

# 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. 99–099–1]

RIN 0579–AB17

#### Importation of Unshu Oranges

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations governing the importation of citrus fruit to allow, under certain conditions, Unshu oranges grown on Kyushu Island, Japan, to be imported into noncitrus-producing areas of the United States. We are also proposing to amend the regulations for importing Unshu oranges from Honshu Island, Japan, by requiring fumigation using methyl bromide prior to exportation and by allowing the fruit to be distributed to additional areas of the United States, including citrus-producing areas. In addition, we are proposing to remove the requirement for individually wrapping Unshu oranges imported from Japan or the Republic of Korea. These actions would relieve restrictions on the importation into and distribution within the United States of Unshu oranges without presenting a significant risk of introducing citrus canker or other diseases or pests of plants.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by June 18, 2001.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 99–099–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–099–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

Citrus canker is a disease which affects citrus, and is caused by the infectious bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The strain of citrus canker that occurs in Japan infects the twigs, leaves, and fruit of a wide spectrum of *Citrus* species.

Currently, the regulations in 7 CFR 319.28 (referred to below as the regulations) prohibit the importation of citrus from Eastern and Southeastern Asia, Japan, Brazil, Paraguay, and other designated areas, with certain exceptions. One exception is for Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, also known as Satsuma) grown in citrus canker-free areas in Japan or on Cheju Island, Republic of Korea. After meeting certain growing, packing, and inspection requirements, Unshu oranges may be imported from these areas of Japan and Korea into any area of the United States except American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands. Also, under the regulations in 7 CFR 301.11, the Unshu oranges may not be moved interstate from any State into which they are imported into, or through any State, territory, or possession where importation is prohibited under § 319.28.

Unshu oranges eligible for importation into the United States are grown under a system of safeguards in citrus canker-free areas in Japan and Korea. Unshu oranges are known to be resistant to citrus canker, and the system of safeguards established in the regulations for Unshu oranges approximately 30 years ago has proven effective, as evidenced by the record of citrus canker-free imports.

In response to a request from the Japanese Government's Ministry of Agriculture, Forestry and Fisheries, we are considering allowing Unshu oranges from Honshu Island, Japan, to be imported into additional areas of the United States provided the oranges are first treated with a specified dosage of methyl bromide to ensure their freedom from plant pests. Currently, the only approved citrus-canker free export areas for Unshu oranges in Japan are on Honshu Island. In addition, also at Japan's request, we are considering allowing Unshu oranges to be imported from additional citrus-canker free export areas on Kyushu Island, Japan. These proposed changes to the regulations are discussed below in more detail.

##### Pest Risk Analysis

Upon receiving the request from the Government of Japan to change our regulations, the Animal and Plant Health Inspection Service completed a pest risk analysis entitled "Importation of Japanese Unshu Orange Fruit into Citrus Producing States" in March 1995.<sup>1</sup> The pest risk analysis evaluated the risk of importing Unshu oranges from Japan into the United States. The analysis evaluated the risks associated with 13 organisms that meet the definition of a quarantine pest as set forth by the United Nation's Food and Agriculture Organization. A quarantine pest is defined as "a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled." Two diseases (citrus canker and citrus greening disease) and 11 insects (3 mites, 3 mealybugs, 2 scale insects, 2 disease vectors, and citrus fruit fly) are present in Japan and are considered quarantine pests by the United States. However, in Japan, the

<sup>1</sup> For a copy of the pest risk analysis, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

islands of Shikoku, Honshu, and certain areas of Kyushu are free of the citrus fruit fly.

