica* (Thunb.) Swingle, *F. margarita* (Lour.) Swingle), from Uruguay into the Continental United States” (Dec. 16, 2012), evaluates the risks associated with the importation of fresh citrus fruit into the continental United States from Uruguay.

The PRA and supporting documents identified six pests of quarantine significance present in Uruguay that could be introduced into the United States through the importation of citrus fruit. These include two fruit flies, *Anastrepha fraterculus* (South American fruit fly) and *Ceratitidis capitata* (Mediterranean fruit fly); two moths, *Cryptoblabes gnidiella* (the honeydew moth) and *Gymnandrosoma aurantianum* (citrus fruit borer); one fungus (*Elsinoë australis*, causal agent of sweet orange scab); and a pathogen (*Xanthomonas citri* subsp. *citri*, causal agent of citrus canker). In a previous revision of the PRA, citrus black spot (*Guignardia citricarpa* Kiely) was included as a quarantine pathogen likely to follow the pathway. However we have since determined that fresh or dried citrus fruit is not epidemiologically significant as a pathway for the introduction of citrus black spot because the combination of conditions required for disease transmission from harvested fruit is highly unlikely. Therefore, analysis of this pathogen was removed from the document.

APHIS has determined that measures beyond standard port-of-arrival inspections are required to mitigate the risks posed by these plant pests. Therefore, we are proposing to allow the importation of citrus fruit from Uruguay into the continental United States only if it is produced under a systems approach. The systems approach would require the fruit to be imported only in commercial consignments; the Uruguayan NPPO to provide a workplan to APHIS that details the activities that the Uruguayan NPPO will, subject to APHIS’ approval of the workplan, carry out to meet the proposed requirements; pest monitoring and pest control practices; orchard sanitation and packinghouse procedures designed to exclude the quarantine pests; and the fruit to be treated in accordance with 7 CFR part 305 and the Plant Protection and Quarantine (PPQ) Treatment Manual.<sup>1</sup> Consignments of citrus fruit from Uruguay would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the fruit in the consignment is free of all quarantine pests and has been produced in accordance with the requirements of the systems approach. We are proposing to add the systems approach to the regulations in a new § 319.56–58.

*Commercial Consignments*

Paragraph (a) of proposed § 319.56–58 would state that only commercial consignments of citrus fruit from Uruguay would be allowed to be imported into the continental United States. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packing, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

*General Requirements*

Paragraph (b) of proposed § 319.56–58 would set out general requirements for

<sup>1</sup> [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf).

the Uruguayan NPPO and for growers and packers producing citrus fruit for export to the United States.

The Uruguayan NPPO would be required to provide a workplan to APHIS that details the activities that the Uruguayan NPPO will, subject to APHIS' approval of the workplan, carry out to meet the proposed requirements. A bilateral workplan is an agreement between APHIS' PPQ program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Bilateral workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Bilateral workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires a bilateral workplan to be developed. APHIS would be directly involved with the Uruguayan NPPO in monitoring and auditing implementation of the systems approach.

All places of production and packinghouses that participate in the export program would have to be registered with the Uruguayan NPPO. Places of production that are registered with the Uruguayan NPPO would be required to follow specific field guidelines, including field monitoring, treatments, trapping and sampling, and sanitation. Packinghouses that are registered with the Uruguayan NPPO would be required to have in place general sanitation procedures and programs for training packinghouse workers to cull fruit with evidence of pest damage, among other things. If issues should arise, registration would also allow for the traceback of a box of fruit to its place of production and packinghouse and would allow APHIS and the Uruguayan NPPO to determine what remedial actions are necessary.

Citrus fruit would be required to be grown at places of production that meet the requirements for fruit and plant debris removal, orchard monitoring, and pest control described later in this document.

In addition, the fruit would have to be packed for export to the United States in a packinghouse that meets the requirements for safeguarding, culling, identification, and treatment that are described later in this document. The place of production where the fruit was grown would also be required to remain

identifiable when the fruit leaves the place of production, at the packinghouse, and throughout the export process. Maintaining the identity of the fruit would allow for the use of the traceback procedures described earlier.

This paragraph would also require safeguarding to be maintained at all times during the movement of the fruit to the United States and to be intact upon arrival of the fruit in the United States. Maintaining safeguarding would prevent the fruit from being infested with insect pests during transit. The safeguarding requirements are discussed in greater detail later in this document under the heading "Packinghouse Requirements."

