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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. 03–113–3]

Citrus From Peru

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of fresh commercial citrus fruit (grapefruit, limes, mandarin oranges or tangerines, sweet oranges, and tangelos) from approved areas of Peru into the United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from Peru, provided certain conditions are met. This action will provide for the importation of citrus from Peru into the United States while continuing to protect the United States against the introduction of plant pests.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Roman, Import Specialist, Commodity Import Analysis and Operation Staff, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (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 plant pests. The Government of Peru has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow the importation into the United States of grapefruit, limes, mandarin oranges or tangerines, sweet oranges, and tangelos.

To evaluate the risks associated with the importation of citrus from Peru, we prepared a draft pest risk analysis entitled ''Importation of Fresh Commercial Citrus Fruit: Grapefruit (*Citrus* x *paradisi* Macfad.); Lime (*C. aurantiifolia* [Christm.] Swingle); Mandarin Orange or Tangerine (*C. reticulata* Blanco); Sweet Orange (*C. sinensis* [L.] Osbeck); Tangelo (*C.* x *tangelo* J.W. Ingram & H.E. Moore) from Peru into the United States'' (October 2003).

On January 12, 2004, we published a notice in the **Federal Register** (69 FR 1694–1695, Docket No. 03–113–1) in which we advised the public of the availability of the draft pest risk analysis. We solicited comments concerning the pest risk analysis for 60 days ending March 12, 2004, and received 14 comments by that date. The comments were from Members of Congress, foreign importers, foreign citrus producers, foreign and domestic exporters and distributors, State departments of agriculture, and an agricultural trade service. We considered the comments we received on the draft pest risk analysis in the development of our proposal and discussed the comments in our proposed rule.

On September 30, 2005, we published in the **Federal Register** (70 FR 57206–57213, Docket No. 03–113–2) a proposed rule [1] to allow the importation, under certain conditions, of fresh commercial citrus fruit (grapefruit, limes, mandarin oranges or tangerines, sweet oranges, and tangelos) from approved areas of Peru into the United States. We solicited comments concerning our proposal for 60 days ending November 29, 2005. We received 24 comments by that date, from Members of Congress, importers, exporters, foreign citrus producers, domestic growers, and private citizens. Nineteen of the commenters fully supported the proposed rule. The issues raised by the remaining commenters are discussed below.

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2005–0079, then click on ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

General Comments

Two commenters noted that the pest risk analysis states that limes (*C. aurantiifolia*) are poor hosts or nonhosts of Mediterranean fruit fly (Medfly, *Ceratitis capitata*) and *Anastrepha* spp. fruit flies and that APHIS does not require mandatory cold treatment of commercial *C. aurantiifolia* fruit to mitigate for those pests. The commenters asked why, then, the proposed rule did not exempt limes from the cold treatment requirement.

The commenters are correct; we had intended to exempt limes from the cold treatment requirement in the proposed rule, but inadvertently failed to do so. Therefore, in this final rule the cold treatment requirements in § 319.56–2pp, paragraph (f), include an exception for limes (*C. aurantiifolia*).

One commenter asked how APHIS could cite the effectiveness of fruit cutting with regard to Spanish clementines when APHIS discovered Spanish clementines infested with Medfly only a few years ago.

The purpose of fruit cutting is not to serve as a mitigation measure, but rather, to monitor the effectiveness of cold treatment. When we revised our cold treatment schedules in 2002 by removing the lower temperature/longer duration applications (an action we took in response to the detection of Medfly in Spanish clementines), we also began requiring that all fruit cold treated for Medfly be cut and sampled at the port of first arrival in order to ensure that the treatment was effective. In the case of clementines from Spain and other fruit cold treated for Medfly, we believe fruit cutting has been an effective way of monitoring the efficacy of cold treatment.

One commenter asked that we explain in the final rule that satsuma (*Citrus reticulata* Blanco var. satsuma) is also known as *Citrus unshiu* Marcow var. Satsuma and clementine (*C. reticulata* var. clementine or *Citrus reticulata* Blanco cultigroup Tangerine cv. 'Clementine') is considered to belong to the tangerine group.

The citrus taxonomy we used in the pest risk analysis and proposed rule is based on the Swingle system. While the taxonomy of citrus is not established, most researchers use the Swingle system, which recognizes 16 species of

citrus. We believe it is appropriate to employ the system authored by Swingle for purposes of classification because it is generally accepted in the scientific community.

