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.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

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, 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. 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).

2. Subpart—Coffee, consisting of §§ 319.73–1 through 319.73–4, is revised to read as follows:

Subpart—Coffee

Sec.

Subpart—Coffee

§ 319.73–1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Inspector. Any individual authorized by the Administrator to enforce this subpart.

Sample. Unroasted coffee not for commercial resale. Intended use includes, but is not limited to, evaluation, testing, or market analysis.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

Unroasted coffee. The raw or unroasted seeds or beans of coffee.

§ 319.73–2 Products prohibited importation.

(a) To prevent the spread of the coffee berry borer *Hypothenemus hampei* (Ferrari) and the fungus *Hemileia vastatrix* (Berkely and Broome), which causes an injurious rust disease, the following articles are prohibited importation into Hawaii and Puerto Rico, except as provided in § 319.73–3 of this subpart:

(1) Unroasted coffee;

(2) Coffee plants and leaves; and (3) Empty sacks previously used for unroasted coffee.

(b) Due to the risk of Mediterranean fruit fly and other injurious insects, seeds of all kinds when in pulp, including coffee berries or fruits, are prohibited importation into all parts of the United States by § 319.37–2(a) of this part, except as provided in § 319.37–2(c).

§ 319.73–3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) *Mail.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico en route to other destinations and that are packaged to prevent the escape of any plant pests may proceed without action by an inspector. Packaging that would prevent the escape of plant pests includes, but is not limited to, sealed cartons, airtight containers, or vacuum packaging. Samples of unroasted coffee received by mail but not packaged in this manner are subject to inspection and safeguard by an inspector. These samples must be returned to origin or forwarded to a destination outside Hawaii or Puerto Rico in a time specified by an inspector and in packaging that will prevent the escape of any plant pests. If this action is not possible, the samples must be destroyed.

(b) *Cargo.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico as cargo and that remain on the carrier may proceed to a destination outside Hawaii or Puerto Rico without action by an inspector. Samples may be transshipped in Puerto Rico or Hawaii only after an inspector determines that they are packaged to prevent the escape of any plant pests. Samples that are not packaged in this manner must be rewrapped or packaged in a manner prescribed by an inspector to prevent the escape of plant pests before the transshipment will be allowed.

(c) Other mail, cargo, and baggage shipments of articles covered by § 319.73–2 arriving in Puerto Rico or Hawaii may not be unloaded or transshipped in Puerto Rico or Hawaii and are subject to inspection and other applicable requirements of the Plant Safeguard Regulations (part 352 of this chapter).

§ 319.73–4 Costs.

All costs of inspection, packing materials, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart will be borne by the owner, importer, or agent of the owner or importer, including a broker. The services of an inspector during regularly assigned hours of duty and at the usual places of duty will be furnished without cost to the importer.

Done in Washington, DC, this 19th day of November 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–31712 Filed 11–27–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 97–107–2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending 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 disinfection at the port of first arrival as may be required by a U.S. Department of Agriculture 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 of injurious plant pests by imported fruits and vegetables.

EFFECTIVE DATE: November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799; or E-mail: Ronald.C.Campbell@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (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 fruit flies and other injurious plant pests that are new to or not widely distributed within and throughout the United States.

On June 5, 1998, we published in the **Federal Register** (63 FR 30646–30655) a proposal to amend the 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 and to declare certain areas in Mexico as fruit fly-free areas. We proposed these actions at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses [1] that indicate these actions can be taken without significant risk of introducing plant pests into the United States.

We solicited comments on our proposal for 60 days, ending August 4, 1998. We received six comments by that date. They were from representatives of industry and a State government. Four commenters supported the proposed rule in its entirety. The remaining two commenters had reservations about specific provisions of the proposed rule. Of those two, one commenter expressed concerns about the proposed declaration of certain areas in Mexico as fruit fly-free areas. Upon further review and consideration of this issue, we are taking final action at this time on all portions of our June 5, 1998, proposed rule except the portion concerning fruit fly-free areas in Mexico. We will continue to review data and research concerning the proposed fruit fly-free areas in Mexico. The comment that raised concerns about actions other than the proposed declaration of certain areas in Mexico as fruit fly-free areas is discussed below.

