

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 96-046-2]

#### Importation of Fruits and Vegetables; Papayas From Brazil and Costa Rica

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

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** We are reopening and extending the comment period on a proposal to allow the importation of papayas from Brazil in order to provide the public with an opportunity to comment on two additional safeguards we are proposing to add. These include requiring a hot water treatment and requiring that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas. We are also proposing to add these safeguards to the requirements for importing papayas from Costa Rica, and are soliciting public comment on this action as well. These additional requirements appear necessary to prevent the introduction of injurious plant pests into the United States. Additionally, we will accept comments on any other issues involving the importation of papayas from Brazil.

**DATES:** Consideration will be given only to comments received on or before October 27, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 96-046-2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-046-2. Comments received may be inspected 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 comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Campbell, Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737-1236; (301) 734-6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 25, 1997, we published in the **Federal Register** (62 FR 14037-14044, Docket No. 96-046-1) a proposal to amend the regulations in 7 CFR part 319 by allowing certain previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions.

One of the fruits that we proposed to allow to be imported into the United States under certain conditions was papayas from Brazil. Specifically, we proposed to allow solo type papayas (*Carica papaya*) from Brazil to be imported into the United States if the fruit is grown in the State of Espirito Santo and if the fruit is grown, packed, and shipped in accordance with certain phytosanitary conditions.

Because fully ripe papayas can be hosts of several serious plant pests, including the Mediterranean fruit fly (*Ceratitis capitata*) (Medfly) and the South American fruit fly (*Anastrepha fraterculus*), we proposed to require that papayas intended for importation into the United States from the State of Espirito Santo, Brazil, be subject to certain special conditions. The proposed special conditions outlined in the proposed rule for the importation of papayas from Brazil were based on the provisions in § 319.56-2w of the regulations for papayas from Costa Rica. The conditions proposed were as follows:

1. The papayas were grown and packed for shipment to the United States in the State of Espirito Santo.
2. Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the area where the papayas were grown were kept free of papayas that were one-half or more ripe (more than one-quarter of shell surface yellow), and all culled and fallen fruit were removed from the field at least twice a week.

3. When packed, the papayas were less than one-half ripe (shell surface no more than one-quarter yellow, surrounded by light green) and appeared to be free of all injurious plant pests.

4. The papayas were packaged so as to prevent access by fruit flies or other injurious plant pests, and the package does not contain any other fruit, including papayas not qualified for importation into the United States.

5. All activities described in provisions 1 through 4 above were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

6. Beginning at least 1 year before harvest began and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at the rate of 1 trap per hectare and were checked for fruit flies at least once a week by plant health officials of the national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and 50 percent of the traps were of the Jackson type. The national Ministry of Agriculture kept records of the fruit fly finds for each trap, updating the records each time the traps were checked, and made the records available to APHIS upon request. The records were maintained for at least 1 year.

7. All shipments of papayas must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Comments on the proposed rule were required to be received on or before May 27, 1997. Upon further review and consideration of this issue, we are also proposing to require a hot water treatment for papayas from Brazil and Costa Rica and to require that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas. These conditions would further help to prevent the introduction into the United States of plant pests, including fruit flies, that may be associated with the papayas.

#### Hot Water Treatment

Though it is not currently required by the regulations, hot water treatment of papayas prior to importation into the United States is standard practice in

Costa Rica. We believe that hot water treatment, in conjunction with other safeguards established for papayas from Costa Rica and proposed for papayas from Brazil, would reduce the likelihood that papayas will introduce injurious plant pests into the United States. Therefore, we are proposing to amend § 319.56-2w to require that papayas imported from Brazil and Costa Rica into the United States be given a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F).

#### Threshold for Fruit Fly Captures

In order to further reduce the possibility of the introduction of Medfly into the United States, we are also proposing to establish a threshold for Medfly captures in papaya production areas of Brazil and Costa Rica. The thresholds would be as follows: If the average Jackson trap catch is greater than 7 Medflies per trap per week, measures, which may include Malathion bait sprays or other chemical sprays, must be taken to control the Medfly population in the production area. If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week. The thresholds for Medfly trapping would help detect increasing populations of Medflies in growing areas and would help ensure that Medflies are not associated with imports of papayas from Brazil or Costa Rica.

#### Reopening and Extension of Comment Period

We are reopening and extending the public comment period on that portion of Docket No. 96-046-1 that concerns the importation of papayas from Brazil from May 27, 1997, until 30 days after the date of publication of this notice in the **Federal Register**. Comments on the new conditions that would apply to papayas from Costa Rica will also be accepted until 30 days after the date of publication of this notice in the **Federal Register**. This action will provide interested persons with additional time in which to prepare comments on the importation of papayas from Brazil and will allow for public comment on the new conditions proposed for the importation of papayas from Costa Rica. Comments already received concerning the proposed importation of papayas from Brazil will remain under consideration and need not be resubmitted.

In this edition of the **Federal Register**, we have also published a final rule (Docket No. 96-046-3) that adopts, with

certain changes, other amendments to the regulations that were proposed in Docket No. 96-046-1 on March 25, 1997 (62 FR 14037-14044).

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

The Initial Regulatory Flexibility Analysis set out in the proposed rule published in the **Federal Register** on March 25, 1997, included information on papayas from Brazil. That information still applies and will not change as a result of this proposal.