The pest risk analysis evaluated the climate and host interaction, host range, dispersal potential, economic impact, and environmental impact associated with these pests. The analysis confirmed that the established safeguards for Unshu oranges from Japan are effective. The estimated risk that Unshu oranges imported into commercial citrus-producing States of the United States would provide inoculum sufficient to infect suitable host material with citrus canker is nearly zero. The probable risk of establishment of the two disease vectors—one, a psyllid, carries the bacterium for citrus greening disease; the other, an aphid, carries citrus tristeza virus and other viruses—is only slightly higher than the risk of establishment of citrus canker. However, these disease vectors are not typically associated with imported fruit from Honshu Island (which, as noted above, is the location of the only currently approved citrus-canker free export areas for Unshu oranges from Japan), primarily because such fruit is subjected to surface treatment with chlorine solution and voluntary treatment with methyl bromide fumigation. While citrus greening disease, a disease of quarantine significance, is known to occur in Okinawa Prefecture, this area is geographically separated from the citrus export areas in Japan. In addition, measures are in place to prevent movement of the psyllid that carries citrus greening disease from Okinawa Prefecture.

The highest risk pests appear to be mealybugs, followed by mites and armored scale insects. The recommendation for phytosanitary measures to minimize the risk from these pests, as well as to address the risk presented by the disease vectors identified in the pest risk analysis, is fumigation with methyl bromide. Currently, producers on Honshu Island voluntarily fumigate their fruit with methyl bromide to control those pests. However, because our proposal, if adopted, would allow Unshu oranges from Honshu Island to be distributed in commercial citrus-producing States, we are also setting forth a mandatory requirement for postharvest treatment of fruit from Honshu Island with methyl bromide in accordance with APHIS' fumigation standards as an additional safeguarding measure. Mandatory treatment is necessary because the mealybugs, mites, and scale insects identified in the risk analysis are much

more likely to become established in climates where citrus is grown than in climates where citrus is not grown. In noncitrus-producing areas, these pests, if introduced, would likely not survive due to the effects of climate and a lack of host material.

#### *Allow Importation of Unshu Oranges From Kyushu Island, Japan*

As a result of our pest risk analysis, we are proposing to amend the regulations to allow the importation and interstate movement, under restrictions, of Unshu oranges grown in citrus-canker free areas on Kyushu Island, Japan.

The growing areas that we are proposing to add are located in the following four prefectures on Kyushu Island: Fukuoka, Kumamoto, Nagasaki, and Saga. The citrus fruit fly (*Bactrocera tsuneonis* Miyake) is the only additional quarantine pest found on Kyushu Island that is not found in the currently certified growing areas on Honshu Island. However, the citrus fruit fly is known to occur only in prefectures of Kyushu Island that are east of the central mountains of the island. Fukuoka, Kumamoto, Nagasaki, and Saga are west of the central mountain range. Trapping data and fruit cutting data show that citrus fruit fly has not been detected in these four prefectures for a number of years and is therefore not likely to occur there.

Nevertheless, as a further mitigatory measure, we propose to limit the entry and distribution of Unshu oranges from these new growing areas to areas of the United States that are not commercial citrus-producing areas. In addition to the current safeguards specified in the regulations, we would require trapping for the citrus fruit fly in Unshu orange export areas and buffer zones on Kyushu Island, Japan. We would prescribe the requirements for the trapping in coordination with the Japanese Government's Ministry of Agriculture, Forestry and Fisheries. In the event that fruit flies are detected, shipping would be suspended from the export area until negative trapping showed that the problem had been resolved.

We are not proposing that Unshu oranges from Kyushu Island be subjected to mandatory postharvest treatment with methyl bromide as we are for Unshu oranges from Honshu Island. We do not believe fumigation is necessary or justified in this situation because Unshu oranges from Kyushu Island will not be distributed in citrus-producing States (where the climate and available host material could support the establishment of mealybugs, mites, and armored scale insects).