The Citrus Fruit Borer

Several commenters took issue with our providing for inspection as the only mitigation measure of *Ecdytolopha aurantiana,* the citrus fruit borer. Two commenters stated that the citrus borer is a dangerous pest and poses a great risk to the U.S. citrus industry and requested additional mitigation measures be required for the borer. One of these commenters suggested that mitigation measures include certification that the fruit was grown in an area free of the citrus fruit borer, which the commenter claimed could be verified with a parapheromone that can be used in trapping, and/or treatment with an irradiation dose of 400 Gy.

We continue to believe that *E. aurantiana* is very easy to detect in visual inspections based on its effects on the fruit. As stated in our pest risk analysis, ''Fruit attacked by *E. aurantiana* gradually develop a necrotic area around the entrance hole caused by the larva in the rind of the fruit, and then the fruit either drops prematurely or develops a bright orange color distinct from healthy fruit.'' Because these symptoms are easy to recognize and highly visible, the fruit would not be marketable and we expect it to be rejected during packing or during the subsequent inspection conducted in Peru for *E. aurantiana.*

Two commenters expressed concern for inspection being the only mitigation measure for the citrus fruit borer because of the small number of consignments typically inspected. The commenters cited what they described as the unreliability of inspections now that port inspections are largely the responsibility of the Department of Homeland Security (DHS) as another factor. The commenters added that port inspections have suffered, citing a 2004 Government Accountability Office report, and took issue with our position regarding port inspections in our proposed rule. The commenters contended that vacancies of qualified personnel is greater than when the transfer of inspection duties to DHS took place and that attrition outpaces new hires. With more fresh produce being imported and fewer qualified inspectors, the commenters stated, the training program for new inspectors is not at the same level as the original APHIS training program.

With respect to the amount of shipments being inspected, our proposal called for all consignments of Peruvian citrus to be inspected prior to exportation and accompanied by a phytosanitary certificate with a specific declaration stating that the consignment has been inspected and found free of *E. aurantiana.* The primary object of the inspection that will take place in the United States and be conducted by DHS port inspectors will be to monitor the effectiveness of cold treatment.

With respect to staffing levels, there was an initial drop in the number of inspectors following the transfer of port inspection responsibilities from APHIS to DHS in June 2003: APHIS transferred 1,507 agriculture inspectors to DHS, but by October 2004, the number of inspectors had decreased to 1,452. However, the loss of those 55 inspectors was more than offset by February 2005, at which time 109 new agricultural specialists had completed New Officer Training and were working at ports of entry. In addition, DHS approved 14 training classes for new officers which began in the summer of 2004 and continued through January 2006. As of February 2006, DHS had 1,858 agriculture inspectors and plans to hire 248 new officers this year to offset any projected attrition.

With respect to training, there was a need to provide pest-exclusion training to those Immigration and Naturalization Service, U.S. Border Patrol, and U.S. Customs Service personnel who were transferred to DHS' Bureau of Customs and Border Protection (CBP), just as the mission of CBP dictated the need to provide cross-training in other specialties to those APHIS personnel who were transferred to CBP. Planning and delivering training for all these personnel necessarily had to be accomplished over time, but all CBP inspection personnel have now been fully and satisfactorily trained in pest exclusion.

One commenter stated that if there is ever evidence of pest transfer of *E. aurantiana* into the United States that can be linked to shipments of Peruvian citrus, APHIS must implement additional measures beyond what was in the proposed rule to prevent the further introduction of the pest into the United States. The commenter added that APHIS must suspend shipments of citrus from Peru until additional measures are implemented.

As stated in the proposed rule, if a single *E. aurantiana* is found upon inspection, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that inspection does not appear to be an effective mitigation for *E. aurantiana,* APHIS will take additional measures, which may include suspending the importation of citrus from Peru and conducting an investigation into the cause of the deficiency.

One commenter stated that there is an assumption that cold treatment will kill the citrus fruit borer, but that this conclusion is not supported in the pest risk analysis.

