

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 305 and 319

[Docket No. APHIS–2007–0115]

RIN 0579–AC83

#### Importation of Sweet Oranges and Grapefruit From Chile

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from all provinces of Chile, provided certain conditions are met. This action provides for the importation of sweet oranges and grapefruit from Chile into the continental United States while continuing to protect the United States against the introduction of plant pests.

**DATES:** *Effective Date:* May 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Belano, Branch Chief, Risk Management and Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart–Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–48, 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.

On August 28, 2008, we published in the **Federal Register** (73 FR 50732–50738, Docket No. APHIS–2007–0115) a proposal<sup>1</sup> to amend the regulations by allowing the importation, into the continental United States, of commercial shipments of sweet oranges and grapefruit from Chile subject to certain conditions. Those conditions included cold treatment to mitigate the risk associated with *Ceratitis capitata* (Mediterranean fruit fly or Medfly) and methyl bromide fumigation or an existing systems approach for other citrus varieties from Chile to mitigate the risk associated with *Brevipalpus chilensis* (Chilean false red mite).

We solicited comments concerning our proposal for 60 days ending October 27, 2008. We received 33 comments by that date. They were from importers, private citizens, a State department of agriculture, citrus growers and shippers, a trade association, port facilities, a customs brokerage firm, grocery stores, a national plant protection organization, and industry groups. Twenty-eight commenters supported the proposal. Five commenters had concerns regarding the proposed rule, which are discussed below.

One commenter stated that there should be checks and balances to ensure that Chile adheres to the requirements in the proposal.

We agree with the commenter. The regulations provide several checks and balances, including, but not limited to, production at registered production sites of which the Animal and Plant Health Inspection Service (APHIS) must be notified and inspection at APHIS-approved inspection sites under the direction of APHIS inspectors. In addition, as stated in the proposed rule, a permit for the importation of Chilean sweet oranges or grapefruit could be amended or withdrawn by the Administrator at any time if it is determined that the importation presents a risk.

As part of the systems approach for sweet oranges and grapefruit from Chile, we proposed that a random sample of fruit from each production site be subject to a washing process that allows for the detection of mites. The washing process involves placing the fruit and

pedicels in 200 mesh sieves, sprinkling them with a liquid soap and water solution, washing them with water at high pressure, washing them with water at low pressure, and then repeating the process. Once the fruit has been washed thoroughly, all contents of the sieves, which collect everything that is washed off of the fruit, are put on a petri dish and analyzed for the presence of mites. One commenter stated that the 200 mesh sieve is not sufficient to catch immature mites and should be changed to a 325 mesh sieve.

We have determined that a 200 mesh sieve will suffice to catch quarantine pests in all stages of development. However, we do recognize that it may be common in certain areas to use a sieve of a finer mesh; indeed, APHIS has long used sieves of 230 mesh to conduct inspections at ports of first arrival. Likewise, we also recognize that there may be instances when a sieve of a finer mesh is more readily available. Therefore, we are modifying proposed § 319.56–38(d)(2) to state that a sieve of 200 mesh or finer must be used.

Two commenters stated that the description of the post-harvest processing in the proposed rule contained an error, as it omits the required washing with detergent and brushing using bristle rollers.

While the commenters are correct that this provision was inadvertently omitted in the description of the post-harvest processing in the preamble of the proposed rule, this provision is included in the post-harvest processing requirements for clementines, mandarins, and tangerines from Chile listed in § 319.56–38(d)(3). Because we proposed to amend § 319.56–38 to include sweet oranges and grapefruit, the section as we proposed to amend it would have required all the post-harvest processing steps, including the washing and brushing, for sweet oranges and grapefruit from Chile. Therefore, no changes to the proposed rule are necessary based on this comment.