To qualify for importation into the United States, Unshu oranges from Kyushu Island, Japan, would have to meet the following requirements:

1. They must be grown in and packed in isolated, canker-free export areas established by the Ministry of Agriculture, Forestry and Fisheries, and where only Unshu orange trees are grown. These areas must be kept free of all citrus other than the propagative material of Unshu oranges. The isolated, canker-free areas must, in turn, be surrounded by a 400-meter wide, disease-free buffer zone in which only certain varieties of citrus may be grown. Besides Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*C. unshiu* Marcovitch, Tanaka]), these varieties are: Buntan Hirado (*Citrus grandis*); Buntan Vietnam (*C. grandis*); Hassaku (*C. hassaku*); Hyuganatsu (*C. tamurana*); Kinkan (*Fortunella* spp. non *Fortunella hindsii*); Kiyomi tangor (hybrid); Orange Hyuga (*C. tamurana*); Ponkan (*C. reticulata*); and Yuzu (*C. junos*).

2. Japanese and U.S. plant protection officials must jointly inspect the canker-free export areas and the buffer zones to ensure that these areas are free of citrus canker and prohibited plant material, and these officials must also jointly inspect Unshu oranges in the groves prior to and during harvest in the packinghouses during packing operations.

3. Before packing, the Unshu oranges must be given a U.S. Department of Agriculture (USDA) prescribed surface sterilization with a bleach and water solution.

4. The boxes in which the Unshu oranges are packed must include a stamped or printed statement specifying the States into which the Unshu oranges may be imported and from which they are prohibited removal under a Federal plant quarantine.

5. The Unshu oranges must also be accompanied by a certificate from the Japanese plant protection service certifying that the fruit is apparently free of citrus canker.

6. In Unshu orange export areas and buffer zones on Kyushu Island, trapping for the citrus fruit fly must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry and Fisheries and USDA. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

7. Unshu oranges from the prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga may be imported into any area of the United States except American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern

Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands. We would require the Unshu oranges to be imported only through ports of entry with USDA plant inspection stations. These ports, which are equipped with special inspection and treatment facilities, are indicated with an asterisk in § 319.37–14 of the regulations. Also, under 7 CFR 301.11, the Unshu oranges would not be allowed to be moved interstate from any State into which they are imported into or through any State, territory, or possession where importation is prohibited under § 319.28. These distribution requirements are the same as those now in place for Unshu oranges from Honshu Island, Japan, and Cheju Island, Republic of Korea.

#### *Unshu Oranges from Honshu Island, Japan*

As noted, all Unshu oranges that are currently imported into the United States from Japan are grown on Honshu Island. As explained previously, the highest risks from the importation of Unshu oranges are mealybugs, mites, and scale insects. Also, as explained previously, methyl bromide fumigation has been used by producers on Honshu Island, on a voluntary basis, to minimize the risks associated with these pests.

As a result of our pest risk analysis, we are proposing to change the entry requirements for Unshu oranges produced in the currently certified production areas in Japan, which are all located on Honshu Island. We propose to (1) require a mandatory postharvest fumigation with methyl bromide and (2), as requested by Japan, expand distribution to all parts of the United States except for American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Because our proposal, if finalized, would allow Unshu oranges to be imported into areas of the United States where citrus is commercially produced, we are requiring that each shipment of oranges from Honshu Island, Japan, be fumigated with methyl bromide as an additional protective measure. Japan's voluntary methyl bromide practices have been effective overall in eliminating the mites and scale insects identified in the pest risk analysis, as well as the two disease vectors. However, the dosage schedule used in the voluntary program (2.5 lb. per 1000 cu. ft. for 2 hours at 59 °F or above) was not supported by data to be sufficient to kill mealybugs. The fumigation schedule we are proposing for the Unshu oranges both after harvest and prior to export, at the rate of 3 lbs. per

1000 cu. ft. for 2 hours at 59 °F—is an APHIS-approved treatment determined to be sufficient to kill mealybugs, mites, scale insects, and any other surface pests of concern. This fumigation schedule would further mitigate any risk that may be involved in allowing Unshu oranges from Honshu Island, Japan, to be imported directly into citrus-producing areas.