We did not state, nor did we intend to imply, in our proposed rule or pest risk analysis that cold treatment would serve as a mitigation measure for the citrus fruit borer. To address the risk presented by the citrus fruit borer, we are requiring that all shipments be inspected prior to export and accompanied by a phytosanitary certificate with an additional declaration stating that the consignment has been inspected and found free of *E. aurantiana.*

Economic Analysis

Two commenters raised several concerns with some of the conclusions in the proposed rule's economic analysis. One of these commenters took issue with our conclusion that imports of citrus from Peru would not have a negative impact on the domestic citrus industry because of the small amount of citrus we are expecting to import. The commenter added that we must consider the cumulative effect of all of our import rules. The commenter also took issue with how much of the information used for the analysis was based on Florida's citrus industry. The commenter stated that while the percentage of California's citrus production is small compared to the country as a whole, it is almost entirely sold for fresh, unlike Florida where only 10 percent is sold for fresh. Therefore, the commenter stated, this rule would have a much greater impact on the California citrus industry than the Florida citrus industry. The commenter stated that the impacts on citrus sold for fresh in the United States needed more examination.

One commenter also took issue with our statement in the proposed rule that clementines and mandarins are not produced in the United States in commercially significant quantities. The commenter cited statistics from a 2004 California Department of Food and Agriculture report that showed there are 15,000 acres of these varieties planted in California. Each acre is equal to about 20 metric tons of fruit; meaning that 300,000 metric tons of fresh mandarins are being produced. The commenter stated that gross revenue per acre is an

estimated $5,000 to $6,000, resulting in a minimum of a $75 million industry.

Two commenters took issue with our statement that imports of Peruvian citrus would complement citrus production in the United States. One of these commenters noted that fresh shipments of navel oranges from Texas peak in September/October, from Florida in September/December, and from California in November to May. The second commenter stated that allowing citrus imports during the period of February through September presents a significant competitive challenge to domestic citrus production intended for fresh utilization that should not be minimized.

We have addressed the commenters' concerns in the revised economic analysis that is presented under the heading ''Executive Order 12866 and Regulatory Flexibility Act'' in this final rule.

One commenter stated that our definition of small producer is ambiguous. The commenter stated that a citrus producer with annual gross revenues of $750,000 is one who has 300 acres of citrus and breaks even. The commenter estimated that 90 percent of the California citrus industry consists of family farms.

The Small Business Administration (SBA) determines the definitions of small businesses, not APHIS. SBA has established a size standard for most industries in the U.S. economy. As is the case with most agricultural production, a small citrus producer is defined as a business with gross annual revenue of $750,000 or less.

Amendment to Treatment Regulations

In our proposed provisions concerning the cold treatment of citrus from Peru, we stated that fruit would have to be cold treated in accordance with part 305 of the regulations. Therefore, in this final rule, we have amended the table in § 305.2(h)(2)(i) to include the appropriate treatment schedule for citrus from Peru. In addition, as a housekeeping measure, we have removed the footnote that has appeared at the end of the table. That footnote, which noted the availability of irradiation as an alternative treatment against mango seed weevil and 11 species of fruit flies, was no longer entirely accurate due to the changes made in a recent final rule (71 FR 4451–4464, published January 27, 2006) that established a new minimum generic dose of irradiation for most plant pests of the class Insecta. The regulatory text that precedes the table accurately indicates that treatment by irradiation in accordance with § 305.31 may be substituted for other approved treatments for any of the pests listed in § 305.31(a), so it is not necessary to maintain the footnote after the table.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Note: In our September 2005 proposed rule, we proposed to add the conditions governing the importation of citrus from Peru as § 319.56–2nn. In this final rule, those conditions are added as § 319.56–2pp.

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. The shipping season for key limes and mandarins from Peru is in progress. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year's shipping season. 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.

We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of fresh commercial citrus fruit (grapefruit, limes, mandarin oranges or tangerines, sweet oranges, and tangelos) from approved areas of Peru into the United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from Peru, provided certain conditions are met. This action provides for the importation of citrus from Peru into the United States while continuing to protect the United States against the introduction of plant pests.

Peru is not considered a major world producer of citrus, and its citrus industry is relatively small compared to neighboring countries like Brazil, Uruguay, and Argentina. As shown in table 1, oranges account for the greatest proportion of citrus production in Peru (270,673 metric tons), followed by lemons and limes (238,179 metric tons), tangerines, clementines, mandarins, and satsumas (131,787 metric tons), and grapefruit and pomelos (30,500 metric tons).