#### *Monitoring and Oversight*

The systems approach we are proposing includes monitoring and oversight requirements in paragraph (c) of proposed § 319.56–58 to ensure that the required phytosanitary measures are properly implemented throughout the process of growing and packing of citrus fruit for export to the United States. Oversight is important in ensuring that the requirements of the systems approach are implemented.

This paragraph would require the Uruguayan NPPO to visit and inspect registered places of production monthly, starting at least 30 days before harvest and continuing until the end of the shipping season, to verify that the growers are complying with the requirements for grove monitoring, pest control, and fruit and plant debris removal described later in this document. In addition to conducting fruit inspections at the packinghouses, the Uruguayan NPPO would also be required to monitor packinghouse operations to verify that the packinghouses are complying with the packinghouse requirements for safeguarding, culling, and treatment that are described later in this document.

If the Uruguayan NPPO finds that a place of production or a packinghouse is not complying with the relevant requirements of the regulations, no fruit from the place of production or packinghouse would be eligible for export to the United States until APHIS and the Uruguayan NPPO conduct an investigation and appropriate remedial actions have been implemented.

#### *Grove Monitoring and Pest Control*

Paragraph (d) of proposed § 319.56–58 would specify that trapping for Mediterranean fruit fly and South American fruit fly must be conducted to demonstrate that the places of

production have a low prevalence of those fruit flies.

Specific trapping requirements would be included in the bilateral workplan and would be adjusted as necessary to ensure that trapping is effective. Consistent with the recommendations of the RMD, the bilateral workplan would initially require trapping in the places of production to monitor fruit fly populations to be conducted beginning at least 1 year before harvest begins and continue throughout the harvest. There would have to be at least two traps per square kilometer in all commercial production areas with at least two traps placed in each place of production. APHIS-approved traps baited with APHIS-approved plugs would have to be used and serviced at least once every 2 weeks. The personnel conducting trapping and pest surveys would have to be hired, trained, and supervised by the Uruguayan NPPO.

During the trapping, when traps are serviced, if more than 0.7 fruit flies are trapped per trap per day at a particular place of production, pesticide bait treatments would be required to be applied in order for the place of production to remain eligible to export fruit. The Uruguayan NPPO would have to keep records of fruit fly detections for each trap and make the records available to APHIS upon request. The records would have to be maintained for at least 1 year.

#### *Orchard Sanitation*

Under paragraph (e) of proposed § 319.56–58, places of production would have to be maintained free of fallen fruit and plant debris. Sanitation measures, such as removing and discarding fallen fruit, are essential components of good agricultural practices and are mainstays of commercial fruit production. These procedures would reduce the amount of material in the groves that could serve as potential disease inoculum for *E. australis* and *X. citri* subsp. *citri* or as host material for insect pests.

Fruit that has fallen from citrus trees to the ground tends to be damaged and over-mature. Therefore, to provide further assurance that fruit harvested for export is not a potential host for fruit flies, fallen fruit would not be allowed to be included in field containers of fruit brought to the packinghouse to be packed for export.

#### *Packinghouse Requirements*

We are proposing several requirements for packinghouse activities, which would be contained in paragraph (f) of proposed § 319.56–58. The packinghouse would have to be equipped with double self-closing doors

at the entrance to the packinghouse and at the interior entrance to the area where fruit is packed to prevent inadvertent introduction of pests into the packinghouse. In addition, any vents or openings in the packinghouse (other than the double self-closing doors) would have to be covered with screening 1.6 mm or smaller in order to prevent the entry of pests into the packinghouse. The 1.6 mm maximum screening size is adequate to exclude the insect pests of quarantine significance named earlier in this document.

Citrus fruit would have to be packed within 24 hours of harvest in the pest-exclusionary packinghouse or stored in a degreening chamber in the pest-exclusionary packinghouse. The fruit would have to be safeguarded by an insect-proof mesh, screen, or plastic tarpaulin while in transit from the production site to the packinghouse and while awaiting packing. The citrus fruit would have to be packed for shipment to the continental United States in insect-proof cartons or containers, or covered with insect-proof screen or plastic tarpaulin. These safeguards would have to remain intact until the arrival of the fruit in the United States or the consignment would not be allowed to enter the United States.