These actions would allow Unshu oranges to be moved into additional areas of the United States without increasing the risk of pest introduction. As mentioned previously, we are proposing these changes at the request of Japan's Ministry of Agriculture, Forestry and Fisheries, and to fulfill our obligations under international trade agreements. Under the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures, the United States is obliged to use sound, scientific principles in considering such requests, and to use health requirements only to the extent necessary to protect the health of U.S. agriculture and to reduce any pest and disease risk to negligible levels.

#### *Use of Methyl Bromide*

The United States and Japan are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol), an international treaty designed to preserve the stratospheric ozone layer by governing the production and use of ozone-depleting chemicals like methyl bromide. Methyl bromide is a broad spectrum pesticide used to control insect pests, nematodes, weeds, pathogens, and rodents, and it is in widespread use as a fumigant. The Protocol provides for a phaseout of methyl bromide in developed countries by the year 2005 and in developing countries, including Mexico, by the year 2015. However, the Parties' methyl bromide phaseout obligations do not apply to quantities of the substance used for quarantine and preshipment purposes.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1999 (Act) amended the Clean Air Act (CAA) and directed the Environmental Protection Agency (EPA) to promulgate new rules to reduce and terminate the production, importation, and consumption of methyl bromide in accordance with the phaseout schedule of the Montreal Protocol. (Previously, on December 10, 1993, EPA had published a final rule in the **Federal Register** (58 FR 65018–65082) that froze methyl bromide production in the United States at 1991 levels and required the phasing out of domestic use of methyl bromide

by 2001.) Consistent with the Protocol, the Act also amended the CAA by providing a quarantine-use exemption for the production, importation, and use of methyl bromide to fumigate commodities entering or leaving the United States to comply with APHIS regulations and for other legitimate quarantine uses. The World Trade Organization's Agreement on Sanitary and Phytosanitary Measures—of which Japan and the United States are signatories—also requires that member countries impose no greater restrictions, including the use of commodity treatments, than are necessary to achieve phytosanitary protection. Such protective measures must also be used in a manner that minimizes negative effects on trade.

To ensure that the United States fulfills its obligations under the CAA and the Protocol, EPA is nearing completion on amendments to its regulations that would revise the accelerated phaseout regulations and conform the U.S. methyl bromide phasedown schedule with the Protocol's schedule for industrialized nations. EPA has expressed assurances that a final rule on this issue will be published in the **Federal Register** in the near future. EPA has also indicated that it is preparing to publish a proposed rule regarding the process for handling and documenting exemptions for the production and importation of quantities of methyl bromide to be used for quarantine and preshipment purposes.

Because the Montreal Protocol exempts quarantine uses of methyl bromide, our proposal assumes the continued availability of methyl bromide for use as a fumigant for the foreseeable future. Nevertheless, USDA takes very seriously its commitment to work toward the development of commodity treatment alternatives to methyl bromide. Accordingly, APHIS is actively assessing the effectiveness and environmental acceptability of other tools—such as hot water treatment, thermal treatments (hot air, vapor heat, and cold treatment), and irradiation—that may economically manage the pests currently controlled with methyl bromide.

#### *Remove Marked Wrapping Requirement for Individual Unshu Oranges*

The principal method of maintaining the identity of imported Unshu oranges, under present regulations, is by stamping or printing a statement on the individual fruit wrapper and also on each box specifying the States into which the Unshu oranges may be imported and from which they are

prohibited removal. Our experience with the importation of Unshu oranges shows that the fruit is marketed and retailed by the box. We anticipate that marketing by the box will continue for future sales. Therefore, we are proposing to remove the current requirement for the wrapper on each fruit. It appears that the deletion of the individual fruit wrapper marking requirement would not increase the risk of introducing citrus canker or any other plant disease or pest into the United States nor prevent the effective enforcement of the restrictions on interstate distribution of the fruit within the United States. We are proposing to remove the requirement for individual fruit wrappers because marking the boxes is considered sufficient to safeguard distribution, and marking boxes will remain a requirement.