However, we are making a minor change to one of the provisions for post-harvesting processing to replace the required chlorine bath with a potable water bath. This is because the washing action itself and not the chlorine is the mitigation measure. Washing with a chlorine bath is a routine packinghouse procedure employed in Chile, and the chlorine itself does not have any

<sup>1</sup> To view the proposed rule and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0115>.

efficacy against the listed quarantine pests. Therefore, we are removing the chlorine requirement, as it is unnecessary.

The table in § 305.2(h)(2)(i) of our phytosanitary treatments regulations in 7 CFR Part 305 identifies treatment schedules for fruits and vegetables from foreign localities for which there is an approved treatment. However, entries for clementines, mandarins, and tangerines from Chile were inadvertently omitted from the list of approved treatments. Therefore, we proposed to amend the list in § 305.2(h)(2)(i) by adding entries for clementines, mandarins, and tangerines from certain regions within Chile and specifically identifying the cold treatment and methyl bromide fumigation treatment schedules that are approved for those commodities from those regions. We also proposed to add entries for sweet oranges and grapefruit from Chile, consistent with the provisions of the proposed rule.

Two commenters stated that the list of locations in § 305.2 from which certain commodities may be imported subject to specific approved treatments should be updated. This is because Chile has recently changed its designations for the areas in Chile we consider to be free of fruit flies—two provinces that were previously part of Region 1, Arica and Parinacola, now make up Region 15. Currently, treatment with methyl bromide is approved for citrus from all provinces within Chile that we consider free of fruit flies. This includes all provinces within Chile except the area previously designated as the provinces of Region 1 and the Chanaral Township of Region 3. For that area, where fruit flies are present, treatment with methyl bromide is approved and an additional cold treatment is required.

We agree with the commenter that the table in § 305.2 should be updated to reflect Chile's current geographical designation of provinces. In addition, we published a final rule on July 18, 2007, and effective on August 17, 2007 (72 FR 39482–39528, Docket No. APHIS–2005–0106) that, among other changes, established a process for designating pest-free areas in foreign countries more expeditiously. As part of this process, pest-free areas are listed on the Internet ([http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf)) rather than in the regulations. In order to ensure that the treatments listed in § 305.2(h)(2)(i) reflect our list of fruit fly-free areas in Chile and to accommodate future changes, if any, to those areas, we are removing the words

“all provinces except provinces of Region 1 or Chanaral Township of Region 3” in the entry for fruits and vegetables from that area in Chile in § 305.2(h)(2)(i) and replacing them with the words “areas determined to be free of fruit flies in accordance with § 319.56–5”. We are also removing the words “all provinces of Region 1 or Chanaral Township of Region 3” in the entry for fruits and vegetables from that area in Chile in § 305.2(h)(2)(i) and replacing them with the words “areas not determined to be free of fruit flies in accordance with § 319.56–5”.

One commenter stated that, based on regulatory failures experienced in Spain, probit 9 cold treatment alone can be overwhelmed when populations of Medfly are high. Therefore, the commenter stated, the rule needs to augment the required cold treatment with details on monitoring Medfly population levels and maintaining them at low levels.

We are making no change in response to this comment. The probit 9 level of phytosanitary security refers to cold treatment schedules that achieve a post treatment survival rate of no more than  $3.2 \times 10^{-5}$ ; this level is generally considered to be the optimal possible without recourse to prohibitively long or potentially damaging treatment schedules. In 2001, shipments of clementines from Spain were intercepted at a U.S. port of entry, and found to be infested with Medfly. Accompanying documentation suggested that the clementines had been treated with an authorized treatment designed to achieve this probit 9 level.

Following consultation with a panel of experts in phytosanitary measures, APHIS determined that the treatment schedule in the regulations at the time did not, in fact, achieve a probit 9 level of security. We also determined that probit 9 security could be achieved by amending the regulations to extend the duration of cold treatment schedules under which fruits are treated for Medfly. We amended the regulations in this manner in an interim rule effective and published in the **Federal Register** on October 22, 2002 (67 FR 63529–63536, Docket No. 02–071–1), and have found these revised treatment schedules to be effective in treating for Medfly.