TABLE 1.—CITRUS PRODUCTION IN PERU (2000)

Crop	Area harvested (hectares)	Production (metric tons)
Oranges	23,353	270,673
Lemons and limes	23,363	238,179
Tangerines, clementines, mandarins, and satsumas	7,375	131,787
Grapefruit and pomelos	1,750	30,500

Source: World Resources Institute (2002), cited in the pest risk analysis.

Peruvian officials have identified five areas or zones from which citrus would, or potentially could be, exported to the United States. Table 2 indicates the area planted to citrus in each of the five zones. Export citrus is produced in zones I to IV (Piura, Lambayeque, Lima and Ica); however, Peru has also identified the potential for exports from the jungle region in zone V (Junin). Zone I (Piura) accounts for 41 percent of the land area in citrus production.

TABLE 2.—AREA IN CITRUS PRODUCTION IN PERU, BY ZONE

Zone	Area planted to citrus (hectares)
I Piura	13,005
II Lambayeque	4,592
III Lima	3,251
IV Ica	1,728
V Junin	8,822

Source: Carbonell Torres (2002), cited in the pest risk analysis.

Peru exported 11,339 metric tons of citrus in 2003 (table 3). Five exporters in four packinghouses account for 98 percent of the total exports.

TABLE 3.—CURRENT CITRUS EXPORTS FROM PERU

Destination	Volume exported (metric tons)
Belgium	412
Canada	1,032
Colombia	158
Ecuador	363
Hong Kong	144
Ireland	154
Netherlands	3,712
Singapore	20
Spain	282
United Kingdom	3,907
Venezuela	1,139
Others	16
Total	11,339

Source: Carbonell Torres (2002), cited in the pest risk analysis.

The United States produced 11.4 million metric tons of citrus fruit in 2004–2005, valued at $2.39 billion. Citrus is produced in Florida, California, Arizona, and Texas. Florida accounted for 67 percent of U.S. citrus production in 2004–2005, while California accounted for 29 percent, Texas for 3 percent, and Arizona for 1 percent. Florida and California each accounted for 47 percent of the value of production, while Texas and Arizona accounted for 4 percent and 2 percent, respectively.

In Florida, 89 percent of the citrus produced is utilized for processing. However, a much larger percentage of the citrus produced in California (78 percent), Arizona (62 percent), and Texas (52 percent) is utilized for fresh production. Thus, whereas Florida accounts for 88 percent of the 7.7 million metric tons of citrus processed in the United States, California accounts for 70 percent of the 3.7 million metric tons of U.S. fresh citrus production.

TABLE 4.—CITRUS PRODUCTION IN THE UNITED STATES: ACREAGE, PRODUCTION, UTILIZATION, AND VALUE OF TOTAL CITRUS BY STATE

[2004–2005]

State	Bearing acreage (acres)	Production (1,000 metric tons)	Utilization of production (1,000 metric tons)		Value of production (1,000 dollars)[1]
			Fresh	Processed	
Arizona	26,500	127	79	48	$38,276
California	243,800	3,309	2,591	718	1,131,851
Florida	641,400	7,588	836	6,752	1,130,444
Texas	27,300	339	177	162	88,684
United States	939,000	11,363	3,683	7,680	2,389,255

Source: National Agricultural Statistics Service (NASS), United States Department of Agriculture (USDA) (September 2005) (*http://www.nass.usda.gov*).

[1] Packinghouse-door equivalents.

Oranges accounted for the major proportion of the individual citrus crops produced in the United States (table 5). In 2004–2005, 9.1 million metric tons of oranges were produced, valued at $1.5 billion. Grapefruit was valued at $398 million, lemons at $351 million, tangerines at $130 million, tangelos at $8 million, and temples at $3 million. NASS does not cite similar statistics on a by-crop basis for clementines and mandarins specifically. However, according to California Citrus Mutual, 15,000 acres of these varieties are planted in California, representing an approximately $75 million industry.[2]

TABLE 5.—CITRUS PRODUCTION IN THE UNITED STATES: ACREAGE, PRODUCTION, UTILIZATION, AND VALUE BY CROP

[2004–2005]

Crop	Bearing acreage (acres)	Production (1,000 metric tons)	Utilization of production (1,000 metric tons)		Value of production (1,000 dollars)[1]
			Fresh	Processed	
Oranges	732,100	9,112	2,212	6,900	$1,498,063
Grapefruit	103,500	1,008	619	389	397,909
Lemons	58,500	813	562	251	351,897
Tangelos	6,400	70	22	48	8,004
Tangerines[2]	35,600	331	259	72	130,068

[2] California Citrus Mutual Perspective, October 4, 2004.