These safeguards would be adequate to ensure that the Unshu oranges imported into the United States from Honshu Island and Kyushu Island, Japan, and Cheju Island, Republic of Korea, would not disseminate citrus canker or other plant pests in the United States.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

The economic analysis for the changes proposed in this document is set forth below. It provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act.

In the data we use to support this analysis, the terms "tangerine" and "mandarin" are generally interchangeable. Both refer to varieties of *Citrus reticulata*. For example, NASS production data are aggregated under "tangerine," while Bureau of Census trade data use the term "mandarin." Because of its familiarity, we use only the term "tangerine" in this analysis.

Unshu oranges (*Citrus reticulata* var. *unshu*) are a variety of tangerine currently allowed to be imported into the United States from citrus canker-free production areas of Japan and Korea. They may be imported into any part of the United States except for commercial citrus-producing areas. This proposed rule would change requirements for the importation of Unshu oranges from Honshu Island, where all such shipments from Japan originate at present, and allow importations from four prefectures on Kyushu Island. Unshu oranges imported from Honshu Island would no longer be prohibited from being distributed in five citrus-producing States (Arizona, California, Florida, Louisiana, and Texas), and postharvest treatment with methyl bromide would be mandatory. Unshu oranges from Kyushu Island would be prohibited from being distributed in citrus-producing States, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, and methyl bromide treatment would not be mandatory. The proposed rule would also remove the current requirement that imported Unshu oranges be individually wrapped, regardless of whether they come from Japan or Korea.

Since Unshu oranges are not grown in the United States, entities that might be affected by the proposed changes in import regulations would be producers of other tangerine varieties, assuming Unshu oranges can be considered a substitute fruit. Annual receipts of \$500,000 or less is the small-entity criterion set by the Small Business Administration for establishments primarily engaged in the production of citrus fruits. Most tangerine producers in the United States are small entities. Although the 1997 *Census of Agriculture* excluded information on California's "honey tangerine" growers to avoid disclosing data for individual farms, the information that is available for "other tangerine" growers in California and other States indicates that most operations are small.

Quantities of Unshu oranges imported from Japan and Korea, 1994 to 1999, are shown in Table 1. Unshu orange

imports from Japan between 1994 and 1999 averaged 240 metric tons per year.

TABLE 1.—UNSHU ORANGE IMPORTS BY THE UNITED STATES FROM JAPAN AND KOREA

	Japan	Korea	Total
Metric tons of Unshu oranges			
1994 .....	324		324
1995 .....	232	43	275
1996 .....	165	214	379
1997 .....	144	887	1,031
1998 .....	224	31	255
1999 .....	349	377	726

Source: Ministry of Agriculture, Forestry and Fisheries, Japan.

Japan's Ministry of Agriculture, Forestry and Fisheries is unable to project future Unshu orange exports to the United States that may result if this proposed rule is adopted. For the purposes of this analysis, therefore, we estimated that the 1994–1999 average would double, to 480 metric tons per year. Adding to this amount the average of yearly imports from Korea shown in Table 1, namely, 310 metric tons, would mean 790 metric tons of Unshu oranges imported annually. The estimated increase in imports from Japan may be too high, but we do not have information that would allow a more factually based projection. A high estimate of the potential increase in Japan's Unshu orange exports to the United States lends confidence to our conclusion regarding the potential economic effect on U.S. tangerine producers.

U.S. tangerine production, imports, and domestic supplies are shown in Table 2. U.S. net imports were less than 4 percent of the domestic supply in 1997–98. In addition, as Table 2 shows, the United States shifted from being a net exporter from 1994 through 1996 to being a net importer of tangerines beginning in 1996, reflecting increased demand for imported varieties. Annual exports from 1994 through 1998 were fairly constant, about 33,400 metric tons. Imports, however, increased sharply, from about 20,000 metric tons in 1994–95, to about 42,800 metric tons in 1997–98.