One commenter opposed the use of irradiation as a phytosanitary treatment.

Irradiation has been proven to be an effective phytosanitary treatment for certain plant pests. Therefore, it is appropriate to provide for its use as an option in mitigating the risk associated with those plant pests. However, we did not propose to require the use of irradiation to mitigate any of the pests

associated with sweet oranges and grapefruit from Chile.

Two commenters opposed the rule because they were concerned about the environmental and human health impacts associated with the use of methyl bromide.

The United States Government encourages methods that do not use methyl bromide to meet phytosanitary standards where alternatives are deemed to be technically and economically feasible. As stated in the proposed rule, APHIS would allow either fumigation or a systems approach to mitigate the risk associated with the mite, *B. chilensis*. In addition, in accordance with Montreal Protocol Decision XI/13 (paragraph 7), APHIS is committed to promoting and employing gas recapture technology and other methods whenever possible to minimize harm to the environment caused by methyl bromide emissions.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document. Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The 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.

We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Sweet oranges and grapefruit will have to be imported under certain conditions that address the risks associated with the Medfly and *B. chilensis*. Phytosanitary risks must be mitigated using the same approach as is currently employed for the importation of clementines, mandarins, and tangerines from Chile, as set forth in § 319.56–38. Import requirements include orchard control and registration, low prevalence orchard certification, harvest timing, post-harvest processing, phytosanitary inspection, approved cold treatment and, if necessary, methyl bromide treatment in Chile or at the port of entry.

#### Sweet Orange and Grapefruit Production

The United States is a major producer of citrus fruits. Chile is not yet considered a major producer of citrus, especially when compared to its

neighbors such as Brazil, Uruguay, and Argentina. In 2007, the major world producers of fresh oranges were the United States, Brazil, Mexico, India, and China, while the major exporting countries, in terms of volume, included Spain, South Africa, the United States, Morocco, the Netherlands, and Greece.<sup>2</sup> The major world producers of grapefruit are the United States, China, South

Africa, and Mexico, while the major exporting countries, in terms of volume, are the United States, South Africa, Turkey, and the Netherlands.<sup>3</sup> Commercial production of sweet oranges and grapefruit in the continental United States is limited to Arizona, California, Florida, Louisiana, and Texas. Most of the production is located within Florida and California.

California is the leading producer of oranges for the fresh market, major varieties of which include Valencia and navel. While Florida produces a larger total quantity of oranges, only 5 percent of the State's orange crop is consumed as fresh fruit. Florida supplies the highest amount of fresh grapefruit, and 45 percent of the U.S. grapefruit crop is utilized as fresh fruit.

TABLE 1—PRODUCTION IN UNITED STATES OF FRESH ORANGES AND GRAPEFRUIT

[In short tons]

|                  | 2004/05   |            | 2005/06   |            | 2006/07   |            | 2007/08   |            |
|------------------|-----------|------------|-----------|------------|-----------|------------|-----------|------------|
|                  | Orange    | Grapefruit | Orange    | Grapefruit | Orange    | Grapefruit | Orange    | Grapefruit |
| Arizona .....    | 12,000    | 5,000      | 9,000     | 3,000      | 7,000     | 3,000      | 10,000    | 3,000      |
| California ..... | 1,845,000 | 181,000    | 1,650,000 | 178,000    | 1,020,000 | 161,000    | 1,853,000 | 168,000    |
| Florida .....    | 333,000   | 315,000    | 329,000   | 294,000    | 288,000   | 466,000    | 264,000   | 451,000    |
| Texas .....      | 52,000    | 125,000    | 54,000    | 128,000    | 63,000    | 138,000    | 58,000    | 138,000    |
| Total .....      | 2,242,000 | 626,000    | 2,042,000 | 601,000    | 2,378,000 | 768,000    | 2,185,000 | 760,000    |

Source: Economic Research Service (ERS), U.S. Department of Agriculture (USDA). Fruit and Tree Nuts Situation and Outlook Yearbook, October 2008, combination of table C-21 Oranges: Utilization of production by State and table C-3 Grapefruit: Utilization of production by State. **Note:** Season begins in November for Arizona and California, and in October for Florida and Texas. Quantities for 2007/08 are only totaled until the publication date, October 2008.

