

(c) Except when the claimant has requested confidentiality or the disclosure would constitute a clearly unwarranted invasion of personal privacy, OPM, upon a request which identifies the individual from whose file the information is sought, will disclose the following information from a claim file to a member of the public:

- (1) Confirmation of the name of the individual from whose file the information is sought and the names of the other parties concerned;
- (2) The remedy sought;
- (3) The status of the claim;
- (4) The decision on the claim; and
- (5) With the consent of the parties concerned, other reasonably identified information from the file.

§ 551.710 Where to file an FLSA claim with OPM.

An FLSA claim must be filed with the OPM Classification Appeals and FLSA Program, 1900 E Street, NW., Washington, DC 20415-0001.

[FR Doc. E7-18027 Filed 9-14-07; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS-2007-0061]

RIN 0579-AC40

Importation of Blueberries From South Africa, Uruguay, and Argentina With Cold Treatment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, the blueberries will have to undergo cold treatment and will have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country. This action will allow for the importation of blueberries from South Africa and Uruguay into the continental United States while continuing to provide protection against the introduction of quarantine pests. In addition, we are allowing the use of cold treatment for blueberries imported into the United States from Argentina. This action provides an alternative to the methyl bromide treatment that is

currently required for blueberries imported from Argentina.

EFFECTIVE DATE: September 17, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, 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 319.56-47, 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 that are new to or not widely distributed within the United States.

On June 5, 2007, we published in the **Federal Register** (72 FR 30979-30984, Docket No. APHIS 2007-0061) a proposal¹ to amend the regulations to allow the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, we proposed that the blueberries would have to undergo cold treatment and would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of the exporting country. In addition, we proposed to allow the use of cold treatment for blueberries imported into the United States from Argentina.

We solicited comments concerning our proposal for 45 days ending July 20, 2007. We received six comments by that date. They were from blueberry distributors, a commercial fumigation company, and a blueberry industry group. Four of the commenters supported the proposed rule. One commenter did not address the proposed rule.

One commenter objected to the proposed rule. The commenter expressed concern that we did not consult with domestic blueberry producers prior to issuing the proposal and that the studies conducted in support of the rule were conducted hastily. Because the proposed rule and its supporting risk analysis were focused on identifying and managing the risks associated with importing blueberries from Uruguay and South Africa, we did not find it necessary to consult with the domestic blueberry

industry during the preparation of those documents. The risk assessment and risk management documents were drafted using the same approach and in the same timeframe as the other risk analyses the Animal and Plant Health Inspection Service (APHIS) prepares or reviews. In addition, we offered the public, including domestic blueberry producers, the opportunity to comment on the proposed rule following its publication in the **Federal Register**.

The commenter further stated that information in the proposed rule regarding domestic production is out of date and incorrect, and suggested that we refer to information released by the North American Blueberry Council (NABC). The data we used in the proposed rule’s economic analysis was taken from the National Agricultural Statistics Service (NASS) and the Economic Research Service (ERS), with the ERS report cited being the most current data available (May 2007). The data we received incorporates information from a variety of sources, including the NABC.

Finally, the commenter expressed concern regarding the lack of market access for U.S.-grown blueberries into Uruguay and South Korea. This is not germane to the proposal.

Note: In a final rule published in the **Federal Register** on July 18, 2007 (72 FR 39482-39528, Docket No. APHIS-2005-0106), we revised the fruits and vegetables regulations to establish a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in § 319.56-4(b) of the regulations. Under those revised regulations, commodities that are authorized for importation subject only to one or more designated measures will be listed in the fruits and vegetables manual² rather than being listed in the regulations. The requirements that will apply to the importation of blueberries from Uruguay and South Africa—i.e., that they be cold treated for specific pests, accompanied by a phytosanitary certificate, and imported in commercial consignments only—are all designated phytosanitary measures listed in § 319.56-4(b). Therefore, we are not adding the provisions regarding the entry of blueberries from Uruguay and South Africa to the fruits and vegetables regulations in part 319 in this final rule; rather, those conditions will be listed in the fruits and vegetables manual. For those same reasons, the provisions regarding the importation of blueberries from Argentina were removed from the regulations in the July 2007 final

¹To view the proposed rule and the comments we received, go to <http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0061>.

