

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2013-0085]

RIN 0579-AD87

Importation of Two Hybrids of Unshu Orange From the Republic of Korea Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of citrus fruit to allow the importation of commercial consignments of two Unshu orange hybrids from the Republic of Korea into the continental United States. These hybrids will be eligible for importation into the continental United States subject to the existing conditions for the importation of Unshu oranges from the Republic of Korea. We also are making one minor change to the existing regulations by adding an explicit statement that only commercial consignments of Unshu oranges will be eligible for importation into the continental United States. These changes will remove the prohibition on the importation of Unshu orange hybrids that can safely enter the United States, provided that certain conditions are met, and will codify an existing requirement.

DATES: Effective January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. George Balady, Senior Regulatory Coordination Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2240.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.28 govern the importation of citrus fruit into the United States. These regulations are intended to prevent the introduction of citrus canker, among other citrus diseases and pests, into the United States via the importation of citrus from affected foreign regions. Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas citri* subsp. *citri*.

On July 29, 2014, we published in the **Federal Register** (79 FR 43972–43974, Docket No. APHIS-2013-0085) a proposal¹ to amend the regulations to allow the importation of commercial consignments of two Unshu orange hybrids (*Shiranuhi* [(*C. reticulata* ssp. *unshiu* x (*C. x sinensis*))] x *C. reticulata*] and *Setoka* [(*C. reticulata* ssp. *unshiu* x (*C. x sinensis*))] x *C. reticulata*] x *C. reticulata*]) from the Republic of Korea into the continental United States subject to the existing conditions for the importation of Unshu oranges from the Republic of Korea. We also proposed to add to the regulations an explicit statement that only commercial consignments of Unshu oranges would be eligible for importation into the continental United States.

We solicited comments concerning our proposal for 60 days ending September 29, 2014. We received four comments by that date. They were from a producers' association, the National Plant Board, a State government, and an individual. Two of the commenters supported the proposed rule, and the other two expressed concerns that are addressed below.

One commenter, representing a State government, stated that the Unshu hybrids should only be allowed into citrus-producing States after the proposed mitigation measures have been shown to be effective in non-citrus-producing States in preventing the introduction of *Elsinoe australis*, the fungus that is the causal agent of sweet orange scab.

We do not agree with this comment. Based on the risk assessment we performed in support of the July 2014 proposed rule, we determined that the two Unshu hybrids could safely be imported into the continental United

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States under the conditions described in the accompanying risk management document (RMD). (Copies of the full risk assessment and the RMD are available on the *Regulations.gov* Web site (see footnote 1 in this document) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.)

Moreover, Unshu oranges have been imported safely from the Republic of Korea under those conditions since 2010. The commenter did not present any evidence that those mitigation measures would not be effective when applied to the Unshu hybrids.

Another commenter stated that although the proposed rule would only allow for the importation of the Unshu hybrids into the continental United States, there is no enforcement of regulations that prevent the fruit from subsequently being shipped from the continental United States to Hawaii. According to the commenter, additional imports of oranges of any species or variety into Hawaii would be extremely dangerous for growers and the industry in Hawaii due to the possibility of the introduction of citrus greening. The commenter also suggested that the volume of such imports could lead to pricing instability.

We do not agree with these comments. Proposed § 319.28(c)(4) contains an explicit prohibition on the importation of the Unshu hybrids into Hawaii, as well as into American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. The existing regulations in 7 CFR 301.11 prohibit the interstate movement of plants and plant parts that are subject to such import restrictions under part 319. Therefore, once the Unshu hybrids have been imported into the continental United States, their subsequent movement to Hawaii will be prohibited. The commenter did not present any evidence to support his claim that the interstate movement prohibition in § 301.11 is not currently being enforced. The commenter's concerns regarding citrus greening also appear to be misplaced, since the Unshu hybrids that will be allowed importation under this rulemaking are not considered to be pathways for citrus greening. We also do not expect the importation of the two Unshu hybrids from the Republic of Korea to result in price instability in either the continental United States or Hawaii. As noted in the economic

¹To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/>?#docketDetail;D=APHIS-2013-0085.

analysis accompanying the July 2014 proposed rule, the Korean Unshu orange share of the U.S. market for mandarin varieties is expected to remain negligible. We expect that Korean Unshu orange hybrids primarily will be sold at a premium in ethnic specialty stores and that any product displacement would largely be borne by Japanese Unshu orange imports.