In 2007, Chile produced 163,000 short tons of fresh oranges on 8,300 hectares.<sup>4</sup> The Asociación de Exportadores de Chile states that there are no official figures for the production of grapefruit, as grapefruit is a relatively new species in Chile with a small growing area.<sup>5</sup>

APHIS estimates, based on the total Chilean citrus export volume, that approximately 5,000 short tons of grapefruit were produced in 2007.

#### Imports and Exports

In 2007, more than 85 percent of U.S. orange imports came from the countries

of South Africa, Australia, Spain, and Mexico, while 98 percent of grapefruit imports came from the Bahamas and Mexico. Table 2 shows the value and quantity of fresh oranges and grapefruit imported into the United States from 2004 to 2007.

TABLE 2—U.S. TOTAL IMPORTS OF FRESH ORANGES AND GRAPEFRUIT

|            | Total value (in dollars) |             | Quantity in short tons |            | Value per short ton |            |
|------------|--------------------------|-------------|------------------------|------------|---------------------|------------|
|            | Oranges                  | Grapefruit  | Oranges                | Grapefruit | Oranges             | Grapefruit |
| 2004 ..... | \$58,785,735             | \$1,606,153 | 72,387                 | 15,780     | \$812.11            | \$101.78   |
| 2005 ..... | 68,502,310               | 1,403,260   | 76,122                 | 15,816     | 899.90              | 88.73      |
| 2006 ..... | 80,612,248               | 2,142,111   | 81,117                 | 20,890     | 993.78              | 102.54     |
| 2007 ..... | 121,497,551              | 2,948,550   | 126,890                | 21,822     | 957.50              | 135.12     |

Source: Global Trade Atlas (2005–2008). Originally reported in kilograms.

The United States is a major exporter of fresh oranges. In the 2007 season, the United States exported around 400,000 short tons of fresh oranges, while imports were around 127,000 short tons.<sup>6</sup> Regarding grapefruit, around 352,000 short tons were exported, and only 22,000 short tons were imported.<sup>7</sup> Clearly, the United States is a large net exporter of both fresh oranges and grapefruit.

Chile's current citrus exports are to Japan, Spain, the Netherlands, and Canada. Between 2000 and 2006, orange exports dramatically increased, from 3,600 short tons to over 28,000 short tons, while grapefruit exports increased from 337 short tons to over 4,300 short tons.<sup>8</sup> Like the United States but on a smaller scale, Chile is a net exporter of sweet oranges and grapefruit. Its share

of overseas citrus markets such as that of Japan continues to expand.<sup>9</sup>

#### Expected U.S. Imports of Sweet Oranges and Grapefruit From Chile

According to the NPPO of Chile, annual exports of sweet oranges and grapefruit to the United States from Chile will total around 110,000 boxes: 93,500 boxes of oranges and 16,500 boxes of grapefruit. The boxes are 17

<sup>2</sup> Harmonized System (HS) code 080510, fresh and dried oranges.

<sup>3</sup> HS code 080540, fresh and dried grapefruit, including pomelos.

<sup>4</sup> Food and Agriculture Organization (FAO) of the United Nations. FAOSTAT, FAO Statistics Production Division 2008, ProdStat, Crops.

Originally reported as 142,000 metric tons. <http://faostat.fao.org/site/567/default.aspx>.

<sup>5</sup> <http://www.asoex.cl/>.

<sup>6</sup> Eighty-three percent of total exports were to Canada, Japan, South Korea, Hong Kong, and China.

<sup>7</sup> ERS, USDA. Fruit and Tree Nuts Situation and Outlook Yearbook/FTS-2007/October 2007. Table F-18—Fresh Oranges, Supply and Utilization. Pg.