Comment: The Animal and Plant Health Inspection Service (APHIS) should reconsider proposing the entry of certain vegetable crops into the United States from South America because of their association with the pests *Japanagromyza phaseoli, Copitarsia consueta,* and *Mycena citricolor.* We believe that, although these pests are detectable by inspection, the overwhelming workload of APHIS inspectors, as discussed in a recent Government Accounting Office (GAO) report, may prevent those inspectors from detecting these pests in shipments. In fact, we suggest that APHIS review its policy of considering port of entry inspections as a reliable and effective mitigation measure and, instead, think of inspections more realistically as a tool to monitor compliance with quarantine regulations.

Response: The pests referred to by the commenter are readily detectable by inspection, and we are confident that our inspectors will detect these pests if they occur in a shipment of vegetable crops from South America. Further, while the GAO Report (GAO Report GAO/RCED–97–102, May 1997) mentioned by the commenter pinpoints certain weaknesses in our inspection programs, the report acknowledges that APHIS has changed its inspection program to address new challenges, increased resources for inspection activities, expanded use of alternative inspection practices, increased interagency coordination, and implemented a program to determine pest risks at ports. With information from this report and other sources, we continue to enhance our inspection programs. We believe that our inspections at the port of entry are an effective and reliable mitigation measure to prevent the introduction of plant pests into the United States. Therefore, we are making no changes to the proposed rule in response to this comment.

Therefore, based on the rationale presented in the proposed rule and in this document, we are adopting the provisions of the proposed rule, with the exception of the proposed declaration of certain areas in Mexico as fruit fly-free areas, as a final rule without change.

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 we no longer find warranted. 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. 603, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the impact of this rule on small entities. In our proposed rule, we invited comments on the potential effects of the proposed actions. In particular, we requested information on the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. No comments were submitted. Based on the information we have, there is no basis to conclude that adoption of this rule will result in any significant economic impact on a substantial number of small entities.

Under the Federal Plant Pest Act (7 U.S.C. 150aa–150jj) and the Plant Quarantine Act (7 U.S.C. 151–165, and 167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

We are amending 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 a U.S. Department of Agriculture 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 dissemination of injurious plant pests by imported fruits and vegetables.

This rule is based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk assessments indicate that the fruits or vegetables listed in this rule may, under certain conditions, be imported into the United States without significant pest risk.

Availability of Data

For many of the commodities allowed to be imported into the United States in this document, data on the levels of production and the anticipated import volume is unavailable for a number of

[1] Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT** or by calling the Plant Protection and Quarantine (PPQ) fax vault at 301–734–3560.

reasons. First, many of these commodities are not produced in significant quantities either in the United States or in the country that would be exporting the commodity to the United States; generally, less statistical data is collected—and therefore available—for commodities produced in small quantities when compared to a country's more heavily produced commodities. Second, some of these commodities do not appear to be produced in the United States at all; therefore, data on the U.S. production and export levels for those commodities does not exist. Finally, estimates of potential exports of commodities from foreign countries to the United States are often difficult to obtain, due in part to the uncertainty surrounding the cost and availability of transportation and the demand for the commodity in the United States.

Watermelon From Brazil

Complete information is not available on U.S. watermelon production. However, data shows that, in 1996, a total of 459,180 metric tons of watermelon, of which 22 percent was imported, was shipped to 18 major U.S. cities.

The United States is a net importer of watermelons. In 1996, imports totaled 207,000 metric tons, valued at $49.9 million, compared to 116,000 metric tons exported, worth $30.4 million.

Data on the number or size of watermelon producers in the United States is not available. However, since most U.S. vegetable and melon farms are small by Small Business Administration (SBA) standards, it is very likely that the U.S. farms that produce watermelons are also small.

Watermelons will be allowed to be exported to the United States from that part of Brazil considered free of the South American cucurbit fly. Information on the quantity of watermelons produced in that area of Brazil and on the quantity of watermelons expected to be imported from Brazil is not available, but we do not expect that amount to be large enough to adversely affect U.S. growers.