Miscellaneous

Previously, the regulations in § 319.28(c), indicated that Unshu oranges from the Republic of Korea must, in addition to meeting all other applicable requirements, be grown on Cheju Island to be eligible for export to the United States. In this rule, we are changing the spelling to Jeju Island to reflect current usage.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule with the change mentioned in this document.

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 on the importation of Unshu orange hybrids that we no longer find warranted. 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 publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final 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 on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This analysis provides the basis for certification that the rule will not have

a significant economic impact on a substantial number of small entities.

This final rule amends the regulations to allow the importation of commercial consignments of two Unshu orange hybrids from the Republic of Korea into the continental United States subject to the existing conditions for the importation of Unshu oranges from the Republic of Korea. The rule also codifies an existing requirement by explicitly limiting Unshu orange shipments from the Republic of Korea to commercial consignments.

Easy-peel, sweet, juicy, seedless mandarin varieties, including Unshu oranges, are gaining popularity in the United States. The United States does not commercially produce Unshu oranges, but does produce various similar mandarin varieties. U.S. production of these mandarin varieties doubled in 6 years, from 250,000 metric tons (MT) in 2007, to almost 500,000 MT in 2012. Production values of mandarin varieties more than doubled, from \$141 million in 2007 to \$336 million in 2012. In general, harvesting and marketing activities are most active between January 1 and March 31 in California, and between November 15 and March 15 in Florida. U.S. imports of mandarin varieties averaged about 142,000 MT per year, valued at \$178 million, between 2010 and 2012, with Chile, Spain, Peru, and Morocco the main sources. Net imports (imports minus exports) averaged about 100,000 MT per year.

The Republic of Korea and Japan are the principal exporters of Unshu oranges to the United States. In the Republic of Korea, almost all Unshu oranges are produced on the southern island of Jeju.² Over 99 percent of Unshu oranges are consumed domestically, and only about 0.6 percent of the Republic of Korea's Unshu oranges, totaling 3,611 MT and valued at \$4.8 million, were exported in 2012. The United Kingdom was the main destination of Korean Unshu oranges in 2012; the United States was the fourth largest importer of Korean Unshu oranges that year, totaling 743 MT. The oranges were typically sold at a premium in ethnic specialty stores.

The pest risk analysis for this rule assumes the upper range of annual Unshu orange imports from the Republic of Korea to the United States to be about 2,000 MT. Prior to administrative suspension of Unshu orange imports from the Republic of Korea to the United States in 2003, imports of Unshu oranges from the Republic of Korea to the United States

averaged about 650 MT annually between 1995 and 2002. Following the removal of the import suspension in 2010, imports of Unshu oranges from the Republic of Korea totaled 412 MT in 2011 (valued at \$0.5 million) and 743 MT in 2012 (valued at \$0.9 million). Given these import levels and the Republic of Korea's limited supply capacity and relatively stable domestic demand, projected exports of 2,000 MT may be high. Even if imports from the Republic of Korea were to reach 2,000 MT, the Korean Unshu orange share of the U.S. market for mandarin varieties is expected to remain negligible (about 1.4 percent of U.S. imports and 0.3 percent of the U.S. domestic supply of all mandarin varieties, based on U.S. production and trade data for the years 2010 through 2012). In addition, given the fact that fresh Unshu orange imports by the United States are predominantly supplied by Japan and the Republic of Korea, we expect any product displacement would be largely borne by Japanese Unshu orange imports.

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 allows two Unshu orange hybrids to be imported into the continental United States from the Republic of Korea. State and local laws and regulations regarding the Unshu hybrids imported under this rule will be preempted while the fruit is in foreign commerce. Fresh Unshu hybrids 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.

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 final rule, which were filed under 0579-0424, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

²Jeju is alternatively translated as Cheju.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government 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 rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

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 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. 450, 7701–7772, and 7781–7786; 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. By revising paragraph (c).
 - b. By revising the OMB citation at the end of the section.