#### Executive Order 12988

This proposed rule would allow papayas to be imported into the United States from Brazil. If this proposed rule is adopted, State and local laws and regulations regarding papayas imported under this rule would be preempted while the fruit is in foreign commerce. Fresh papayas 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.

#### 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.

The paperwork requirements and burdens were described in the proposed rule published in the **Federal Register** on March 25, 1997, and will not change as a result of this proposal.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, Room 404-W, 1400 Independence Ave., SW, Washington, DC 20250.

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

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and

recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

9. Section 319.56-2w would be revised to read as follows:

#### § 319.56-2w Administrative instruction; conditions governing the entry of papayas from Brazil and Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the State of Espirito Santo, Brazil, and the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The papayas were grown and packed for shipment to the United States in the State of Espirito Santo, Brazil, or in the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were 1/2 or more ripe (more than 1/4 of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(c) The papayas were treated with a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F).

(d) When packed, the papayas were less than 1/2 ripe (the shell surface was no more than 1/4 yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(e) The papayas were packaged so as to prevent access by fruit flies and other injurious insect pests, and the package does not contain any other fruit, including papayas not qualified for importation into the United States.

(f) All activities described in paragraphs (a) through (e) of this section were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

(g) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the

national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. If the average Jackson trap catch was greater than 7 Medflies per trap per week, measures were taken to control the Medfly population in the production area. The national Ministry of Agriculture kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(h) If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(i) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Done in Washington, DC, this 22nd day of September 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97-25487 Filed 9-24-97; 8:45 am]

BILLING CODE 3410-34-P

## **NATIONAL CREDIT UNION ADMINISTRATION**

### **12 CFR Part 725**

#### **Central Liquidity Facility**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Credit Union Central Liquidity Facility (the CLF), a mixed-ownership government corporation within the NCUA, serves as a liquidity source for its member credit unions. The current regulation requires the CLF to secure each loan with a security interest in all of the assets of the member credit union. This requirement interferes with the ability of credit unions to establish credit arrangements with other parties and in some cases may preclude members from borrowing from the CLF. In order to accommodate credit arrangements between the CLF member credit unions and multiple parties, NCUA is proposing to amend this requirement to permit the CLF to take, in lieu of a blanket security interest, a first priority security interest in specific assets of the

credit union with a net book value at least equal to 110% of the amounts owed on the CLF advance or Agent loan. The proposed rule is intended to provide credit unions with greater flexibility in their normal operations while ensuring that the CLF is adequately protected for any loans that it makes.

**DATES:** Comments must be received on or before November 24, 1997.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Herbert S. Yolles, President, National Credit Union Central Liquidity Facility, at the above address. Telephone Number (703) 518-6391 or (703) 518-6363.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Pub. L. 96-630, Title XVIII, 12 U.S.C. 1795, et seq., enacted in 1979, created the CLF. Its purpose is to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

Most credit unions are members of a corporate credit union. In addition, credit unions are now eligible for Federal Home Loan Bank membership. Both corporate credit unions and Federal Home Loan Banks require that a credit union provide collateral for borrowing. In addition, credit unions may also borrow from other financial institutions and are required to provide collateral for such borrowings. While multiple security agreements are not prohibited under the current regulation, the presence of competing security interests could result in the CLF being under-collateralized for any advances.

##### **Collateral—Net Book Value**

Currently, Section 725.19 requires that the CLF secure each loan with a blanket security interest in all of the assets of the member credit union. The proposed rule gives the CLF the option of taking either a blanket security interest or a first priority security interest in specific collateral of the credit union with a net book value at least equal to 110% of the amounts owed on the CLF advance or Agent loan.

This requirement would permit a credit union to provide collateral to other lenders and still have the ability to borrow from the CLF, so long as it had other assets with sufficient net book value to support the CLF advance or Agent loan. It also would permit the CLF to accept a security interest in all assets of the credit union as collateral for a CLF advance to a Regular member. However, the net book value of the assets would still have to be at least equal to 110% of the amounts amounts owed on the CLF advance or Agent loan.

##### **Superior Perfected Interest**

In calculating the value of the assets covered by the security interest, assets in which any third party had a superior perfected interest would be excluded.

##### **Section 208 Assistance**

The proposed rule also expressly authorizes the CLF to accept the guarantee of the National Credit Union Share Insurance Fund as collateral for borrowings by a credit union. This provision would facilitate advances by the CLF to credit unions receiving assistance under Section 208 of the Federal Credit Union Act.

##### **Regulatory Procedures**

###### *Regulatory Flexibility Act*

The NCUA Board certifies that this proposed rule, if adopted, will not have a significant impact on a substantial number of small credit unions (those under \$1 million in assets). The proposed rule will make it easier for credit unions to obtain loans from both CLF and other sources. Accordingly, a regulatory flexibility analysis is not required.

###### *Paperwork Reduction Act*

The proposed rule has no information collection requirements; therefore, no Paperwork Reduction Act analysis is required.

###### *Executive Order 12612*

The NCUA Board has determined that the proposed rule, if adopted, will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.

##### **List of Subjects in 12 CFR Part 725**

Credit, Credit unions, Reporting and recordkeeping requirements.