150. Converted from million pounds using 1 pound = 0.0005 short tons.

<sup>8</sup> Global Trade Atlas (2005–2008). Originally reported in kilograms. 1 kg = 0.0011023 short tons.

<sup>9</sup> USDA. Foreign Agricultural Service. Situation and Outlook for Citrus. February 2006. pg. 6. <http://www.fas.usda.gov/hort/Circular/2006/02-06/02-20-06%20Citrus%20Feature.pdf>.

kilograms for sweet oranges and 15 kilograms for grapefruit, yielding approximately 1,752.1 short tons of oranges and 272.8 short tons of grapefruit, or about 2,000 short tons overall. This volume of imports from Chile will comprise a relatively small amount compared to total U.S. imports of about 148,000 short tons and domestic production of more than 2.0 million short tons (table 3). The expected imports from Chile will be equivalent to 1.3 percent of U.S. imports of oranges and grapefruit in 2007 and less than 0.1 percent of U.S. production.

**TABLE 3—COMBINED QUANTITIES OF U.S. FRESH ORANGES AND GRAPEFRUIT, DOMESTICALLY PRODUCED AND IMPORTED, AND EXPECTED ANNUAL IMPORTS FROM CHILE**

|                                          | Volume in short tons |
|------------------------------------------|----------------------|
| Domestic production, 2007 .....          | 2,070,000            |
| All imports, 2006 .....                  | 148,712              |
| Expected annual imports from Chile ..... | 2,025                |

#### Seasonal Production and Marketing of Oranges and Grapefruit

Another aspect to consider regarding potential impacts of the proposed rule is the seasonal difference between the citrus industries in the United States and Chile. U.S. imports of fresh fruit and vegetables have increased substantially since the 1990s.<sup>10</sup> Southern hemisphere countries are dominant suppliers for off-season fresh fruit. Availability of domestically produced oranges and grapefruit peaks between October and January, gradually decreases from February to June, and is lowest between July and September.<sup>11</sup> In contrast, the highest citrus production in the southern hemisphere is between May and November. Imports from the southern hemisphere complement the U.S. production cycle and help to maintain year-round availability of fresh citrus. Allowing importation of oranges and grapefruit from Chile will expand U.S. consumers' access to fresh produce year round while not directly competing with the production and shipment of domestically produced oranges and grapefruit intended for the fresh fruit market.

#### Small Entity Impact

Businesses most likely to be affected by this rule would be orange and grapefruit producers, for which the Small Business Administration (SBA) small-entity standard is annual sales of not more than \$750,000. Production of fresh oranges is classified under North American Industry Classification System (NAICS) code 111310, and grapefruit production is classified within NAICS code 111320, citrus (except orange) groves.<sup>12</sup> In 2002, NASS reported that 1,272 out of 17,727 citrus farmers earned more than \$500,000, indicating that at least 93 percent of U.S. citrus farmers are small entities. For California the statistics are similar, with 91 percent of citrus farmers earning under \$500,000. These data indicate that the majority of U.S. fresh citrus producers are small entities.

Some importers of sweet oranges and grapefruit could be affected by this final rule as well, as it will allow for increased imports during the off-peak domestic citrus season. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424280, less than or equal to 100 employees), wholesalers and other grocery stores (NAICS 445110, less than or equal to \$23 million in annual receipts), warehouse clubs and superstores (NAICS 452910, less than or equal to \$23 million in annual receipts) and fruit and vegetable markets (NAICS 445230, less than or equal to \$6 million in annual receipts). Most entities that comprise these industries are small. Given the relatively small quantity of sweet oranges and grapefruit expected to be imported from Chile, the rule will not have a significant impact on these types of industries.