²The fruits and vegetables manual is available on the Internet at http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/fv.pdf.

rule and placed in the fruits and vegetables manual.

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.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are allowing the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, the blueberries will have to undergo cold treatment and will have to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country. This action allows for the importation of blueberries from South Africa and Uruguay into the continental United States while continuing to provide protection against the introduction of quarantine pests. In addition, we are allowing the use of cold treatment for blueberries imported into the United States from Argentina. This action will provide an alternative to the currently approved methyl bromide treatment.

The Regulatory Flexibility Act (RFA) requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. In accordance with section 604 of the RFA, we have prepared a final regulatory flexibility analysis describing the expected impact of the changes in this rule on small entities. During the comment period for our proposed rule, we received one comment pertaining to the initial regulatory flexibility analysis

presented in that document. The commenter stated that information in the proposed rule regarding domestic blueberry production is out of date and incorrect and suggested that we refer to information released by NABC. The data we used in the proposed rule's economic analysis was from NASS and ERS, with the ERS report cited being the most current data available (May 2007). The data we received from NASS incorporates information from a variety of sources, including NABC.

The United States is the largest producer of blueberries, supplying more than half the world's production (55 percent). Canada follows with 28 percent of world supplies and Poland comes third with 10 percent of the world's blueberry fruit production.

Michigan, Maine, and New Jersey are the leading States in U.S. blueberry production. Combined, these three States produce more than half of all U.S. blueberries (table 1). Nine States account for 98 percent of U.S. production. Fresh blueberries require harvesting by hand, whereas blueberries destined for processing can be machine-harvested. The cost of farm labor is considerably higher in the United States than in many other countries.

TABLE 1.—U.S. PRODUCTION AND VALUE OF BLUEBERRIES FOR THE FRESH MARKET IN 2005 AND FARM ACREAGE IN 2002 BY MAJOR STATES

State	2005		2002	
	(metric tons)	(million dollars)	Number of acres	Number of farms
Michigan	29,937.1	\$83.5	17,274	590
Maine	26,988.7	39.0	293	116
New Jersey	20,411.7	55.5	7,468	240
Oregon	15,648.9	33.3	3,887	659
North Carolina	11,793.4	36.7	5,009	267
Georgia	11,793.5	31.8	4,451	408
Washington	8,890.4	19.2	2,569	289
California	4,127.7	40.6	827	97
Florida	2,358.7	32.8	1,646	343
Sum	131,950 (98%)	372.3 (98%)	43,424 (84%)	3,009 (47%)
Rest of United States	3,070.9	9.1	8,578	3,419
United States total	135,021.0	381.4	52,002	6,428

Sources: USDA/NASS New England, Oregon, and Washington field offices; North American Blueberry Council; Table 33—Berries Harvested for Sale, 2002 U.S. Census of Agriculture by State, pp. 496–497, USDA/NASS; and Table D–2. Blueberries: Commercial Acreage, Production, and Value, Fruit and Tree Nuts Situation and Outlook Yearbook, May 2007, USDA/ERS.

In 2005, the United States produced 135,021 metric tons of highbush blueberries destined for the fresh market, valued at \$381 million. In the United States, highbush blueberries are harvested from April to early October with the majority of the blueberries picked from mid-June to mid-August.

Between 1995 and 2005, total U.S. blueberry consumption increased by 47 percent, from 13 ounces to 20 ounces per person. Most of the increase has been in the fresh market with a doubling in fresh consumption, from 4.3 ounces per person in 1995 to 8.7 ounces in 2005.