The revisions read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(c) *Unshu oranges from the Republic of Korea.* The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanakai]), also known as Satsuma mandarin, or the Unshu, sweet, and mandarin orange hybrids Shiranuhi [(*C. reticulata* ssp. *unshiu* x (*C. x sinensis*)) x *C. reticulata*] and Setoka [(*C. reticulata* ssp. *unshiu* x (*C. x sinensis*)) x *C. reticulata*] x *C. reticulata*] grown on Jeju (also translated as Cheju) Island, Republic of Korea, and imported under permit into any area of the United States except for those specified in paragraph (c)(4) of this section. *Provided*, that each of the following safeguards is fully carried out:

(1) Before packing, the fruit shall be given a surface sterilization in accordance with part 305 of this chapter.

(2) The packinghouse in which the surface sterilization treatment is applied and the fruit is packed must be registered with the national plant protection organization of the Republic of Korea.

(3) The fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of Korea, which includes an additional declaration stating that the fruit was given a surface sterilization in accordance with 7 CFR part 305 and was inspected and found free of *Elsinoe australis*.

(4) The fruit may be imported into any area of the United States except American Samoa, Hawaii, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(5) The fruit must be imported in commercial consignments only.

(* * * * *)

(Approved by the Office of Management and Budget under control numbers 0579-0173, 0579-0314, 0579-0418, and 0579-0424)

Done in Washington, DC, this 26th day of January 2015.

Kevin Shea,
Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF ENERGY

10 CFR Parts 602, 707, 835, 850 and 851

RIN 1992-AA47

Technical Amendments: Transfer of Office Functions

AGENCY: Office of Environment, Health, Safety and Security, U.S. Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) has reorganized its Office of Health, Safety and Security by dividing the office into two separate organizations: The Office of Environment, Health, Safety and Security and the Office of Enterprise Assessments. The Office of Environment, Health, Safety and Security's mission is to provide corporate leadership and strategic approaches for protecting DOE's workers, the public, the environment and national security assets. This objective is accomplished through developing corporate policies and standards and providing guidance on their implementation; sharing operating experience, lessons learned, and best practices; and providing assistance and supporting services to line management with the goal of mission success as DOE's environment, health, safety and security advocate. AU is led by the Associate Under Secretary for Environment, Health, Safety and Security who reports directly to the Under Secretary for Management and Performance.

Enterprise Assessments administers the Department's Congressionally-mandated enforcement functions in the areas of worker safety and health, nuclear safety, and security, and provides independent assessments of Departmental performance in the areas of security, worker safety and health, nuclear safety and the environment. This final rule makes technical amendments to DOE's regulations to substitute the officials to whom or offices to which functions have been transferred pursuant to the reorganization of offices and functions. This regulation does not alter substantive rights or obligations under current law.

DATES: This rule is effective on January 30, 2015.

FOR FURTHER INFORMATION CONTACT:

Jacqueline D. Rogers, U.S. Department of Energy, Office of Environment, Health, Safety and Security, Mailstop AU-11, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586-4714, or jackie.rogers@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

DOE has reorganized its Office of Health, Safety and Security (HSS) by dividing the office into two separate organizations: The Office of Environment, Health, Safety and Security (AU) and the Office of Enterprise Assessments (EA). HSS's responsibilities were divided between the organizations as described below.

AU's mission is to provide corporate leadership and strategic approaches for protecting DOE's workers, the public, the environment and national security assets. This objective is accomplished through developing corporate policies and standards and providing guidance on their implementation; sharing operating experience, lessons learned, and best practices; and providing assistance and supporting services to line management with the goal of mission success as DOE's environment, health, safety and security advocate. AU is led by the Associate Under Secretary for Environment, Health, Safety and Security who reports directly to the Under Secretary for Management and Performance.

EA is responsible for performing independent assessments in the areas of nuclear safety, worker safety and health, environment, cyber and physical security, and other critical functions; implementing Congressionally-mandated investigations in the areas of worker safety and health, nuclear safety, and security and as appropriate, assessing civil penalties or pursuing other enforcement measures for any