TABLE 5.—CITRUS PRODUCTION IN THE UNITED STATES: ACREAGE, PRODUCTION, UTILIZATION, AND VALUE BY CROP—Continued

[2004–2005]

Crop	Bearing acreage (acres)	Production (1,000 metric tons)	Utilization of production (1,000 metric tons)		Value of production (1,000 dollars) [1]
			Fresh	Processed	
Temples	2,900	29	9	20	3,314

Source: NASS, USDA (September 2005) (*http://www.nass.usda.gov*).
[1] Packinghouse-door equivalents.
[2] Published estimates include Florida only. Estimates include Fallglo, Sunburst, and Honey varieties only.

In 2004, the United States imported 478,400 metric tons of citrus valued at $307.2 million (table 6). The major countries from which citrus fruit were imported included Mexico, Spain, South Africa, Australia, and Chile. Lemons and limes, mandarins, and oranges were the major products imported, and accounted for 48 percent, 32 percent, and 19 percent of the value of imports, respectively.

TABLE 6.—U.S. IMPORTS OF CITRUS FRUITS

[2004]

Commodity	Value (U.S. dollars in millions)	Quantity (metric tons)	Major countries from which citrus is imported, and percent share import value [1]
Lemons and limes	$146.5	321,100	Mexico (88%), Chile (7.6%), Spain (2%).
Mandarins	99.0	77,300	Spain (76.2%), South Africa (12.6%), Australia (6.4%), Mexico (2.2%), Morocco (1.4%).
Oranges	58.8	65,700	South Africa (45.2%), Australia (42.8%), Mexico (9.1%), Dominican Republic (1.2%).
Grapefruit	1.6	13,800	Bahamas (68.6%), Mexico (26.0%), Canada (2.9%), Israel (2.4%).
Other citrus fruit [2]	1.3	600	Jamaica (68.0%), Israel (25.1%), Italy (3.7%), Vietnam (1.2%), Morocco (1.2%).
Total citrus fruit	307.2	478,400	Mexico (44.5%), Spain (25.5%), South Africa (12.9%), Australia(10.3%), and Chile (3.6%).

Source: World Trade Atlas (2005) (*http://www.gtis.com*).
[1] Only countries accounting for more than 1 percent of the value of imports are included in table 6.
[2] Includes various fresh and dried citrus fruits, such as kumquats, citrons, bergamots, and Tahitian, Persian, and other limes of the *Citrus latifolia* variety.

Peruvian exporters estimated that exports of citrus to the United States would total 5,100 metric tons a year. Tangerines/mandarins and tangelos are expected to comprise 69 percent of these exports (table 7). The estimated volume of 5,100 metric tons of U.S. citrus imports from Peru would comprise a relatively minimal amount compared to current U.S. citrus imports of 478,400 metric tons and U.S. domestic citrus production of 11.4 million metric tons (table 8). Table 9 compares the volume of fresh citrus imports from Peru to the corresponding fresh citrus production in the United States on a by-crop basis, based on available data.

TABLE 7.—ESTIMATED ANNUAL VOLUME OF PERUVIAN CITRUS EXPORTS TO THE UNITED STATES [1]

Commodity	Metric tons	Number of 40-foot shipping containers [2]
Tangerine/mandarin	2,000	100
Tangelo	1,500	75
Key lime	600	30
Clementine	500	25
Washington navel orange	300	15
Grapefruit	200	10
Total	5,100	255

Sources: (Carbonell Torres, 2003, and Cargo Systems, 2001, cited in the pest risk analysis).
[1] Volumes were estimated for the year 2004.
[2] A conversion factor of 20 metric tons per 40-foot shipping container is used.