Brassica spp. from Ecuador, El Salvador, Nicaragua, and Peru

Brassica spp. include a variety of crops, some of which are more familiar (such as broccoli, cauliflower, and cabbage) than others (such as pak choi, tatsoi, celery mustard, and celery cabbage).

For the two major *Brassica* sub-varieties, broccoli and cauliflower, U.S. commercial production in 1996 was valued at about $397 million (649,600 metric tons) and $217 million (297,560 metric tons), respectively. Although U.S. production data is not available for other *Brassica* species, information on quantities shipped fresh to 18 major U.S. cities illustrates their relative importance to those markets. While fresh shipments of broccoli and cauliflower totaled 170,830 metric tons and 87,270 metric tons, respectively, fresh shipments of cabbage totaled 219,360 metric tons; Chinese cabbage, 27,490 metric tons; turnips-rutabagas, 10,800 metric tons; and Brussels sprouts, 6,080 metric tons.

In 1996, the value of U.S. exports of major *Brassica* spp. totaled about $188 million, compared to U.S. imports of $146 million. This means that the United States is a net exporter of these vegetables.

Information on U.S. production of less popular *Brassica* varieties and sub-varieties, such as *Brassica rapa*, *Brassica chinensis*, and *Brassica pekinensis*, is generally very limited for a number of reasons. Data that is recorded for the production of these commodities is usually presented in an aggregated format, under ''Chinese'' or ''Oriental'' vegetables or more broadly under a ''Miscellaneous'' category. Even when data specifically addresses one or more of these commodities, the information may still provide an incomplete picture of overall production. For example, statistics obtained from county lists of pesticide permittees only include crops treated with pesticides for which permits are required.

Bearing in mind these limitations, APHIS has made inquiries at the county and producer levels in principal production areas of California and Florida regarding number of growers, acreage, and quantities and values of production. Though most domestic production probably occurs in California and Florida, some production of these commodities takes place in other States as well. For example, one large-scale producer in California regularly grows mizuna and tatsoi in California for 37 weeks and in Arizona during the remaining weeks of the year. However, most domestically grown *Brassica rapa* and *Brassica chinensis* are probably produced in California and Florida.

Twenty-five counties in California were surveyed for production of these commodities. No information was available from seven of the counties. Of the remaining 18 counties, ''Oriental'' vegetables are grown on about 12,250 acres, with total annual production valued at about $33 million. Nine of the 18 counties were found to record information on areas planted in specific sub-varieties of *Brassica rapa* and *Brassica chinensis*. Those counties reported a combined production area of about 3,500 acres for these varieties. Only four of the nine counties could provide information on the value of production for certain sub-varieties; in those counties, the sub-varieties were grown on a total of 1,012 acres and were valued at about $4.9 million.

Because most of the data on California's production of these commodities is aggregated, there is little that can be stated with confidence about the individual quantities grown. However, it would appear that the value of California's annual production of *Brassica rapa* and *Brassica chinensis* probably lies well above $5 million, but below $30 million. By far, most producers are small entities by SBA standards. Even the larger operations can probably be considered small entities (with annual sales below $0.5 million).

In Florida, most production of *Brassica rapa* and *Brassica chinensis* takes place in Palm Beach County, by both small- and large-scale producers. It is possible that a couple of the larger ones may have annual sales exceeding $0.5 million. In 1995–96, over 1,260 acres were planted with these commodities in Palm Beach County, with production valued at almost $2.3 million. Assuming this amount represents about 80 percent of the State's total, Florida's overall production may be worth more than $2.8 million.

To these estimates for California and Florida should be added production taking place in other States where conducive growing conditions are found. When all growers are considered, U.S. producers of *Brassica rapa* and *Brassica chinensis* may number in the hundreds, with most of the operations very small-scale. The value of U.S. production is probably in the tens of millions of dollars.

Although statistics are not available on U.S. production of Chinese cabbage (*Brassica pekinensis*), fresh shipments to 18 major U.S. cities in 1996 totaled about 27,490 metric tons, of which less than 2 percent was imported (about 320 metric tons from Mexico and 180 metric tons from Canada). California was the origin of nearly 95 percent of fresh shipments of domestically grown Chinese cabbage. Between 1994 and 1996, shipments to the 18 major U.S. cities grew by more than 20 percent.