Table 2 shows U.S. imports and exports of fresh blueberries for the past 3 years. The United States is a net importer, and our major foreign supplier of fresh blueberries (by value) is Canada. Annual U.S. imports of fresh blueberries averaged 29,469 metric tons between 2004 and 2006.

TABLE 2.—U.S. IMPORTS AND EXPORTS OF FRESH BLUEBERRIES, 2004–2006

Year	U.S. imports	U.S. exports	Net imports
	(million dollars)		
2004	\$91.03	\$29.40	\$61.63
2005	109.82	45.60	64.22
2006	155.14	55.70	99.44
Year	(metric tons)		
	U.S. imports	U.S. exports	Net imports
2004	28,887.30	15,183.80	13,693.50
2005	26,335.70	22,588.90	3,746.80
2006	32,601.50	22,952.30	9,649.20

Source: U.S. Dept. of Commerce, Bureau of Census, as reported by Global Trade Information Services.
 Note: Based on the Harmonized Schedules 0810400028 and 0810400024.

Argentina has supplied about 3 percent of the U.S. imports of fresh blueberries, or 880 metric tons, over the last 3 years. In 2006, Argentina reported 4,000 acres of land devoted to blueberry production, a 35 percent increase since 2003.

The Uruguayan Government Statistics office indicates that Uruguay started producing blueberries in 2003, with 65 metric tons harvested that year. In the following 3 years, Uruguay produced 80, 120, and 200 metric tons, respectively. For 2007 through 2009, crop volumes of around 500, 1,200, and 2,000 metric tons are forecast.

The Government of Uruguay has indicated its intention to export between 200 and 1,200 metric tons of fresh blueberries annually for the next 3 years starting in 2007, with 200 metric tons shipped annually to the continental United States (an amount that exceeds Uruguay's total exports of fresh blueberries in recent years).³ Even if this export target were met, imports from Uruguay will represent less than 1 percent of U.S. imports of fresh blueberries in 2006.

Uruguay's main export season for fresh blueberries is between November and April. During this season, the supply of fresh blueberries by U.S. producers is limited. Fresh blueberries are generally harvested in the United States by early May through the beginning of September. U.S. domestic shipments of fresh blueberries reach their highest volume between late June and mid-August.

APHIS does not have data on South African production of blueberry fruits (*Vaccinium* spp.). Foreign Agricultural Service statistics indicate that South

Africa exported an annual average of 75 metric tons of *Vaccinium* spp. between 2000 and 2004. Specifically, in 2000 the Republic of South Africa exported 3 metric tons, then in the following 4 years, 90, 83, 86, and 109 metric tons, respectively. In sum, the quantities of fresh blueberry expected to be imported into the United States from Uruguay and the Republic of South Africa are small, representing less than 1 percent of U.S. imports and less than one-tenth of 1 percent of the United States' domestic supply (production plus imports minus exports). Moreover, blueberry production in these two countries takes place during our winter months; their blueberry shipments to the United States would largely compete with blueberry imports from other countries. We do not expect the changes we are making to have a significant economic impact on U.S. entities. U.S. entities that could be affected by the changes are domestic producers of fresh blueberries and wholesalers that import fresh blueberries. Businesses producing fresh blueberries are classified in the North American Industry Classification System (NAICS) within the category of Other Vegetable (except Potato) and Melon Farming (NAICS code 111219). The Small Business Administration's small-entity definition for these producers is annual receipts of not more than \$750,000. Firms that will import fresh blueberry fruits from Uruguay and the Republic of South Africa are defined as small entities if they have 100 or fewer employees (NAICS code 424480, Fresh Fruit and Vegetable Merchant Wholesalers).⁴

In general, firms engaged in production or importation of agricultural commodities are

predominantly small. We believe that most if not all of the businesses affected by this rule would be small.