TABLE 8.—COMPARISON OF ESTIMATED U.S. CITRUS IMPORTS FROM PERU TO CURRENT U.S. CITRUS IMPORTS AND U.S. DOMESTIC CITRUS PRODUCTION

Source of citrus	Volume (metric tons)
Total U.S. citrus production (fresh and processed)	11,363,000
Fresh citrus production in California	2,591,000
Fresh citrus production in Florida	836,000
Fresh citrus production in Texas	177,000
Fresh citrus production in Arizona	79,000
Total U.S. fresh citrus production	3,683,000
U.S. imports of citrus	478,400
Estimated U.S. fresh citrus imports from Peru	5,100

TABLE 9.—COMPARISON OF ESTIMATED FRESH CITRUS IMPORTS FROM PERU WITH FRESH CITRUS PRODUCTION IN THE UNITED STATES, BY CROP

Commodity	Peruvian imports (metric tons) (2004)	U.S. fresh production (metric tons) (2004–2005)
Tangerine/mandarin	2,000	[1] 259,000
Tangelo	1,500	22,000
Key lime	600	NA
Clementine	500	[1] NA
Orange	300	2,212,000
Grapefruit	200	619,000
Total	5,100	3,683,000

[1] U.S. production estimates are for tangerines only. For estimates of clementine and mandarin production in California, please see the above discussion of citrus production in the United States.
NA = Not available from table 5.

Table 10 shows available information regarding the shipping seasons for the Peruvian citrus crops that may be imported into the United States. Table 11 shows available information regarding the marketing seasons for citrus fruits produced in the United States.

Qualitative comparison of this information shows that potential overlaps in marketing seasons will depend on the crop and the area where it is produced. For example, tangerines/mandarins and tangelos are expected to comprise 69 percent of the Peruvian fresh citrus imports. The tangelo imports are expected from July to September, and are therefore not expected to overlap with the marketing season for tangelos from Florida (October 15 to April 15). Similarly, Peruvian mandarin imports from March to May are not expected to overlap with tangerine shipments from Arizona (November 1 to February 1), although the imports may overlap with the marketing seasons for tangerines from California (November 1 to May 15) and Florida (October 1 to April 1). Information provided by U.S. citrus grower organizations further indicates that the shipping season for Peruvian citrus imports may overlap with the marketing season of certain U.S. produced citrus fruits.

Thus, though the small quantities of Peruvian imports may not be likely to affect overall U.S. fresh citrus production significantly, certain groups of producers could potentially be negatively affected by the rule depending on the crop, the area where it is produced, and the extent to which its marketing period could overlap with Peruvian imports. However, the extent of these potential impacts cannot be determined with certainty at present.

TABLE 10.—PERUVIAN CITRUS SHIPPING SEASONS

[February to September]

Crop	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Clementine				X	X	X	X	X
Key lime	X	X	X					
Mandarin		X	X	X				
Orange					X	X	X	X
Tangelo						X	X	X

Source: Carbonell Torres, 2002, cited in the pest risk analysis.

TABLE 11.—MARKETING SEASONS OF U.S. CITRUS FRUITS, BY CROP AND STATE

Crops and states	Period
Oranges:	
Arizona	November 1 to August 31.
California Navels	November 1 to June 15.
California Valencias	March 15 to December 20.
Florida Early and Midseason	October 1 to April 15.
Florida Valencias	February 1 to July 31.
Texas	September 25 to May 15.
Grapefruit:	
Arizona	November 1 to July 31.
California	November 1 to October 31.
Florida	September 10 to July 31.
Texas	October 1 to May 30.
Lemons:	
Arizona	August 15 to March 1.
California	August 1 to July 31.
Tangelos:	
Florida	October 15 to April 15.
Tangerines:	
Arizona	November 1 to February 1.
California	November 1 to May 15.
Florida	October 1 to April 1.
Temples:	
Florida	December 1 to May 1.

Source: NASS, USDA (September 2005) (*http://www.nass.usda.gov*).

According to the 2002 Census of Agriculture, there were 17,727 citrus farms in the United States in 2002.[3] As noted previously, the SBA defines a small citrus producer as one with annual gross revenues no greater than $750,000. NASS, USDA, reported that 3.8 percent of U.S. fruit and tree nut producers accounted for 95.1 percent of sales in 1982, 4.2 percent of fruit and tree nut producers accounted for 96.2 percent of sales in 1987, and 4.6 percent of fruit and tree nut producers accounted for 96.7 percent of sales in 1992. These data indicate that the majority of U.S. citrus producers are small entities.

