

TABLE 1.—UNSHU ORANGE IMPORTS (IN KILOGRAMS) FROM JAPAN AND SOUTH KOREA, 1998–2001

Year	Japan	South Korea	Total
2001 .....	247,681	2,839,200	3,086,881
2000 .....	100,830	255,120	355,950
1999 .....	388,918	403,050	791,968
1998 .....	392,289	None	392,289

Source: APHIS port of entry data.

NOTE: Product designation varies by port, and therefore the annual totals may be subject to error.

There were no Unshu oranges imported into the United States from Japan for the 2002 season. The reason given by the importing firm is that there is a high risk that much of the fruit would not be marketable because of the effects of methyl bromide fumigation on quality. This interim rule, by rescinding the methyl bromide fumigation requirement for Unshu oranges imported from Honshu Island into non-citrus-producing States, will remove this marketing risk. Imports should then resume at a level comparable to that of recent years. The fumigation requirement will remain for imports into citrus-producing States. There is no history of such imports, and given the possible ill effects of fumigation on the quality of the fruit, near term sales to citrus-producing States would appear unlikely.

The entities affected by this rule will be U.S. retailers who sell Unshu oranges from Japan. Supermarkets and other grocery stores are considered small entities by the Small Business Administration if they have annual receipts of \$23 million or less, and establishments primarily engaged in retailing fresh fruits and vegetables are considered small if their annual receipts are \$6 million or less.<sup>5</sup> Most retailers that are expected to be affected by this rule are small entities. However, given the brief import period for this fruit and its geographically limited distribution, the number of retail establishments that may be affected is not expected to be substantial. Stores that do sell Unshu oranges will benefit from not having to rely solely on imports from South Korea. However, the benefit should be relatively small given that South Korea is the dominant supplier. In 2001, 92 percent of Unshu orange imports were supplied by South Korea and 8 percent by Japan.<sup>6</sup>

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 rule allows Unshu oranges to be imported into non-citrus-producing areas of the United States from Honshu Island, Japan, without fumigation. State and local laws and regulations regarding Unshu oranges imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables 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

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

#### List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, 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 is revised to read as follows:

**Authority:** 7 U.S.C. 450, 7711–7714, 7718, 7731, 7732, 7751–7754, and 7760; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 319.28, paragraph (b) is amended as follows:

Grocery (except Convenience) Stores, and NAICS code 445230, Fruit and Vegetable Markets.

<sup>6</sup> If fumigated fruit had been imported in 2002 under the regulations in place for the shipping season, then a benefit of this rule would be any

a. In the introductory text, by adding the word “mandarin” after the word “Satsuma”.

b. By revising paragraphs (b)(5) and (b)(7) to read as set forth below:

#### § 319.28 Notice of quarantine.

\* \* \* \* \*

(b) \* \* \*

(5) To be eligible for importation into Arizona, California, Florida, Hawaii, Louisiana, or Texas, each shipment of oranges grown on Honshu Island, Japan, must be fumigated with methyl bromide after harvest and prior to exportation to the United States. Fumigation must be at the rate of 3 lbs./1,000 cu. ft. for 2 hours at 59 °F or above at normal atmospheric pressure (chamber only) with a load factor of 32 percent or below. Fumigation will not be required for shipments of oranges grown on Honshu Island, Japan, that are to be imported into States other than Arizona, California, Florida, Hawaii, Louisiana, or Texas.

\* \* \* \* \*

(7) The Unshu oranges may be imported into the United States only through a port of entry listed in § 319.37–14 that is located in an area of the United States into which their importation is authorized. The following importation restrictions apply:

(i) Unshu oranges from Honshu Island, Japan, that have been fumigated in accordance with paragraph (b)(5) of this section may be imported into any area of the United States except American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(ii) Unshu oranges from Honshu Island, Japan, that have not been fumigated in accordance with paragraph (b)(5) of this section; Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only); and Unshu oranges from Cheju Island, Republic of Korea, may be imported into any area of the United

price reduction resulting from forgone fumigation expenses. However, since fumigated Unshu oranges are not being imported, the appropriate comparison is imports without fumigation versus no imports.

imports would represent that much smaller a percentage of domestic tangerine production.

<sup>5</sup> North American Industrial Classification System (NAICS) code 445110, Supermarkets and Other