Of the surveyed counties in California, only four offered specific information on the number of acres planted with Chinese cabbage and the

value of production. They reported Chinese cabbage grown on 845 acres and worth $5.5 million.

The most recent data on Ecuador's production of principal *Brassica* vegetables indicate relative small quantities compared to those of the United States. In 1996, Ecuador produced 11,132 metric tons of cabbage, 4,000 metric tons of broccoli, and 1,421 metric tons of cauliflower. However, it has not been possible to gather information on the quantity of *Brassica* spp. expected to be imported from Ecuador, but the amounts are unlikely to be large enough to affect U.S. entities.

Certain *Brassica oleracea* varieties, including cabbage, cauliflower, broccoli, Brussels sprouts, and kale, grown in El Salvador have been entering the United States under permit for many years. Therefore, the impact of allowing entry of all *Brassica* spp. would be based on the potential imports of the more minor species, such as *Brassica rapa* varieties. Research is being conducted in El Salvador on some of the minor *Brassica* varieties, such as Chinese cabbage, but they are not established commercial crops. Therefore, no impacts are expected in allowing the importation into the United States of *Brassica* spp. from El Salvador.

The only information available on the production of *Brassica* spp. by Nicaragua concerns broccoli and cauliflower. Nicaragua's annual levels of production of these two vegetables are reported to be 158 metric tons and 308 metric tons, respectively. These quantities represent less than 0.03 percent and 0.1 percent, respectively, of U.S. broccoli and cauliflower production. Also, in a recent year, Nicaragua exported about 162 tons of cabbage to El Salvador and Honduras. Given these relatively low levels of production and export, importation of *Brassica* spp. from Nicaragua is expected to have a negligible impact on U.S. entities.

Certain *Brassica oleracea* varieties, including cabbage, cauliflower, broccoli, Brussels sprouts, and kale, grown in Peru have been entering the United States under permit for many years. In 1996, Peru exported approximately 211 metric tons of cabbage and 6 metric tons of Brussels sprouts to the United States. Therefore, the impact of allowing entry of all *Brassica* spp. would be based on the potential imports of the more minor species, such as *Brassica rapa* varieties. Information is not available on the quantity of these commodities grown in or expected to be imported from Peru, but the amounts are unlikely to be large enough to adversely affect U.S. entities.

Rhubarb From Guatemala

No official data is available on U.S. rhubarb production, but in 1996, shipments of fresh rhubarb to 18 major U.S. cities totaled about 454 metric tons, with 90 percent coming from Washington and 10 percent from Oregon. In 1995, there were 3,732 metric tons of frozen rhubarb shipped commercially to the same cities from western States (California, Colorado, Idaho, Montana, Oregon, Washington, and Wyoming). In general, U.S. rhubarb imports and exports are very minor.

Although the demand for rhubarb is fairly stable, with little change among long-time commercial buyers, production in Washington is expected to expand. An additional 300 acres are being brought into production, and the growing season has been lengthened, from January-July to December-September, by using hot house and covered field production in addition to open field production.

In Guatemala, rhubarb is produced in very small quantities for domestic sales only. Commercial production could increase if importation to the United States were allowed. However, any impact on the U.S. rhubarb market will probably be negligible, given the small amount produced by Guatemala and the current absence of Guatemalan rhubarb exports.

Parsley From Israel and Nicaragua

California leads all States in parsley production. In 1996, there were 45,411 tons of parsley produced from 2,982 acres in California. That same year, fresh parsley imports (together with fresh tarragon and marjoram imports) to the United States totaled 1,509 metric tons and were valued at $3.1 million. In other words, U.S. imports represented about 3 percent or less of California's production. No U.S. exports of fresh parsley were recorded in 1996.

Israel, with a total 1997 production of about 4,500 tons of parsley, is already an important source of imported dehydrated (manufactured) parsley in the United States. It is estimated that Israel's annual fresh parsley exports to the United States could amount to about 50 tons. This quantity represents an extremely small fraction (only about 3 percent) of current fresh parsley imports by the United States, and it is a negligible amount compared to U.S. domestic production. Therefore, no significant impacts are expected for U.S. parsley producers or other small entities.