Qualitative comparison of the shipping seasons for the Peruvian citrus imports (table 10) and the marketing seasons for citrus fruits produced in the United States (table 11) shows that potential overlaps in marketing seasons will depend on the crop and the area where it is produced. Thus, certain groups of producers could potentially be negatively affected by the rule, depending on the crop, the area where it is produced, and the extent to which its marketing period could overlap with Peruvian imports. However, the extent of these potential impacts cannot be determined with certainty at present.

Nevertheless, U.S. fresh citrus producers in general are not expected to be significantly impacted by the rule. The estimated volume of 5,100 metric tons of U.S. citrus imports from Peru would comprise a minimal amount compared to current U.S. citrus imports of 478,400 metric tons and U.S. domestic citrus production of 11.4 million metric tons (table 6). With regard to U.S. fresh citrus production specifically, it also comprises a minimal amount compared to fresh citrus production in Arizona (79,000 metric tons), Texas (177,000 metric tons), Florida (836,000 metric tons), California (2,591,000 metric tons), and total U.S. fresh citrus production (3,683,000 metric tons).

This rule will likely benefit importers of citrus fruits. The number of importers that can be classified as small is not known. However, the rule will likely benefit, rather than adversely impact, small entities in these industries, which include: Fresh fruit and vegetable wholesalers with no more than 100 employees, North American Industry Classification System (NAICS) code 422480; wholesalers and other grocery stores with annual gross revenues no greater than $23 million, NAICS 445110; warehouse clubs and superstores with annual gross revenues no greater than $23 million, NAICS 452910; and fruit and vegetable markets with gross revenues no greater than $6 million, NAICS 445230. Consumers should also benefit through the increased availability of fresh citrus fruit throughout the year.

Given the small fraction that Peruvian fresh citrus imports will comprise of total domestic fresh citrus supply, APHIS does not expect significant effects on the overall supply and price of fresh citrus fruits produced in the United States. Under the Plant Protection Act, the Secretary may prohibit or restrict the importation of plants and plant products if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of a plant pest or noxious weed. Thus, our determinations as to whether a new agricultural commodity can be safely imported are based on the findings of pest risk analysis, not on factors such as economic competitiveness. In addition, APHIS is bound under international trade agreements to remove barriers to trade in the event that such barriers are found by scientific analysis to be unnecessary. In this case, we have determined, based on the information presented in the pest risk analysis, that fresh citrus fruits imported under the conditions in this rule will not result in the introduction and dissemination of a plant pest or noxious weed into the United States.

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

Executive Order 12988

This final rule allows citrus to be imported into the United States from Peru. State and local laws and regulations regarding citrus imported under this rule will be preempted while the fruit is in foreign commerce. Fresh

[3] NASS, USDA, 2004, *http://www.nass.usda.gov/census/census02.*

citrus 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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of citrus from Peru under the conditions specified in this rule will 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).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.[4] Copies of the environmental assessment and finding of no significant impact are also 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0289.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, 7 CFR parts 305 and 319 are amended as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.2, the table in paragraph (h)(2)(i) is amended by removing footnote 1 and by adding, under Peru, an entry for grapefruit, mandarins or tangerines, sweet oranges, and tangelos, in alphabetical order, to read as follows:

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
*	*	*	*
Peru			
*	*	*	*
	Grapefruit, mandarins or tangerines, sweet oranges, and tangelos.	*Anastrepha fraterculus, A. obliqua, A. serpentina, and Ceratitis capitata.*	CT T107–a–1
*	*	*	*

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

§ 319.56–2pp Conditions governing the importation of citrus from Peru.

Grapefruit (*Citrus paradisi*), limes (*C. aurantiifolia*), mandarins or tangerines (*C. reticulata*), sweet oranges (*C. sinensis*), and tangelos (*Citrus tangelo*) may be imported into the United States from Peru under the following conditions:

[4] Go to *http://www.regulations.gov*, click on the ''Advanced Search'' tab and select ''Docket Search.'' In the Docket ID field, enter APHIS–2005–0079, click on ''Submit,'' then click on the Docket ID link in the search results page. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

(a) The fruit must be accompanied by a specific written permit issued in accordance with § 319.56–3.

(b) The fruit may be imported in commercial shipments only.