TABLE 2.—U.S. FRESH TANGERINE PRODUCTION AND IMPORTATION

[In metric tons]

	U.S. Production <sup>1</sup>	Net Imports <sup>2</sup>	Domestic Supply <sup>3</sup>
1994–95 .....	190,046	– 13,794	176,251
1995–96 .....	220,985	– 9,477	211,508
1996–97 .....	255,020	1,742	256,762

TABLE 2.—U.S. FRESH TANGERINE PRODUCTION AND IMPORTATION—Continued

[In metric tons]

	U.S. Production <sup>1</sup>	Net Imports <sup>2</sup>	Domestic Supply <sup>3</sup>
1997–98 .....	220,878	8,848	229,726

<sup>1</sup> Excludes processed fruit. Source: Production data from NASS, *Agricultural Statistics*, Tables 5–23 and 5–24.

<sup>2</sup> “Net imports” are imports minus exports. Calendar year data arranged to correspond to NASS cross-year production data. Source: Net import data: World Trade Atlas, Global Trade Information Services, Inc., based on data from U.S. Department of Commerce, Bureau of the Census.

<sup>3</sup> U.S. production (excluding processed fruit) plus net imports.

Comparing Unshu orange imports shown in Table 1 with U.S. tangerine supplies shown in Table 2, it is apparent that Unshu orange imports comprise a small portion of total supply. From 1994–95 to 1997–98, they averaged only 0.23 percent of U.S. tangerine supply, and when only the fruit imported from Japan is considered, 0.11 percent. The hypothesized import level, 790 metric tons a year, would represent only 0.36 percent of the average annual tangerine domestic supply over this 4-year period. This very small percentage suggests that any effect of Unshu orange imports, as a substitute fruit, on the sales and prices of other tangerine varieties as a whole would not be significant.

One seedless variety that is similar to the Unshu orange is the Satsuma. In the United States, it is commercially grown only in California, where there were 1,368 acres of bearing and 753 acres of nonbearing (young) trees as of May 1999, according to the California Department of Food and Agriculture. Satsuma production statistics are not recorded at the national or State level. Nearly all commercial production takes place in Fresno, Kern, and Tulare counties. Of these, only Fresno County maintains information specific to Satsumas. In 1997–98, 2,332 metric tons of Satsuma were produced on 470 acres in Fresno County. Based on those production levels, we estimate that the entire area of California planted with Satsuma annually produces 6,785 metric tons of fruit and could potentially produce 10,520 metric tons of fruit. The hypothesized quantity of Unshu orange imports, 790 metric tons, represents 11.6 and 7.5 percent, respectively, of the estimated California Satsuma production levels.

Direct access to California markets would allow Unshu orange imports from Honshu Island to compete more directly for California’s Satsuma consumers. However, prices of the two varieties are not competitive. Wholesale prices for Satsuma in 1997–98 were about 40 to 50 cents per pound. Wholesale prices for Unshu oranges for the past 6 to 7 years have been around

\$1.40 to \$1.50 per pound (\$45 to \$48 per 32-pound container). One company has been the sole importer of Unshu oranges from Japan for more than 10 years. Information from U.S. Department of Commerce, Bureau of the Census, shows that the average price of all tangerines imported by the United States from 1994 to 1998 was more in line with Satsuma prices, at about 47 cents per pound. A price difference of this magnitude implies distinct markets; it is highly unlikely that Satsuma customers would be willing to pay a threefold premium for a substitute variety. There may be latent demand for Unshu oranges in the United States, but the extent to which this demand draws away consumers of Satsuma and other domestic tangerine varieties would be marginal. More likely, Unshu orange sales in citrus-producing States and elsewhere would be to an expanding base of niche customers willing to pay the premium price for Unshu oranges.

The effect on the demand for other *Citrus reticulata* varieties from increased levels of Unshu orange imports is expected to be negligible. Even when the analysis focuses more narrowly on a similar tangerine variety, the Satsuma, the higher prices paid for Unshu oranges strongly indicate a distinct market, with any effect on Satsuma sales likely to be insignificant.