The quantity of parsley expected to be imported from Nicaragua is not known, but given the relatively low level of current imports of parsley from all sources, which amount to only 3 percent of California's production, no significant impacts are expected for U.S. parsley producers or other entities.

Salicornia from Mexico

Salicornia is a succulent grown primarily as an oil seed crop. Much like asparagus, the tips of the salicornia plant are consumed as food in many countries; in Europe, for example, salicornia is widely eaten. The demand for salicornia as a food item in the United States is still a niche market, although some is produced along coastlines, such as in Texas and California. Domestic production is limited to one or two months of the year.

Information is not available on the number of U.S. producers of salicornia or on the quantity produced, but it is assumed to be a very minor crop in the United States. The quantity expected to be imported from Mexico is also not known, and will depend upon market development. Since it is to be grown on irrigated land in Mexico, exports to the United States could potentially be year-round. APHIS has no information to suggest that U.S. entities will be adversely affected by salicornia imports from Mexico.

Mint From Nicaragua

An average of 151,600 acres of mint were harvested annually in the United States between 1994 and 1996, for the production of peppermint oil and spearmint oil. The average annual value of the oils produced during these years was about $150 million. Statistics are not available on the production of mint leaves for purposes other than oil production. The annual value of mint leaves imported by the United States from 1992 through 1994 averaged approximately $407,000, increasing to $422,000 in 1996 and $469,000 in 1997. Thus, the current value of mint leaf imports is not significant compared to the value of U.S. mint oil production.

The quantity of mint expected to be imported from Nicaragua is not known, but given existing levels of U.S. production, potential imports of mint from Nicaragua are not expected to have an impact on U.S. producers or other entities.

Rosemary From Nicaragua

No information is readily available on rosemary production or imports for the United States. Similarly, no estimates were possible regarding Nicaragua's production or potential exports of rosemary to the United States. However, there is no reason to believe that

allowing rosemary imports from Nicaragua will have negative impacts on U.S. entities.

Belgian Endive, Chicory, and Endive From Panama

Although there is no information on U.S. production of Belgian endive, chicory, and endive, fresh endive shipments to 18 major U.S. cities in 1996 totaled about 17,550 metric tons, of which imports contributed about 1,135 metric tons (1,000 tons from Belgium, 90 tons from Canada, and 45 tons from The Netherlands). California and Florida were the sources of about 40 percent and 28 percent, respectively, of domestically grown shipments. Between 1994 and 1996, endive shipments to those 18 major U.S. cities grew by more than 77 percent. In 1996, the value of imports, $11.45 million, was three times that of exports, $3.9 million.

It has not been possible to gather information on the production levels or expected import quantities of Belgian endive, chicory, and endive from Panama. However, we do not expect the importation of these commodities from Panama to significantly impact U.S. entities.

Pineapple From South Africa

Pineapple production in the United States is concentrated in Hawaii, and, in 1996, totaled about 314,800 metric tons, of which 7,800 metric tons were exported. U.S. imports of pineapple in the same year reached 135,260 metric tons. In other words, about 30 percent of the pineapples consumed in the United States are imported.

South Africa produces about 46,000 metric tons of pineapple, of which approximately 4,000 metric tons are exported to the European Union and parts of Asia. It is estimated that South Africa could potentially export about 2,000 metric tons a year to the United States, depending on demand and available airfreight space. This amount represents less than one percent of U.S. production, and about 1 percent of U.S. imports. Therefore, we expect that U.S. producers and other entities will not be significantly affected by the importation of pineapple from South Africa.

Peppers From Spain

Although there is no information on U.S. production of *Capsicum* species, there were about 240,230 metric tons of fresh bell peppers and 36,150 metric tons of other fresh peppers shipped to 18 major U.S. cities in 1996. Nearly 30 percent of the bell pepper shipments were imported, as were more than one-half of other pepper shipments. In 1996, pepper imports (fresh and chilled) by the United States totaled 277,320 metric tons and were valued at $217 million. That same year, U.S. pepper exports amounted to 60,470 metric tons, valued at $48.4 million. As such, the United States is clearly a net importer of peppers.