(c) *Approved growing areas.* The fruit must be grown in one of the following approved citrus-producing zones: Zone I, Piura; Zone II, Lambayeque; Zone III, Lima; Zone IV, Ica; and Zone V, Junin.

(d) *Grower registration and agreement.* The production site where the fruit is grown must be registered for export with the national plant protection organization (NPPO) of Peru, and the producer must have signed an agreement with the NPPO of Peru whereby the producer agrees to participate in and follow the fruit fly management program established by the NPPO of Peru.

(e) *Management program for fruit flies; monitoring.* The NPPO of Peru's fruit fly management program must be approved by APHIS, and must require that participating citrus producers allow APHIS inspectors access to production areas in order to monitor compliance with the fruit fly management program. The fruit fly management program must also provide for the following:

(1) *Trapping and control.* In areas where citrus is produced for export to the United States, traps must be placed in fruit fly host plants at least 6 weeks prior to harvest at a rate mutually agreed upon by APHIS and the NPPO of Peru. If fruit fly trapping levels at a production site exceed the thresholds established by APHIS and the NPPO of Peru, exports from that production site will be suspended until APHIS and the NPPO of Peru conclude that fruit fly population levels have been reduced to an acceptable limit. Fruit fly traps are monitored weekly; therefore, reinstatements of production sites will be evaluated on a weekly basis.

(2) *Records.* The NPPO of Peru or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce citrus for export to the United States. All trapping and control records kept by the NPPO of Peru or its designated representative must be made available to APHIS upon request.

(f) *Cold treatment.* The fruit, except for limes (*C. aurantiifolia*), must be cold treated for *Anastrepha fraterculus*, *A. obliqua*, *A. serpentina*, and *Ceratitis capitata* (Mediterranean fruit fly) in accordance with part 305 of this chapter.

(g) *Phytosanitary inspection.* Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Peru stating that the fruit has been inspected and found free of *Ecdytolopha aurantiana.*

(h) *Port of first arrival sampling.* Citrus fruits imported from Peru are subject to inspection by an inspector at the port of first arrival into the United States in accordance with § 319.56–2d(b)(8). At the port of first arrival, an inspector will sample and cut citrus fruits from each shipment to detect pest infestation. If a single live fruit fly in any stage of development or a single *E. aurantiana* is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented.

(Approved by the Office of Management and Budget under control number 0579–0289)

Done in Washington, DC, this 26th day of April 2006.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06–4065 Filed 4–28–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, and 1131

[Docket no. AO–14–A75, et al.; DA–06–06]

Milk in the Northeast and Other Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the current ten Federal milk marketing orders issued under the Agricultural Marketing Agreement Act of 1937 (AMAA) to reflect recent amendments to the AMAA. The Milk Regulatory Equity Act of 2005, which was signed into law on April 11, 2006, amended the AMAA to ensure regulatory equity between and among dairy farmers and handlers for sales of packaged fluid milk in Federal milk marketing order areas and into certain non-Federally regulated milk marketing areas from Federal milk marketing areas.

7 CFR parts	Marketing area	AO Nos.
1001	Northeast	AO–14–A75.
1005	Appalachian	AO–388–A19.
1006	Florida	AO–356–A40.
1007	Southeast	AO–366–A48.
1030	Upper Midwest	AO–361–A41.
1032	Central	AO–313–A50.
1033	Mideast	AO–166–A74.
1124	Pacific Northwest	AO–368–A36.
1126	Southwest	AO–231–A69.
1131	Arizona Las-Vegas	AO–271–A41.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Associate Deputy Administrator for Order Formulation and Enforcement, USDA/AMS/Dairy Programs, Stop 0231–Room 2971–S, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 690–1366, e-mail address: *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule implements the provisions of the Milk Regulatory Equity Act of 2005 (Pub. L. 109–215, 120 Stat. 328), that amends the Agricultural Marketing Agreement Act of 1937 (AMAA). In passing this amendment, the congressional intent is to ''* * * ensure regulatory equity between and among all dairy farmers and handlers for sales of packaged fluid milk in federally regulated milk marketing areas and into certain non-federally regulated milk marketing areas from federally regulated areas, and for other purposes.''

The Milk Regulatory Equity Act of 2005 provides for and accordingly, this final rule amends the current ten Federal milk marketing orders to: (1) Require fluid milk handlers located in Federal milk marketing order areas as described on the date of enactment, but