U.S. exports of sweet oranges and grapefruit far exceed U.S. imports. The expected level of imports of oranges and grapefruit from Chile would be equivalent to 1.3 percent of all U.S. imports in 2007 and less than 0.1 percent of U.S. production that year. Moreover, the imports from Chile would take place during the off season for U.S. domestically produced citrus, and would therefore primarily compete with orange and grapefruit imports from other sources in the southern hemisphere. While U.S. producers and importers of sweet oranges and grapefruit are predominantly small according to SBA guidelines, based on available information this final rule will not have a significant economic impact on a substantial number of small entities.

<sup>12</sup> Also includes lemon, lime, mandarin, tangelo, and tangerine.

In the proposed rule, we asked for public comment regarding the potential impact to small U.S. entities outside the continental United States and Hawaii of limiting the importation of clementines, mandarins, and tangerines from Chile to the continental United States (including Alaska) and Hawaii. We did not receive any comments on this issue.

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 sweet oranges and grapefruit to be imported into the continental United States from Chile. State and local laws and regulations regarding sweet oranges and grapefruit imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits 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.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of sweet oranges and grapefruit from Chile under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were 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 and finding of no significant impact may be viewed on the Regulations.gov Web

<sup>10</sup> USDA, ERS. Increased U.S. Imports of Fresh Fruit and Vegetables. Sophia Huang and Kuo Huang. Sept. 2007.

<sup>11</sup> <http://www.dneworld.com/FreshCitrus/CitrusAvailability/tabid/157/Default.aspx> Chile data from Chilean Fresh Fruit. <http://www.chileanfreshfruit.com/citrus.shtml>.

site.<sup>12</sup> Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

#### Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Lists of Subjects

##### 7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

##### 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 parts 305 and 319 as follows:

#### PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.2, the table in paragraph (h)(2)(i) is amended as follows:

■ a. Under “Location,” by revising the title of the first entry for Chile to read as set forth below.

■ b. Under the first entry for Chile, by adding, in alphabetical order, entries for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

■ c. Under “Location,” by revising the title of the second entry for Chile to read as set forth below.

■ d. Under the second entry for Chile, by adding, in alphabetical order, entries for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

#### § 305.2 Approved treatments.

|     |   |   |   |   |
|-----|---|---|---|---|
| *   | * | * | * | * |
| (h) | * | * | * |   |
| (2) | * | * | * |   |
| (i) | * | * | * |   |

| Location                                                                                              | Commodity         | Pest                               | Treatment schedule            |
|-------------------------------------------------------------------------------------------------------|-------------------|------------------------------------|-------------------------------|
| * * *                                                                                                 | * * *             | * * *                              | * * *                         |
| Chile (Areas determined to be free of fruit flies in accordance with § 319.56–5 of this chapter).     |                   |                                    |                               |
| * * *                                                                                                 | Clementines ..... | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
| * * *                                                                                                 | Grapefruit .....  | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
| * * *                                                                                                 | Mandarins .....   | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
|                                                                                                       | Oranges .....     | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
| * * *                                                                                                 | Tangerines .....  | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
| * * *                                                                                                 | * * *             | * * *                              | * * *                         |
| Chile (Areas not determined to be free of fruit flies in accordance with § 319.56–5 of this chapter). |                   |                                    |                               |
| * * *                                                                                                 | Clementines ..... | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
|                                                                                                       |                   | <i>Ceratitis capitata</i> .....    | CT T107–a.                    |
| * * *                                                                                                 | Grapefruit .....  | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
|                                                                                                       |                   | <i>Ceratitis capitata</i> .....    | CT T107–a.                    |
| * * *                                                                                                 | Mandarins .....   | <i>Brevipalpus chilensis</i> ..... | MB T104–a–1 or MB T101–n–2–1. |
|                                                                                                       |                   | <i>Ceratitis capitata</i> .....    | CT T107–a.                    |

<sup>12</sup> Go to [http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-](http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0115)

2007-0115. The environmental assessment and

finding of no significant impact will appear in the resulting list of documents.

| Location | Commodity        | Pest                               | Treatment schedule               |
|----------|------------------|------------------------------------|----------------------------------|
| *        | *                | *                                  | *                                |
|          | Oranges .....    | <i>Brevipalpus chilensis</i> ..... | MB T104-a-1 or<br>MB T101-n-2-1. |
|          |                  | <i>Ceratitis capitata</i> .....    | CT T107-a.                       |
|          | Tangerines ..... | <i>Brevipalpus chilensis</i> ..... | MB T104-a-1 or MB<br>T101-n-2-1. |
|          |                  | <i>Ceratitis capitata</i> .....    | CT T107-a.                       |
| *        | *                | *                                  | *                                |

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## PART 319—FOREIGN QUARANTINE NOTICES

■ 3. 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.