The size distribution of U.S. pepper producers is similar to that of most crops, with numerous small-scale operations and fewer very large operations. For example, in Florida in 1992, there were 199 sweet pepper farms with a total of 19,554 harvested acres. More than half were farms of less than 15 acres. Most pepper producers in the United States are small entities (less than $0.5 million in annual sales).

Between 1994 and 1996, fresh bell pepper shipments to the 18 major U.S. cities grew by about 3.5 percent, while shipments of other fresh peppers increased by more than 58 percent.

Peppers from Spain would be required to have been grown in insect-proof greenhouses in the Province of Almeria. Currently, about 20,000 metric tons of the 200,000 metric tons of peppers produced annually in Province of Almeria are grown in insect-proof greenhouses. It is expected that about 1,500 metric tons would be shipped yearly to the United States. Annual shipments could increase to as much as 4,000 metric tons, depending on production and market developments.

This higher estimate, 4,000 metric tons, represents only 1.4 percent of current U.S. pepper imports, and even a smaller fraction of U.S. domestic production. Pepper imports from Spain will have a negligible impact on U.S. entities. However, they may help to satisfy the rapidly increasing U.S. demand for fresh peppers.

Cantaloupe, Honeydew Melon, and Watermelon From Venezuela

The U.S. melon season runs from May to November, with most domestic shipments taking place in May, June, and July. Production statistics are available only for honeydew melon; in 1996, the commercial crop totaled 242,490 metric tons and was valued at $91.3 million. Although such information is not available for cantaloupe or watermelon, quantities shipped to 18 major U.S. cities in 1996 are as follows: Cantaloupe, 325,230 metric tons (30 percent imported); honeydew melon, 130,770 metric tons (40 percent imported); and watermelon, 459,180 metric tons (22 percent imported).

California dominates cantaloupe and honeydew melon production, while Florida, Georgia, and Texas devote the most acreage to watermelon production. Most melon and cantaloupe producers can be considered small entities, but probably a major share of production is by a relatively few large-scale operations having annual sales greater than $0.5 million.

U.S. trade in cantaloupes, honeydew melons, and watermelons demonstrates that the United States is a net importer of these commodities. In 1996, overall fresh melon imports were valued at $205 million, and exports worth $81 million.

The Paraguana Peninsula, because it is considered free of the South American cucurbit fly, is the area in Venezuela from which cantaloupe, honeydew melons, and watermelons would be allowed to be exported to the United States. When melons were last shipped from the Paraguana Peninsula to the United States in 1985, 2,000 metric tons of honeydew melon and 400 metric tons of watermelon were exported. (No cantaloupe was exported.) In 1986, shipments were discontinued because of phytosanitary restrictions.

With removal of the restrictions, projected annual exports to the United States are 6,000 metric tons of cantaloupe, 3,000 metric tons of honeydew melon, and 2,000 metric tons of watermelon. In each case, these amounts represent about 1 percent or less of U.S. domestic production. The export season for the melons will be October to April, the period of the year when domestic supply is at its lowest.

Shipments from Venezuela will improve the year-round availability of melons for consumers by augmenting existing off-season imports. The relatively small amounts expected to be shipped are likely to have only a negligible impact on U.S. producers of cantaloupe, honeydew melon, and watermelon.

Executive Order 12988

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule are preempted while the fruits and vegetables are 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

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 have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

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, 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. 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).