An increase in the importation of Unshu oranges is expected, given the proposed addition of Unshu oranges grown on Kyushu Island and the opportunity for Unshu oranges from Honshu Island to be marketed in U.S. citrus-producing States. The requirement that shipments from Honshu Island be fumigated using methyl bromide would not affect the volume of Unshu oranges exported, since all shipments from that island are already fumigated voluntarily. Whether the fruit continues to be wrapped after individual fruit wrappers are no longer required would probably be determined largely by customer preference.

As explained, increases in the quantity of Unshu oranges imported from Japan are not expected to have a significant economic effect on U.S.

tangerine producers, whether the producer is a small or large entity.

### Cost-Benefit Analysis and Analysis of Alternatives

Economic effects on U.S. producers and consumers resulting from this rule, if it is adopted, are expected to be insignificant. As described, projected Unshu orange imports represent about one-third of 1 percent of domestic tangerine supply. This small amount is unlikely to affect the demand for other tangerines, especially given that Unshu orange prices are triple those of other tangerines. U.S. retailers and consumers of Unshu oranges would benefit, particularly those in citrus-producing States that currently do not have direct access to them.

Alternatives to this rule would be to either maintain existing import regulations or propose restrictions different from those set forth here. The risk assessment supports neither alternative. Japanese sources and U.S. destinations can be expanded without jeopardizing the U.S. citrus industry. The economic effect would be positive, but very minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

### Executive Order 12988

This proposed rule would allow Unshu oranges to be imported into the United States from Kyushu Island and Honshu Island, Japan, and Cheju Island, Republic of Korea. If this proposed rule is adopted, State and local laws and regulations regarding Unshu oranges imported under this rule would be preempted while the fruit is in foreign commerce. Fresh Unshu oranges 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.

### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of Unshu oranges grown at approved locations in Japan and imported into certain areas of the United States under the conditions specified in this proposed rule would not present a risk of introducing or disseminating citrus canker, citrus fruit fly, and mealybugs and would 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).

Copies of the environmental assessment and finding of no significant impact are 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

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 (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99–099–1. Please send a copy of your comments to: (1)

Docket No. 99–099–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This rulemaking would relieve restrictions on the importation of Unshu oranges from Japan, as well as their distribution within the United States, without presenting a significant risk of introducing citrus canker or other destructive plant diseases or pests. Implementing this program, however, will necessitate the use of an information collection activity in the form of a certificate.

We are asking OMB to approve, for 3 years, our use of this certificate in connection with our program to relieve restrictions on the importation of Unshu oranges from citrus canker-free areas of Japan.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

- (1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 1 hour per response.

*Respondents:* Full-time, salaried plant health officials of Japan's Plant Protection Service and growers of Unshu oranges.

*Estimated annual number of respondents:* 10.

*Estimated annual number of responses per respondent:* 1.

*Estimated annual number of responses:* 10.

*Estimated total annual burden on respondents:* 10 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Ms. Laura Cahall, APHIS' Information Collection Coordinator, at (301) 734–5360.

### 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 propose to amend 7 CFR part 319 as follows:

### PART 319—FOREIGN QUARANTINE NOTICES

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

**Authority:** Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 166 and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.28 would be amended as follows:

a. Paragraphs (b)(2), (b)(3), (b)(4), and (b)(6) would be redesignated as paragraphs (b)(3), (b)(4), (b)(6), and (b)(7), respectively.

b. Paragraph (b) introductory text, and newly redesignated paragraphs (b)(6)(i) and (b)(7) would be revised.

c. New paragraphs (b)(2) and (b)(5) would be added.