During the time the packinghouse is in use for exporting citrus fruit to the United States, the packinghouse would only be able to accept fruit from registered places of production. This requirement would prevent citrus fruit intended for export to the United States from being exposed to or mixed with fruit that are not produced according to the requirements of the systems approach.

Any symptomatic or damaged fruit would have to be removed from the commodity destined for export to the United States. This is a standard practice in packing commercial fruit that has been shown to effectively remove high proportions of fruit with visible pest damage or disease symptoms. In addition, all fruit for export would have to be practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit. Leaves, twigs, and other plant parts can serve as pathways for the introduction of diseases and should be excluded from consignments of citrus fruit from Uruguay.

Citrus fruit would also have to be prepared for shipping using packinghouse procedures that include washing, brushing, surface disinfection in accordance with 7 CFR part 305 and the PPQ Treatment Manual, treatment with an APHIS-approved fungicide in

accordance with labeled instructions, and waxing. These measures are equivalent to our domestic requirements in § 301.75–7 for the interstate movement of citrus fruit from areas quarantined for *X. citri* subsp. *citri* and in the April 18, 2011, Federal Order<sup>2</sup> (DA–2011–22) for the interstate movement of citrus fruit from areas quarantined for *E. australis*. While washing and brushing are unlikely to directly kill either *E. australis* or *X. citri* subsp. *citri*, washing fruits may help to remove any hitchhiking insects. In addition, surface disinfection, fungicide application, and waxing are intended to reduce the viability of *X. citri* subsp. *citri* and *E. australis*. In particular, surface disinfection with an approved disinfectant has been demonstrated to be effective in reducing the numbers of *X. citri* subsp. *citri* cells or similar bacteria. In a Federal Order issued on March 23, 2011 (DA–2011–14), this procedure was approved for use against *E. australis*.

#### Treatment

Under paragraph (g)(1) of proposed § 319.56–58, the fruit (excluding lemon fruit), would have to be treated in accordance with 7 CFR part 305 with an approved treatment listed in the PPQ Treatment Manual for Mediterranean fruit fly and South American fruit fly. Such treatments may include, for Mediterranean fruit fly, methyl bromide fumigation using treatment schedule T101–w–1–2, cold treatment using treatment schedule T107–a, or methyl bromide fumigation followed by cold treatment using treatment schedule T108–a, and for South American fruit fly, methyl bromide fumigation using treatment schedule T101–j–2–1, or cold treatment using treatment schedules T107–a–1 or T107–c. Quarantine treatments are effective in eliminating South American fruit fly and Mediterranean fruit fly from citrus fruits. These treatments have been used successfully to mitigate pest risk for importing different types of fruits from many countries and would also mitigate the pest risk from citrus fruit from Uruguay.

APHIS has determined that lemons are not hosts for South American fruit fly and are a conditional nonhost for Mediterranean fruit fly, meaning that, while Mediterranean fruit fly generally does not infest lemons, it will do so under certain conditions. Green lemons are not hosts of Mediterranean fruit fly, but lemons' susceptibility to infestation

increases as lemons mature and populations of Mediterranean fruit fly increase. The female Mediterranean fruit fly ovipositor normally cannot pierce through the rind of the lemon fruit to lay eggs in the toxin-free pulp; therefore, the eggs laid within the rind are killed by the toxic compounds. However, if the rind is thin or damaged, or existing oviposition puncture holes are present, females can exploit the damage or holes by ovipositing into them and the Mediterranean fruit fly eggs and larvae will be more likely to survive and develop. Additionally, high population pressure increases the likelihood that Mediterranean fruit fly will infest lemons; resistance of lemons to Mediterranean fruit fly infestation is causally linked to the chemical toxicity of the lemon rind and the thickness and toughness of the rind, but repeated oviposition by females into an existing oviposition puncture hole can overcome those barriers.

Therefore, we are proposing in paragraph (g)(2) of proposed § 319.56–58 that lemon fruit would be eligible for importation without treatment and if harvested green and if the phytosanitary certificate accompanying the lemons contains an additional declaration stating that the lemons were harvested green between May 15 and August 31. During this period (the winter season in Uruguay), Mediterranean fruit fly populations in Uruguay are low. If harvested outside of this timeframe or if harvested yellow, the lemons would have to be treated with an approved treatment as stated above.