2. In § 319.56–2t, the table is amended by adding, in alphabetical order, the following entries:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
* * * * * * *			
Ecuador			
* * * * * * *			
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	*Brassica* spp	Whole plant of edible varieties only.
* * * * * * *			
El Salvador			
* * * * * * *			
	Cole and mustard crops, including cabbages, broccoli, cauliflower, turnips, mustards, and related varieties.	*Brassica* spp	Whole plant of edible varieties only.
* * * * * * *			
Guatemala			
* * * * * * *			
	Rhubarb	*Rheum rhabarbarum*	Above ground parts.
* * * * * * *			
Israel			
* * * * * * *			
	Parsley	*Petroselinum crispum*	Above ground parts.
* * * * * * *			
Mexico			
* * * * * * *			
	Salicornia	*Salicornia* spp	Above ground parts.
* * * * * * *			
Nicaragua			
* * * * * * *			
	Cole and mustard crops, including cabbages, broccoli, cauliflower, turnips, mustards, and related varieties.	*Brassica* spp	Whole plant of edible varieties only.
* * * * * * *			
	Mint	*Mentha* spp	Above ground parts.
	Parsley	*Petroselinum crispum*	Above ground parts.
* * * * * * *			
	Rosemary	*Rosmarinus officinalla*	Above ground parts.
* * * * * * *			
Panama			
* * * * * * *			
	Belgian endive	*Cichorium* spp	Above ground parts.

Country/locality	Common name	Botanical name	Plant part(s)
	Chicory	*Cichorium* spp	Above ground parts.
* * *	* * *	* * *	* * *
	Endive	*Cichorium* spp	Above ground parts.
* * *	* * *	* * *	* * *
Peru			
* * *	* * *	* * *	* * *
	Cole and mustard crops, including cabbages, broccoli, cauliflower, turnips, mustards, and related varieties.	*Brassica* spp	Whole plant of edible varieties only.
* * *	* * *	* * *	* * *
	Swiss chard	*Beta vulgaris*	Leaf and stem.
* * *	* * *	* * *	* * *
South Africa			
* * *	* * *	* * *	* * *
	Pineapple	*Ananas* spp	Fruit.
* * *	* * *	* * *	* * *

* * * * *

3. Section 319.56–2aa is revised to read as follows:

§ 319.56–2aa Administrative instructions governing the entry of cantaloupe, honeydew melons, and watermelon from Brazil and Venezuela.

Cantaloupe, honeydew melons, and watermelon may be imported into the United States from Brazil and Venezuela only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The cantaloupe, honeydew melons, or watermelon must have been grown in the area of Brazil or the area of Venezuela considered by the Animal and Plant Health Inspection Service to be free of the South American cucurbit fly, (*Anastrepha grandis*), in accordance with § 319.56–2(e)(4) of this subpart. In addition, all shipments of cantaloupe, honeydew melons, and watermelon must be accompanied by a phytosanitary certificate issued either by the Departmento de Defesa e Inspeção Vegetal (Brazilian Department of Plant Health and Inspection) or the Servicio Autonomo de Sanidad Agropecuaria (the plant protection service of Venezuela) that includes a declaration indicating that the cantaloupe or melons were grown in an area recognized to be free of the South American cucurbit fly.

(1) *Area considered free of the South American cucurbit fly in Brazil.* The following area in Brazil is considered free of the South American cucurbit fly: That portion of Brazil bounded on the north by the Atlantic Ocean; on the east by the River Assu (Acu) from the Atlantic Ocean to the city of Assu; on the south by Highway BR 304 from the city of Assu (Acu) to Mossoro, and by Farm Road RN–015 from Mossoro to the Ceara State line; and on the west by the Ceara State line to the Atlantic Ocean.

(2) *Area considered free of the South American cucurbit fly in Venezuela.* The following area in Venezuela is considered free of the South American cucurbit fly: The Paraguana Peninsula, located in the State of Falcon, bounded on the north and east by the Caribbean Ocean, on the south by the Gulf of Coro and an imaginary line dividing the autonomous districts of Falcon and Miranda, and on the west by the Gulf of Venezuela.

(b) *Shipping requirements.* The cantaloupe, honeydew melons, and watermelon must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(c) *Labeling.* All shipments of cantaloupe, honeydew melons, and watermelon must be labeled in accordance with § 319.56–2(g) of this subpart.

4. A new § 319.56–2gg is added to read as follows:

§ 319.56–2gg Administrative instructions; conditions governing the entry of peppers from Spain.

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(b) The peppers may be shipped only from December 1 through April 30, inclusive;

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Deputy Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded against fruit fly infestation from harvest to export. Such safeguarding includes covering newly harvested peppers with fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packing the peppers in fruit fly-proof cartons, or cartons covered with fruit-fly proof mesh or plastic tarpaulin, and placing those cartons in enclosed shipping containers for transit to the airport and subsequent shipment to the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, ''These peppers were grown in registered greenhouses in Almeria Province in Spain,'' must accompany the shipment.