■ 4. Section 319.56–38 is amended as follows:

■ a. By revising the section heading and the introductory text to read as set forth below.

■ b. In paragraph (d)(2), by adding the words “or finer” after the words “200 mesh”.

■ c. In paragraph (d)(3), by removing the word “chlorine” and adding the words “potable water” in its place.

■ d. In paragraph (e), by removing the words “Clementines, mandarins, or tangerines” and adding the words “Clementines, grapefruit, mandarins, sweet oranges, or tangerines” in their place.

■ e. In paragraph (f), by removing the words “Clementines, mandarins, or tangerines” and adding the words “Clementines, grapefruit, mandarins, sweet oranges, and tangerines” in their place.

### § 319.56–38 Citrus from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the continental United States and Hawaii from Chile and grapefruit (*Citrus paradisi* Macfad.) and sweet oranges (*Citrus sinensis* (L.) Osbeck) may be imported into the continental United States from Chile in accordance with this section and all other applicable provisions of this subpart.

\* \* \* \* \*

Done in Washington, DC, this 1st day of April 2009.

Kevin Shea,

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

[FR Doc. E9–7844 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 318

[Docket No. APHIS–2007–0052]

RIN 0579–AC70

### Revision of the Hawaiian and Territorial Fruits and Vegetables Regulations; Technical Amendment

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** In a final rule that was published in the **Federal Register** on January 16, 2009 (74 FR 2770–2786, Docket No. APHIS–2007–0052), and effective on February 17, 2009, we revised the regulations governing the interstate movement of fruits and vegetables from Hawaii and the territories. Those regulations do not apply to articles whose interstate movement is regulated under the subpart governing the interstate movement of soil, sand, earth, and plants in growing media from Hawaii and the territories; we neglected to indicate that in the final rule. In this amendment, we are amending the regulations to clearly indicate that the interstate movement of soil, sand, earth, and plants in growing media is governed by the regulations specific to those articles.

**DATES:** *Effective Date:* April 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Lamb, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River

Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

## SUPPLEMENTARY INFORMATION:

### Background

In a final rule that was published in the **Federal Register** on January 16, 2009 (74 FR 2770–2786, Docket No. APHIS–2007–0052), and effective on February 17, 2009, we revised the regulations in 7 CFR part 318 that govern the interstate movement of fruits and vegetables from Hawaii and the territories. The final rule combined the three subparts in 7 CFR part 318 that governed the interstate movement of fruits, vegetables, cut flowers, and certain other articles from Hawaii, Puerto Rico and the U.S. Virgin Islands, and Guam, respectively, into “Subpart—Regulated Articles From Hawaii and the Territories” (§§ 318.13–1 through 318.13–25) and established provisions for the interstate movement of those articles.

Within that subpart, § 318.13–1(b) contains a general statement that the Secretary of the U.S. Department of Agriculture has determined that it is necessary to prohibit the interstate movement of cut flowers and fruits and vegetables and plants and portions of plants from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands except as provided in the regulations or as provided in “Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products” (§§ 318.47 through 318.47–4) in 7 CFR part 318. We provided the exception for “Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products” because the interstate movement of those plant parts is regulated under that subpart, rather than under the regulations for the interstate movement of fruits and vegetables.

In addition, the regulations in “Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts” provide for the interstate movement of certain plants—specifically, plants in approved growing media, conditions for whose movement are found in