#### Phytosanitary Certificate

To certify that citrus fruit from Uruguay have been grown and packed in accordance with the requirements of proposed § 319.56–58, proposed paragraph (h) would require each consignment of citrus fruit to be accompanied by a phytosanitary certificate of inspection issued by the Uruguayan NPPO bearing an additional declaration stating that the fruit in the consignment is free of all quarantine pests and has been produced in accordance with the requirements of the systems approach in proposed § 319.56–58. The phytosanitary certificate and additional declaration are intended to raise the awareness of port-of-entry inspectors of those requirements.

#### Miscellaneous Amendments to Subpart—Citrus Fruit § 319.28

The regulations in § 319.28(a) prohibit the importation of citrus from Uruguay, as well as from eastern and southeastern Asia, Japan, Brazil, Paraguay, and other designated areas. However, paragraphs

<sup>2</sup> [http://www.aphis.usda.gov/plant\\_health/plant\\_pest\\_info/citrus/downloads/sweet\\_orange/2011-22.pdf](http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/downloads/sweet_orange/2011-22.pdf).

(b) through (e) of § 319.28 set out various exceptions to this prohibition. To allow the importation of citrus fruit from Uruguay under § 319.56–58, we would add a new paragraph (d) to § 319.28 stating that the prohibition does not apply to citrus fruit from Uruguay that meets the requirements of proposed § 319.56–58. To accommodate the addition of the new paragraph (d) in § 319.28, we would redesignate current paragraphs (d) through (j) as paragraphs (e) through (k), respectively.

Finally, in the note under the subpart heading “Subpart—Citrus Fruit,” we would remove the reference to §§ 319.56 through 319.56–8, because it is now outdated. We would replace it with a general reference to “Subpart—Fruits and Vegetables.”

#### **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 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. 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).

Based on the information we have, there is no reason 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.

U.S. entities that may be impacted by imports of fresh citrus from Uruguay are producers and packers of fresh oranges, lemons, tangerines, and mandarin varieties. Fresh oranges (including Navel, Valencia, Temple, and other varieties) are produced in California (87 percent), Florida (11 percent), and Texas (2 percent). Lemons are produced in California (97 percent) and Arizona (3 percent). Tangerines and mandarins (including tangelos and tangors) are produced in California (76 percent), Florida (23 percent), and Arizona (less

than 1 percent). Louisiana commercially produces a variety of Satsuma that is mostly sold locally.

Impacts of the proposed rule on U.S. entities would be dependent upon the quantity of fresh citrus imported from Uruguay and the substitutability of these fresh citrus varieties for U.S.-grown citrus varieties. Historically, Uruguay has produced less than 3 percent of total U.S. citrus production, including processed citrus, and total exports of fresh citrus from Uruguay to world markets have been equivalent to less than 3 percent of the combined U.S. production of fresh orange, lemon, tangerine, and mandarin varieties. We anticipate that exports directed to the U.S. domestic market would be a small fraction of Uruguay’s total exports of these fresh citrus fruits based on availability and currently established export markets in Europe and Russia. Given the small quantity expected to be imported from Uruguay, it is very unlikely that there would be a significant impact on the U.S. markets for fresh oranges, lemons, tangerines, and mandarin varieties. Given the sizable amounts of fresh lemons and mandarins, for example, imported by the United States and the fact that the time of year that citrus is produced in Uruguay is the same as that for current South American sources, we expect that any product displacement that may occur because of the proposed rule would be largely borne by other foreign suppliers of fresh citrus.

The majority of citrus producers and packinghouses are considered small entities. APHIS welcomes informed public comment in order to better determine the extent to which U.S. small entities may be affected by this proposed rule.

#### **Executive Order 12988**

This proposed rule would allow citrus fruit to be imported into the continental United States from Uruguay. If this proposed rule is adopted, State and local laws and regulations regarding citrus fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would 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. If this proposed rule is adopted, 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**

To provide the public with documentation of APHIS’ review and analysis of any potential environmental impacts associated with the importation of citrus fruit from Uruguay, we have prepared an environmental assessment. The environmental assessment was 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).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### **Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2011–0060. Please send a copy of your comments to: (1) Docket No. APHIS–2011–0060, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OClO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow, under certain conditions, the importation into the continental United States of commercial consignments of fresh citrus fruit from Uruguay. The conditions for the importation of citrus fruit from Uruguay include requirements for importation in commercial consignments, pest monitoring and pest control practices,

orchard sanitation and packinghouse procedures. The citrus fruit would also be required to be accompanied by a phytosanitary certificate issued by the NPPO of Uruguay with an additional declaration confirming that the fruit had been produced in accordance with the proposed requirements. This action would allow for the importation of citrus fruit from Uruguay while continuing to provide protection against the introduction of injurious plant pests into the United States.