Done in Washington, DC, this 19th day of November 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–31713 Filed 11–27–98; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 214, and 299

[INS 1962–98]

RIN 1115–AF31

Petitioning Requirements for the H–1B Nonimmigrant Classification Under Public Law 105–277

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service's (Service) fee schedule and regulations with respect to filing requirements for Form I–129, Petition for H–1B Nonimmigrant Worker, for alien workers coming to perform services in a specialty occupation. Specifically, this rule amends the regulations to reflect an additional $500 billing fee, added by the American Competitiveness and Workforce Improvement Act (ACWIA), for H–1B petitions filed on or after December 1, 1998. This rule also describes the organizations that are exempt from the new fee requirements. Finally, this rule amends the regulations to reflect the new annual numerical limits on H–1B classification.

DATES: *Effective date:* This rule is effective December 1, 1998.

Comment date: Written comments must be submitted on or before January 29, 1999.

ADDRESSES: Please submit the original and two copies of written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS No. 1962–98 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Benefits Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1998, Congress enacted the American Competitiveness and Workforce Improvement Act of 1990 (ACWIA), as Title IV of Div. C of Public Law 105–277. This new legislation amended and created several statutory provisions relating to the H–1B nonimmigrant classification. These amendments include, among others:

(1) revisions to the attestation requirements for labor condition applications (LCA) under section 212(n) of the Immigration and Nationality Act (INA);

(2) new penalties and definitions of violations of LCA conditions;

(3) amendments to prevailing wage computations for academic and research organizations; and

(4) data collection and reporting requirements.

The Department of Labor is primarily responsible for administration and enforcement of the labor condition application and associated penalties. Therefore, as a number of these provisions require close coordination between the Department of Labor and the Service, they will be the subject of a separate rulemaking.

For this rulemaking, the Service is implementing only the provisions of section 414(a) and 415(a) of ACWIA, addressing the new fees for United States employers filing petitions for H–1B nonimmigrants and the organizations that are exempt from the new fee requirements. The Service is also revising the regulations at § 214.2(h)(8)(i)(A) to reflect the increase in the annual limitations on the number of aliens who can be granted an H–1B visa or otherwise accorded such status.

What Is the New Fee Required by H–1B Petitions?

ACWIA requires certain H–1B petitioners to pay an additional fee of $500, in addition to the standard $110 filing fee for Form I–129 petitions. This $500 fee will be disbursed between the Department of Labor and National Science Foundation for job training, low-income scholarships, grants for mathematics, engineering, or science enrichment courses, systematic reform activities, and administration and enforcement of the H–1B program. The Service will receive 1.5 percent of the fee as reimbursement for the costs of collection and processing of H–1B nonimmigrant petitions.

Who Is Required to Pay This Fee?

The new $500 filing fee must be paid by United States employers when they file H–1B petitions on or after December 1, 1998, and before October 1, 2001, for any of the following purposes:

(1) an initial grant of H–1B status under section 101(a)(15)(H)(i)(b) of the INA;

(2) an extension of stay for individuals currently in H–1B status; or

(3) authorization for a change in employment for individuals currently in H–1B status.

All United States employers seeking authorization for a change in employment (e.g., a change from one specialty occupation to another specialty occupation) for an H–1B nonimmigrant must pay the additional $500 fee, regardless of whether the request for change in employment is the first request for such a change or a subsequent request for the same H–1B nonimmigrant. For employers seeking an extension of stay under § 214.2(h)(15)(i), the additional $500 fee only applies to the *first* extension request. However, in instances where a new employer has received approval for a change in employment for an H–1B nonimmigrant and subsequently seeks an extension of stay for that H–1B worker, the new employer must also pay the additional $500 filing fee for its *first* request for extension of stay, regardless of whether the prior employer had requested an extension of stay for the H–1B nonimmigrant. Finally, the additional fee will not be required for employers filing amended petitions under § 214.2(h)(2)(i)(E), unless the