#### § 319.28 Notice of quarantine.

\* \* \* \* \*

(b) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma, grown in Japan or on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for those areas specified in paragraph (b)(7) of this section: *Provided*, that each of the following safeguards is fully carried out:

\* \* \* \* \*

(2) In Unshu orange export areas and buffer zones on Kyushu Island, Japan, trapping for the citrus fruit fly (*Bactrocera tsunehis*) must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry and Fisheries and the U.S. Department of Agriculture. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

\* \* \* \* \*

(5) 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./1000 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.

(6) \* \* \*

(i) The individual boxes in which the oranges are shipped must be stamped or printed with a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

\* \* \* \* \*

(7) The Unshu oranges may be imported into the United States only through a port of entry listed in § 319.37–14 of this part, except as follows:

(i) Unshu oranges from Honshu Island, Japan, may not be imported into American Samoa, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands.

(ii) Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only), or Cheju Island, Republic of Korea, may not be imported into American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.

\* \* \* \* \*

Done in Washington, DC, this 13th day of April 2001.

**Thomas Hunt Shipman,**

*Acting Deputy Under Secretary, Marketing and Regulatory Programs.*

[FR Doc. 01–9628 Filed 4–17–01; 8:45 am]

BILLING CODE 3410–34–U

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 00–010–1]

#### Horses From Iceland; Quarantine Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations regarding the importation of horses to exempt horses imported from Iceland from testing for dourine, glanders, equine piroplasmosis, and equine infectious

anemia during the quarantine period. We believe this action is warranted because Iceland has never had a reported case of dourine, glanders, equine piroplasmosis, or equine infectious anemia, and it appears that horses imported from Iceland would pose a negligible risk of introducing those diseases into the United States. This action would relieve certain testing requirements for horses imported from Iceland while continuing to protect against the introduction of communicable diseases of horses into the United States.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by June 18, 2001.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 00–010–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–010–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Glen I. Garriss, Supervisory Staff Officer, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including dourine, glanders, equine piroplasmosis, and equine infectious anemia (EIA). Dourine, glanders, equine piroplasmosis, and EIA are crippling equine diseases. Dourine, glanders, and equine piroplasmosis are

not known to exist in the United States. EIA does exist in the United States, but the incidence of the disease is very low (in Fiscal Year 2000, only 0.046 percent of domestic horses tested for EIA returned positive results) and official controls are in place to prevent its spread. Specifically, the interstate movement of EIA reactor horses is prohibited unless a reactor horse is being moved to (1) a federally inspected slaughtering facility, (2) a federally approved diagnostic or research facility, or (3) the home farm of the reactor.

Under § 93.308(a) of the regulations, horses intended for importation into the United States from any part of the world must be quarantined upon arrival and tested for certain communicable diseases of horses. Under § 93.308(a)(3), horses may not be released from quarantine until they receive negative results to tests for dourine, glanders, equine piroplasmosis, and EIA and undergo any other tests and procedures that may be required by the Administrator of the Animal and Plant Health Inspection Service (APHIS) to determine their freedom from communicable diseases. Currently, horses from Australia and New Zealand are exempt from testing for dourine and glanders.

The Government of Iceland has requested that the U.S. Department of Agriculture exempt horses imported from Iceland from testing for dourine, glanders, equine piroplasmosis, and EIA during the quarantine period. Iceland has never had a reported case of dourine, glanders, equine piroplasmosis, or EIA.

In response to the Government of Iceland's request, APHIS has prepared a qualitative risk assessment evaluating the status of dourine, glanders, equine piroplasmosis, and EIA in Iceland. The risk assessment is based on documentation provided by Iceland regarding its veterinary infrastructure, animal health monitoring system, trading practices with other regions, and other pertinent information. The risk assessment documents Iceland's freedom from communicable diseases of horses, describes the capabilities of Iceland's veterinary diagnostic laboratory, and evaluates Iceland's natural and regulatory barriers on the movement and importation of animals, among other things. Copies of the risk assessment may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Based on the findings of APHIS' risk assessment, we believe that horses imported from Iceland would pose a negligible risk of introducing dourine, glanders, equine piroplasmosis, and EIA