Implementing this rule will require the use of information collection activities, including completion of a bilateral workplan, registering of production sites, labeling, inspections and recordkeeping, and phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.36109 hours per response.

*Respondents:* Citrus producers, packers, importers, and the NPPO of Uruguay.

*Estimated annual number of respondents:* 16.

*Estimated annual number of responses per respondent:* 127.562.

*Estimated annual number of responses:* 2,041.

*Estimated total annual burden on respondents:* 737 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste

Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

**E-Government Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

**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.

**Subpart—Citrus Fruit [Amended]**

■ 2. In Subpart—Citrus Fruit, in the note below the subpart heading, remove the words "fruit and vegetable quarantine No. 56 (§§ 319.56 to 319.56-8)" and add the words "Subpart—Fruits and Vegetables of this part" in their place.

■ 3. Section 319.28 is amended as follows:

■ a. By redesignating paragraphs (d) through (j) as paragraphs (e) through (k), respectively, and adding a new paragraph (d).

■ b. By revising newly redesignated paragraph (g).

The addition and revision read as follows:

**§ 319.28 Notice of quarantine.**

\* \* \* \* \*

(d) The prohibition does not apply to sweet oranges (*Citrus sinensis* (L.) Osbeck), lemons (*C. limon* (L.) Burm. f.), mandarins (*C. reticulata* Blanco, *C. clementina* Hort. ex Tanaka, *C. deliciosa* Ten., and *C. unshiu* Marcow), *Citrus* hybrids, *Fortunella japonica* (Thunb.) Swingle, and *F. margarita* (Lour.) Swingle, from Uruguay that meet the requirements of 7 CFR 319.56-58.

\* \* \* \* \*

(g) Importations allowed under paragraphs (b) through (e) of this section shall be subject to the permit and other requirements under the regulations in Subpart—Fruits and Vegetables of this part.

\* \* \* \* \*

■ 4. A new § 319.56-58 is added to read as follows:

**§ 319.56-58 Fresh citrus fruit from Uruguay.**

Sweet oranges (*Citrus sinensis* (L.) Osbeck), lemons (*C. limon* (L.) Burm. f.), mandarins (*C. reticulata* Blanco, *C. clementina* Hort. ex Tanaka, *C. deliciosa* Ten., and *C. unshiu* Marcow), *Citrus* hybrids, *Fortunella japonica* (Thunb.) Swingle, and *F. margarita* (Lour.) Swingle may be imported into the continental United States from Uruguay only under the conditions described in this section. These species are referred to collectively in this section as "citrus fruit." These conditions are designed to prevent the introduction of the following quarantine pests: *Anastrepha fraterculus*, *Ceratitis capitata*, *Cryptoblabes gnidiella*, *Elsinoë australis*, *Gymnandrosoma aurantianum*, and *Xanthomonas citri* subsp. *citri*.

(a) *Commercial consignments.* Citrus fruit from Uruguay may be imported in commercial consignments only.

(b) *General requirements.* (1) The national plant protection organization (NPPO) of Uruguay must provide a workplan to APHIS that details the activities that the Uruguayan NPPO will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. APHIS will be directly involved with the Uruguayan NPPO in monitoring and auditing implementation of the systems approach.

(2) All places of production and packinghouses that participate in the export program must be registered with the Uruguayan NPPO.

(3) The fruit must be grown at places of production that meet the requirements of paragraphs (d) and (e) of this section.

(4) The fruit must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (f) of this section. The place of production where the lemons were grown must remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process. Boxes containing citrus fruit must be marked with the identity and origin of the fruit. Safeguarding in accordance with paragraph (f)(3) of this section must be maintained at all times during the

movement of the citrus fruit to the United States and must be intact upon arrival of the citrus fruit in the United States.

(c) *Monitoring and oversight.* (1) The Uruguayan NPPO must visit and inspect registered places of production monthly, starting at least 30 days before harvest and continuing until the end of the shipping season, to verify that the growers are complying with the requirements of paragraphs (d) and (e) of this section.