We do not know the exact number of U.S. producers of fresh blueberries. According to the 2002 Census of Agriculture for the States where blueberries are produced, there were at least 6,428 farms growing blueberries in 52,000 acres of land (table 1). The majority of these farms (84 percent) are located in nine States. We do not know the percentage of blueberry farms that produce blueberries for the fresh market. Also, we do not know their size, but in general, such entities are predominantly small. The United States Census does not report sales receipts by farm or any other unit. The average farm size in these nine States is 15 acres, whereas the average farm size in the remainder of States that grow blueberries is 2.5 acres. However, as stated above, we do not expect this rulemaking to have a significant economic impact on U.S. entities.

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

We are allowing fresh blueberries to be imported into the United States from South Africa and Uruguay. State and local laws and regulations regarding imported fresh blueberries will be preempted while the fruit is in foreign commerce. Fresh fruits 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

³ Uruguay started exporting fresh blueberries in 2003, with an amount of 250 kilograms or 0.4 metric ton. The following 3 years, 2004–2006, Uruguay exported 3.8, 18.7 and 94.2 metric tons, respectively. Source: Uruguayan Government, Ines Ares (personal communication).

⁴ The wholesale sector comprises two types of wholesalers: Those that sell goods on their own account and those that arrange sales and purchases for others for a commission or fee. Importers are included in both cases.

other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with 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 0579-0321.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and

other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

List of Subjects in 7 CFR Part 305

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

Accordingly, we are amending 7 CFR part 305 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 as follows:
 - a. Under Argentina, by revising the entry for "Blueberry" to read as set forth below.
 - b. Under South Africa, by removing the entry for "Apple, grape, pear" and adding a new entry for "Apple, blueberry, grape, pear" in its place to read as set forth below.
 - c. In the entry for Uruguay, by adding an entry for "Blueberry" to read as set forth below.

§ 305.2 Approved treatments.

* * * * *
 (h) * * *
 (2) * * *
 (i) * * *

Location	Commodity	Pest	Treatment schedule
Argentina	Blueberry	<i>Anastrepha fraterculus, Ceratitis capitata</i>	CT T107-a-1 or MB T101-i-1-1.
South Africa	Apple, blueberry, grape, pear	<i>Ceratitis capitata</i>	CT T107-a.
Uruguay	Blueberry	<i>Anastrepha fraterculus, Ceratitis capitata</i>	CT T107-a-1.

* * * * *
 Done in Washington, DC, this 12th day of September 2007.
Kevin Shea,
Acting Administrator, Animal and Plant Health Inspection Service.
 [FR Doc. E7-18276 Filed 9-14-07; 8:45 am]
BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1739

RIN 0572-AC09

Community Connect Broadband Grant Program

AGENCY: Rural Utilities Service, USDA.
ACTION: Notice of confirmation of direct final rule.

SUMMARY: The Rural Utilities Service, an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, gives notice that no adverse comments were received regarding the direct final rule amending its regulations to update the eligibility criteria for the Community Connect Broadband Grant Program (Community Connect Grant Program) requirements of the Agency, and confirms the effective date of the direct final rule.

DATES: The direct final rule published in the **Federal Register** on August 3, 2007 (72 FR 43132), will be effective on September 17, 2007.

FOR FURTHER INFORMATION CONTACT: Kenneth Kuchno, Director, Broadband Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1599, Washington, DC 20250-1599.

Telephone: (202) 690-4673. Fax: (202) 690-4389. E-mail Address: Kenneth.kuchno@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The USDA Rural Development Utilities Programs (the Agency) improves the quality of life in rural America by providing investment capital, in the form of loans and grants, for the deployment of rural telecommunications infrastructure. Financial assistance is provided to rural utilities; municipalities; commercial corporations; limited liability companies; public utility districts; Indian tribes; and cooperative, nonprofit, limited-dividend, or mutual associations. In order to achieve the goal of increasing economic opportunity in rural America, the Agency finances infrastructure that enables access to a seamless, nation-wide