

Agriculture, et al., Case #CV-F-00-6106-REC/LJO (D. Ariz. Sept. 27, 2001).

We are amending the geographic description in § 319.56-2q of the free areas for importing citrus from South Africa to include the Warrenton magisterial district (a political division similar to a county in the United States) in the Northern Cape Province. Although the data submitted by South Africa, which we made available for review in the proposed rule, demonstrated that Warrenton and Hartswater magisterial districts are free of citrus black spot, our proposed amendment erroneously referred only to the Hartswater magisterial district. Because the production area for which the data were submitted falls within two different magisterial districts, § 319.56-2q refers to both the Hartswater and Warrenton magisterial districts in this final rule.

In a new paragraph for peppers from Israel (§ 319.56-2u(b)(9)) and the new section for persimmons from Korea (§ 319.56-2kk), we have changed the specific reference to each country's agricultural department to the more general reference of the national plant protection organization. We have made these changes to avoid the need to amend the regulations should the specific name of the national plant protection organization change.

Previously, § 319.56-3 pertained to applications for permits for importation of fruits and vegetables, and § 319.56-4 explained the permit procedures for importing fruits and vegetables. One of the changes we are making to the permit provisions is combining § 319.56-3 and § 319.56-4 into § 319.56-3. Another change is the addition of a new section § 319.56-4 for amendment, denial, or withdrawal of permits. These changes necessitate replacing references to the former § 319.56-4 with references to § 319.56-3. We have made this change in §§ 319.56a, 319.56-2b, 319.56-2n, 319.56-2o, 319.56-2bb, and 319.56-2ff.

In § 319.56-6, "Inspection and other requirements at the port of first arrival," we proposed to amend paragraph (b) to require that the owner or the agent makes full disclosure of the type, quantity, and country of origin of all fruits and vegetables in the shipment on an invoice or similar document and present that document to an inspector prior to moving the fruits or vegetables. In this final rule, we have added language to clarify that the full disclosure of all fruits and vegetables in the shipment may be made either orally for noncommercial shipments or on an invoice or similar document for commercial shipments. To clarify that the fruit or vegetable must be released

for movement prior to moving the fruits or vegetables from the port, we have added that movement from the port must be in accordance with paragraph (d) of § 319.56-6, which specifies the requirements for release for movement.

Finally, we have renumbered several footnotes in the subpart so that they will be sequential throughout the regulations and made other minor, nonsubstantive changes.

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.

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**.

This rule relieves restrictions on the importation of certain fruits and vegetables from certain countries while continuing to protect against the introduction of quarantine pests into the United States.

Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Making this rule effective immediately will allow interested producers, importers, shippers, and others to benefit immediately from the relieved restrictions. 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 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 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

This final rule amends the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, will be inspected and subject to such disinfection at the port of first arrival as may be required by an inspector. In addition, some of the fruits and

vegetables will be required to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and spread of quarantine pests.

We are recognizing areas in several countries as free from certain fruit flies; removing the Province of Arica in Chile as an area free from Medfly; amending the packing requirements for certain commodities; expanding locations in the northeastern United States where cold treatment can be conducted; updating and clarifying restrictions on entry of fruits and vegetables; updating and clarifying permit procedures including amendment, denial, or withdrawal of permits; requiring full disclosure of fruits and vegetables at the port of first arrival and clarifying the conditions under which they are released for movement; and making other miscellaneous changes.

We have used all available data to estimate the potential economic effects of allowing the fruits and vegetables specified in this rule to be imported into the United States. However, some of the data we believe would be helpful in making this determination have not been available. Specifically, data are not available on: (1) The quantity of certain fruits and vegetables produced domestically; (2) the quantity of potential imports; and (3) the degree to which imported fruits and vegetables will displace existing imported or domestic products. In our proposed rule, we asked the public to provide such data.

In response to comments that we received, this analysis provides additional information for rambutan from Honduras, fennel from El Salvador, Guatemala, and Nicaragua, and citrus from Australia that was not contained in the analysis we included in the proposed rule. (The specific comments are discussed earlier in this document under the headings "Rambutan from Central America and Mexico," "Fennel from El Salvador, Guatemala, and Nicaragua," and "Citrus from Australia.") We have made additional changes to the data concerning citrus from Australia and South Africa and have included the Warrenton magisterial district in our discussion of citrus from South Africa.

Effects on Small Entities

Data on the number and size of U.S. producers of the various commodities that may be imported into the United States under this final rule are not available. However, since most fruit and