(2) In addition to conducting fruit inspections at the packinghouses, the Uruguayan NPPO must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of paragraph (f) of this section.

(3) If the Uruguayan NPPO finds that a place of production or packinghouse is not complying with the relevant requirements of this section, no fruit from the place of production or packinghouse will be eligible for export to the United States until APHIS and the Uruguayan NPPO conduct an investigation and appropriate remedial actions have been implemented.

(d) *Grove monitoring and pest control.* Trapping must be conducted in the places of production to demonstrate that the places of production have a low prevalence of *A. fraterculus* and *C. capitata*. If the prevalence rises above levels specified in the bilateral workplan, remedial measures must be implemented. The Uruguayan NPPO must keep records of fruit fly detections for each trap and make the records available to APHIS upon request. The records must be maintained for at least 1 year.

(e) *Orchard sanitation.* Places of production must be maintained free of fallen fruit and plant debris. Fallen fruit may not be included in field containers of fruit brought to the packinghouse to be packed for export.

(f) *Packinghouse procedures.* (1) The packinghouse must be equipped with double self-closing doors at the entrance to the packinghouse and at the interior entrance to the area where fruit is packed.

(2) Any vents or openings (other than the double self-closing doors) must be covered with 1.6 mm or smaller screening in order to prevent the entry of pests into the packinghouse.

(3) Fruit must be packed within 24 hours of harvest in a pest-exclusionary packinghouse or stored in a degreening chamber in a pest-exclusionary packinghouse. The fruit must be safeguarded by an insect-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting

packing. Fruit must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the United States. These safeguards must remain intact until the arrival of the fruit in the continental United States or the consignment will not be allowed to enter the United States.

(4) During the time the packinghouse is in use for exporting citrus fruit to the continental United States, the packinghouse may only accept fruit from registered places of production.

(5) Culling must be performed in the packinghouse to remove any symptomatic or damaged fruit. Fruit must be practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

(6) Fruit must be washed, brushed, surface disinfected in accordance with part 305 of this chapter, treated with an APHIS-approved fungicide in accordance with labeled instructions, and waxed.

(g) *Treatment.* (1) Citrus fruit other than lemons may be imported into the continental United States only if it is treated in accordance with part 305 of this chapter for *A. fraterculus* and *C. capitata*.

(2)(i) Lemons may be shipped without a treatment if harvested green and if the phytosanitary certificate accompanying the lemons contains an additional declaration stating that the lemons were harvested green between May 15 and August 31.

(ii) If the lemons are harvested between September 1 and May 14, or if the fruit is harvested yellow, the lemons must be treated in accordance with part 305 of this chapter for *C. capitata*.

(h) *Phytosanitary certificate.* Each consignment of citrus fruit must be accompanied by a phytosanitary certificate of inspection issued by the Uruguayan NPPO stating that the fruit in the consignment is free of all quarantine insects and has been produced in accordance with the requirements of the systems approach in 7 CFR 319.56–58.

Done in Washington, DC, this 31st day of January 2013.

**Kevin Shea,**

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

[FR Doc. 2013–02647 Filed 2–5–13; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1206

[Document No. AMS–FV–12–0041]

#### Mango Promotion, Research, and Information Order; Nominations of Foreign Producers and Election of Officers

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would allow foreign producers, from major countries exporting mangos to the United States, who are not members of a foreign producer organization to submit names to the Secretary for appointment to the National Mango Board (Board). At this time, only foreign producer associations from major countries exporting mangos to the United States can submit names to the Secretary for consideration. In addition, this proposal seeks to provide flexibility to the timing of election of officers to the Board. The changes were proposed by the Board, which administers the program, in accordance to the provisions of the Mango Promotion, Research, and Information Order (Order) which is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act).

**DATES:** Comments must be received by February 26, 2013.

**ADDRESSES:** Comments may be submitted electronically at <http://www.regulations.gov>. Comments may also be sent to the Promotion and Economics Division, Fruit and Vegetable Program, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, Room 1406–S, Stop 0244, 1400 Independence Avenue SW., Washington, DC 20250–0244; fax (202) 205–2800. All comments submitted should reference the document number and title of this proposed rule, and will be included in the record and made available for public inspection. Comments may be viewed on the internet at <http://www.regulations.gov>, or at the above office. Please be advised that the identity of individuals or entities submitting comments will be made public on the internet at the above Web site.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Palmer, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue