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 Parts 305 and 319

[Docket No. APHIS–2007–0115]

RIN 0579–AC83

Importation of Sweet Oranges and Grapefruit From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from all provinces of Chile, provided certain conditions are met. This action would provide for the importation of sweet oranges and grapefruit from Chile into the continental United States while continuing to protect the United States against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before October 27, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0115* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2007–0115, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0115.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operation Staff, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 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. The Government of the Republic of Chile has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow the importation into United States of sweet oranges and grapefruit from Chile under certain conditions. Those conditions would be the same as those which currently apply to clementines, mandarins, and tangerines from Chile and can be found in § 319.56–38 of the regulations.

In 2006, APHIS received a request from the Government of Chile to allow the importation of sweet oranges (*Citrus sinensis* (L.) Osbeck) and grapefruit (*Citrus paradisi* Macfad.) from Chile into the United States. In response to this request, we prepared a pest risk assessment to evaluate the pest risks associated with the importation of those two varieties of citrus from Chile into the continental United States. As noted in that document, we identified two quarantine pests, *Ceratatis capitata,* a fruit fly more commonly known as the Mediterranean fruit fly (Medfly), and *Brevipalpus chilensis* (Chilean false red mite), that could follow the pathway of commercial shipments of fresh sweet oranges and grapefruit. In addition to the pest risk assessment, we prepared a risk management document in which we identified several mitigations that could be used to address the risks posed by the two pests of concern. Those measures include cold treatment, methyl bromide fumigation, and an existing systems approach for other citrus varieties from Chile. Copies of the pest risk assessment and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the conclusions in the pest risk assessment and the accompanying risk management document, we have determined that sweet oranges and grapefruit can be safely imported from all provinces of Chile, provided certain conditions are met. As stated previously in this document, those conditions would be the same as those which currently apply to clementines, mandarins, and tangerines from Chile, which have proven effective at eliminating pests associated with those commodities since 2004. Therefore, we are proposing to add sweet oranges and grapefruit to the list of fruit that can be imported under § 319.56–38. The details of those requirements are discussed in the paragraphs below.

Permit

We would require that a specific written permit be issued in accordance with § 319.56–3 to import sweet oranges and grapefruit from Chile. Importers would be required to apply to APHIS' Plant Protection and Quarantine (PPQ) program for a permit in advance of the proposed shipments, stating in the application the country or locality of origin of the fruits, the port of first arrival, the name and address of the importer in the United States, and the identity and quantity of the fruit. If APHIS approves the permit application, a permit would be issued specifying the conditions applicable to the importation of the fruit. In accordance with § 319.56–3, a permit, once issued, could be amended or withdrawn by the Administrator at any time if it is determined that the importation of the fruit presents a risk.

Cold Treatment

One of the two pests of concern identified in the pest risk assessment document is Medfly. To address the risk presented by this pest, we are proposing to require sweet oranges and grapefruit undergo cold treatment if the fruit is grown in areas of Chile where Medfly is known to occur, which include the province of Arica. Consignments of sweet oranges and grapefruit from these areas would require cold treatment in accordance with our phytosanitary treatments regulations in 7 CFR part 305 and would also have to be accompanied by documentation indicating that the cold treatment was initiated in Chile.

Importation Options

The second pest of concern identified in the pest risk analysis, *B. chilensis,* is a mite that is not easily detected through visual inspection. To address the risk presented by this pest, we would require the use of one of two options, either the application of a systems approach or the use of fumigation. The systems approach would allow for the importation of the fruit without fumigation, which, in some instances, may be a more expensive option. These options are discussed in detail in the following paragraphs.

Systems Approach

The first option being proposed by APHIS under which sweet oranges and grapefruit could be imported into the United States from Chile is preclearance of the commodities using a systems approach to ensure phytosanitary security. Under a systems approach, APHIS defines a set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests. The systems approach in this case would consist of a series of complementary phytosanitary measures that include: Low prevalence production site certification, post-harvest processing, and phytosanitary inspection. Each of these measures is explained in detail in the following paragraphs. Once the fruit have passed through this series of pest mitigation measures, inspectors of the national plant protection organization (NPPO) of Chile would issue a phytosanitary certificate stating that the fruit has been inspected and found free of any evidence of plant pests. A phytosanitary certificate would have to accompany each consignment of sweet oranges or grapefruit offered for importation into the United States from Chile.

Low Prevalence Production Site Certification

The pest risk management document outlines a series of phytosanitary measures whose implementation would mitigate the potential risk of introducing quarantine pests into the United States through the importation of sweet oranges and grapefruit from Chile. In order to be eligible to participate in the systems approach, each production site would be required to implement the mitigation measures discussed in the pest risk management document. The first of these measures, low prevalence production site certification, would require each production site to register annually with the NPPO of Chile with information including: (1) Production site name, (2) grower, (3) municipality, (4) province, (5) region, (6) area planted to each species, (7) number of plants/hectares/species, and (8) approximate date of harvest. This information would be used to monitor the phytosanitary health of the production site and to track the origin of consignments. These production sites would then participate in a program of certification of low prevalence, which would be carried out by the NPPO of Chile. A random sample of fruit would be collected from each registered production site 1 to 30 days prior to harvest. The fruit from each sample would undergo a washing process that allows for the detection of mites. This same process has proven to be effective in the detection of *B. chilensis* in clementines, mandarins, and tangerines from Chile since 2004.[1] The washing process involves placing the fruit and pedicels in sieves, sprinkling them with a liquid soap and water solution, washing them with water at high pressure, washing them with water at low pressure, and then repeating the process. Once the fruit has been washed thoroughly, all contents of the sieves, which collect everything that is washed off of the fruit, are put on a Petri dish and analyzed for the presence of mites.

Only production sites certified by the NPPO of Chile as low prevalence would be eligible to export under this systems approach. Under this systems approach, a random sample of fruit would be taken from each production site. In order to qualify as a low prevalence production site, a production site would be required to have no mites detected in the fruit sampled. Each production site would have only one opportunity per harvest season to qualify for the certification program since the verification process would occur before the beginning of each harvest season. Certification of low prevalence would be valid for one harvest season only. The same certification of low prevalence program is currently in use for clementines, mandarins, and tangerines imported into the United States from Chile.

Post-Harvest Processing

Once the production site has been certified as a low prevalence production site, the fruit would be picked and would then undergo post-harvest commercial processing. In the normal fruit packing process already in place in Chile for other commodities, fruit undergoes the following steps: (1) Washing, (2) rinsing in a chlorine bath with brushing using bristle rollers, (3) rinsing with a hot water shower with brushing using bristle rollers, (4) pre-drying at room temperature, (5) waxing, and (6) drying with hot air.

Phytosanitary Inspection

As the final stage in the systems approach, once the fruit has been processed, each consignment, which would consist of one or more lots, of fruit intended for export to the United States would be subject to a phytosanitary inspection to verify the absence of *B. chilensis* and any visibly detectable pests. Phytosanitary inspection would be conducted at an APHIS-approved inspection site in Chile under the direction of APHIS in conjunction with the NPPO of Chile.

Sweet oranges and grapefruit presented for preclearance inspection in Chile would be required to be identified in shipping documents accompanying each lot of fruit that identify the packing shed where they were processed and the production sites where they were produced; we would require that this identity be maintained until the sweet oranges or grapefruit were released for entry into the United States.

A biometric sample of the boxes would be selected and the fruit from these boxes would be visually inspected for quarantine pests. A portion of the fruit would be washed and the collected filtrate would be microscopically examined for *B. chilensis*.

If one live *B. chilensis* s mite were found during phytosanitary inspection, the entire consignment would have to be fumigated with methyl bromide in order for the fruit to be eligible for export to the United States. In addition, the production site of origin would be suspended from the low prevalence certification program for the remainder of the harvest season. During the term of its suspension, the production site

[1] See table 1 of the risk management document.

could export fruit to the United States only if the fruit were fumigated with methyl bromide, as outlined in the following section. A suspended production site would have the opportunity to reenter the low prevalence certification program prior to the next harvest season. As noted previously, all production sites would have to requalify for the program each year, regardless of their status at the end of the preceding season.

If, during preclearance inspection in Chile, inspectors were to find evidence of any other plant pest for which an authorized treatment in 7 CFR part 305 is available, fruit in the consignment would remain eligible for export to the United States if the entire consignment were treated for the pest in Chile under APHIS supervision. However, if a quarantine pest were found for which no treatment authorized in 7 CFR part 305 is available, the entire consignment would not be eligible for export to the United States.

Chile's NPPO would issue a phytosanitary certificate if no evidence of pests was found. The phytosanitary certificate would have to contain an additional declaration stating that the fruit in the consignment meets the conditions of § 319.56–38. Sweet oranges or grapefruit inspected in Chile would, like all imported fruits and vegetables, be subject to reinspection at the U.S. port of arrival as provided in § 319.56–3 of the regulations.

Fumigation

Not all exporters may be able to utilize the systems approach as a means for access to the U.S. market. As an alternative mitigation measure, we are proposing to provide for the use of an approved APHIS treatment for *B. chilensis* for sweet oranges and grapefruit from Chile.

The treatment would be fumigation with methyl bromide at normal atmospheric pressure in an APHIS-approved fumigation chamber or under a tarpaulin in accordance with the following schedule, which is listed in 7 CFR part 305 as T104-a-1 and T101-n-2–1. These treatment schedules are approved for spider mites, which is the group encompassing *B. chilensis*. The required treatment period is 2 hours.

Temperature (°F)	Dosage—pounds of methyl bromide per 1,000 ft^3
80 or above	1½
70–79 (inclusive)	2
60–69 (inclusive)	2½
50–59 (inclusive)	3

APHIS inspectors would monitor the fumigation and prescribe such safeguards as might be necessary for unloading, handling, and transportation preparatory to fumigation. The final release of the commodities for entry into the United States would be conditioned upon compliance with prescribed safeguards and required treatment. Consignments of sweet oranges and grapefruit from Chile that had been fumigated would be subject to random inspection in Chile, as well as at the port of arrival in accordance with § 319.56–3.

Trust Fund Agreement

We are proposing to require that sweet oranges and grapefruit from Chile may be imported into the United States only if the NPPO of Chile or a private export group has entered into a trust fund agreement with APHIS in accordance with § 319.56–6. Requiring the payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection and treatment monitoring services in Chile.

Section 319.56–6 of the regulations sets forth provisions for establishing trust fund agreements to cover costs incurred by APHIS when APHIS personnel must be physically present in an exporting country or region to facilitate exports. Trust fund agreements require the NPPO of an exporting country or the private export group to pay in advance of each shipping season all costs that APHIS estimates it would incur in providing inspection services and treatment monitoring in the exporting country during each shipping season. These costs would include administrative expenses and all other salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The NPPO of an exporting country or the private export group is required to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement requires the NPPO of the exporting country or the private export group to deposit a certified or cashier's check with APHIS for the amount of the remaining costs, as determined by APHIS, before APHIS would provide any more services related to the inspection and treatment of the fruit or vegetable. After a final audit at the conclusion of each shipping season, any overpayment of funds is returned to the NPPO of the exporting country or held on account until needed, at their option.

Miscellaneous Changes

As noted previously, the current regulations in § 319.56–38 provide for the importation of clementines, mandarins, and tangerines from Chile into the United States. As defined in § 319.56–2, the term *United States* includes the 50 States, the District of Columbia, and all U.S. territories and possessions. However, the pest risk assessment we prepared for the rulemaking that established the regulations in current § 319.56–38 was limited in scope to the continental United States and Hawaii. Therefore, to ensure that the regulations are consistent with the pest risk assessment's scope, we would amend the introductory text of § 319.56–38 to specifically state that clementines, mandarins, and tangerines may be imported from Chile into the continental United States (including Alaska) and Hawaii only.

The regulations in current § 319.56–38 provide that if treatment is required, clementines, mandarins, and tangerines must be cold treated or fumigated with methyl bromide in accordance with part 305. The table in § 305.2(h)(2)(i) identifies treatment schedules for fruits and vegetables from foreign localities for which there is an approved treatment. When we amended the fruits and vegetables regulations to provide for the importation of clementines, mandarins, and tangerines, we neglected to add an entry for those commodities to the table in § 305.2(h)(2)(i). To correct this error, we propose to amend the table in § 305.2(h)(2)(i) to include entries for clementines, mandarins, and tangerines from Chile and to specifically identify the cold treatment and methyl bromide fumigation treatment schedules that are approved for those commodities.

Executive Order 12866 and Regulatory Flexibility Act

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

We are proposing to amend the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Sweet oranges and grapefruit would be imported under certain conditions that would address the risks associated with the Medfly and *B. chilensis*. Phytosanitary risks would be mitigated

using the same approach as is currently employed for the importation of clementines, mandarins, and tangerines from Chile, as set forth in 7 CFR 319.56–38. Import requirements would include orchard control and registration, low prevalence orchard certification, harvest timing, post-harvest processing, phytosanitary inspections by both APHIS and the Chilean NPPO, and, if necessary, approved cold treatment and/or methyl bromide treatment in Chile or at the port of entry.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the Act requires an agency to prepare and make available for public comment an initial regulatory flexibility analysis describing the expected impact of a proposed rule on small entities, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This analysis is in support of certification.

Sweet Orange and Grapefruit Production

The United States is a major producer of citrus fruits. Chile is not yet considered a major producer of citrus, especially when compared to its neighbors such as Brazil, Uruguay, and Argentina. The major world producers of fresh oranges are the United States, Brazil, Mexico, India, and China, while the major exporting countries include Spain, the United States, South Africa, the Netherlands, and Greece.[2] Commercial production of sweet oranges and grapefruit in the continental United States is limited to Arizona, California, Florida, Louisiana, and Texas. Most of the production is located within Florida and California. California is the leading producer of oranges for the fresh market, major varieties of which include Valencia and navel. While Florida produces a larger total quantity of oranges, only 5 percent of the State's orange crop is consumed as fresh fruit. Florida supplies the highest amount of fresh grapefruit, and 45 percent of the U.S. grapefruit crop is utilized as fresh fruit.

TABLE 1—PRODUCTION IN UNITED STATES OF FRESH ORANGES AND GRAPEFRUIT

[in short tons]

	2003/04		2004/05		2005/06		2006/07	
	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit
Arizona	14,000	5,000	12,000	5,000	9,000	5,000	7,000	3,000
California	1,669,000	171,000	1,845,000	181,000	1,650,000	178,000	986,000	117,000
Florida	445,000	708,000	333,000	315,000	329,000	294,000	290,000	466,000
Texas	50,000	137,000	52,000	125,000	54,000	128,000	63,000	138,000
Total	2,178,000	1,021,000	2,242,000	626,000	2,042,000	603,000	1,346,000	724,000

Source: Economic Research Service (ERS), U.S. Department of Agriculture (USDA). Fruit and Tree Nuts Situation and Outlook Yearbook, October 2007, combination of table C–21 Oranges: Utilization of production by State and table C–3 Grapefruit: Utilization of production by State. Note: Season begins in November for Arizona and California, and in October for Florida and Texas. Quantities for 2006/07 are totaled through October 2007 only.

In 2006, Chile produced 156,000 short tons of fresh oranges on 8,000 hectares.[3] The Asociación de Exportadores de Chile (ASOEX) states that there are no official figures for the production of grapefruit, as grapefruit is a relatively new species in Chile with a small growing area.[4] APHIS estimates, based on the total Chilean citrus export volume, that approximately 5,000 short tons of grapefruit were produced in 2006.

Imports and Exports

In 2006, more than 97 percent of U.S. orange imports came from the countries of South Africa, Australia, and Mexico, while 99 percent of grapefruit imports (including pomelos, fresh or dried) came from the Bahamas and Israel. Table 2 shows the value and quantity of fresh oranges and grapefruit imported into the United States from 2003–2006.

TABLE 2—U.S. TOTAL IMPORTS OF FRESH ORANGES AND GRAPEFRUIT

	Total value (in dollars)		Quantity in short tons		Value per short ton	
	Oranges	Grapefruit	Oranges	Grapefruit	Oranges	Grapefruit
2003	$49,876,360	$1,851,185	59,955	22,828	$831.89	$81.09
2004	58,785,735	1,606,153	72,387	15,780	812.11	101.78
2005	68,502,310	1,403,260	76,122	15,816	899.90	88.73
2006	80,612,248	2,142,111	81,117	20,890	993.78	102.54

Source: Global Trade Atlas (2005–2008). Originally reported in kilograms.

The United States is a major exporter of fresh or dried oranges. In the 2005–2006 season, the United States exported around 600,000 short tons of fresh oranges, while imports were around 80,000 short tons.[5] Regarding grapefruit, around 300,000 short tons were exported and only 20,000 short tons were imported.[6] Clearly, the United

[2] HS code 080510, fresh and dried oranges.

[3] Food and Agriculture Organization (FAO) of the United Nations. FAOSTAT, FAO Statistics Production Division 2008, ProdStat, Crops. Originally reported as 142,000 metric tons. *http://faostat.fao.org/site/567/default.aspx.*

[4] *http://www.asoex.cl/.*

[5] Eighty-four percent of total exports were to Canada, Japan, South Korea, Hong Kong, and China.

[6] ERS, USDA. Fruit and Tree Nuts Situation and Outlook Yearbook/FTS–2007/October 2007. Table F–18—Fresh Oranges, Supply and Utilization. Pg. 150. Converted from million pounds using 1 pound = 0.0005 short tons.

States is a large net exporter of both sweet oranges and grapefruit.

Chile's current citrus exports are to Japan, Spain, the Netherlands, and Canada. In the past 6 years, orange exports have dramatically increased, from 3,600 short tons to over 28,000 short tons, while grapefruit exports increased from 337 short tons to over 4,300 short tons.[7] Like the United States but on a smaller scale, Chile is a net exporter of sweet oranges and grapefruit. Its share of overseas citrus markets such as that of Japan continues to expand.[8]

Expected U.S Imports of Sweet Oranges and Grapefruit From Chile

According to the NPPO of Chile, annual exports of sweet oranges and grapefruit to the United States from Chile would total around 110,000 boxes: 93,500 boxes of oranges and 16,500 boxes of grapefruit. The boxes are 17 kilograms for sweet oranges and 15 kilograms for grapefruit, yielding approximately 1752.1 short tons of oranges and 272.8 short tons of grapefruit, or about 2,000 short tons overall. This volume of imports from Chile would comprise a relatively minimal amount compared to total U.S. imports of about 100,000 short tons and domestic production of more than 2.6 million short tons (table 3). The expected imports from Chile would be equivalent to 2 percent of U.S. imports of oranges and grapefruit in 2006 and less than 0.1 percent of U.S. production.

TABLE 3—COMBINED QUANTITIES OF U.S. FRESH ORANGES AND GRAPEFRUIT, DOMESTICALLY PRODUCED AND IMPORTED, AND EXPECTED ANNUAL IMPORTS FROM CHILE

	Volume in short tons
Domestic production, 2006	2,645,000
All imports, 2006	102,006
Expected annual imports from Chile	2,025

Seasonal Production and Marketing of Oranges and Grapefruit

Another aspect to consider regarding potential impacts of the proposed rule is the seasonal difference between the citrus industries in the United States and Chile. U.S imports of fresh fruit and vegetables have increased substantially since the 1990s.[9] Southern hemisphere countries are dominant suppliers for off-season fresh fruit. Availability of domestically produced oranges and grapefruit peaks between October and January, gradually decreases from February to June, and is lowest between July and September.[10] In contrast, citrus production in the southern hemisphere is between May and November. Imports from the southern hemisphere complement the U.S. production cycle and help to maintain year-round availability of fresh citrus. Allowing importation of oranges and grapefruit from Chile would expand U.S. consumers' access to fresh produce year round, while not directly competing with the production and shipment of domestically produced oranges and grapefruit intended for the fresh fruit market.

Small Entity Impact

Businesses most likely to be affected by this rule would be orange and grapefruit producers, for which the Small Business Administration (SBA) small-entity standard is annual sales of not more than $750,000. Production of fresh oranges is classified under North American Industry Classification System (NAICS) code 111310, and grapefruit production is classified within NAICS code 111320, citrus (except orange) groves.[11] In 2002, NASS reported that 1,272 out of 17,727 citrus farmers earned more than $500,000, indicating that at least 93 percent of U.S. citrus farmers are small entities. For California the statistics are similar, with 91 percent of citrus farmers earning under $500,000. These data substantiate that the majority of U.S fresh citrus producers are small entities.

Some importers of sweet oranges and grapefruit could be affected by the proposed rule as well, as it would allow for increased imports during the off-peak domestic citrus season. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424280, less than or equal to 100 employees), wholesalers and other grocery stores (NAICS 445110, less than or equal to $23 million in annual receipts), warehouse clubs and superstores (NAICS 452910, less than or equal to $23 million in annual receipts) and fruit and vegetable markets (NAICS 445230, less than or equal to $6 million in annual receipts). Most entities that comprise these industries are small. Given the relatively small quantity of sweet oranges and grapefruit expected to be imported from Chile, the rule would not have a significant impact on these types of industries.

U.S. exports of sweet oranges and grapefruit far exceed U.S. imports. The expected level of imports of oranges and grapefruit from Chile would be equivalent to 2 percent of all U.S. imports in 2006 and less than 0.1 percent of U.S. production that year. Moreover, the imports from Chile would take place during the off-season for U.S. domestically produced citrus, and would therefore primarily compete with orange and grapefruit imports from other sources in the southern hemisphere. While U.S producers and importers of sweet oranges and grapefruit are predominantly small according to SBA guidelines, based on available information the proposed rule would not have a significant economic impact on a substantial number of small entities. In addition, as stated previously, to ensure that the regulations are consistent with the pest risk assessment's scope, we would amend the introductory text of § 319.56–38 to specifically state that clementines, mandarins, and tangerines may be imported from Chile into the continental United States (including Alaska) and Hawaii only. We do not have information regarding the potential impact to small U.S. entities outside of the continental United States and Hawaii as a result of this proposed change. APHIS welcomes public comment on the proposed rule's possible impacts.

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 sweet oranges and grapefruit to be imported into the continental United States from Chile. If this proposed rule is adopted, State and local laws and regulations regarding sweet oranges and grapefruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh sweet oranges and grapefruit 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-

[7] Global Trade Atlas (2005–2008). Originally reported in kilograms. 1 kg = 0.0011023 short tons.

[8] USDA. Foreign Agricultural Service. Situation and Outlook for Citrus. February 2006. pg. 6. *http://www.fas.usda.gov/htp/Hort_Circular/2006/02–06/02–20–06%20Citrus%20Feature.pdf.*

[9] USDA, ERS. Increased U.S. Imports of Fresh Fruit and Vegetables. Sophia Huang and Kuo Huang. Sept. 2007.

[10] *http://www.dneworld.com/FreshCitrus/CitrusAvailability/tabid/157/Default.aspx.* Chile data from Chilean Fresh Fruit. *http://www.chileanfreshfruit.com/citrus.shtml.*

[11] Also includes lemon, lime, mandarin, tangelo, and tangerine.

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

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of sweet oranges and grapefruit from Chile, we have prepared an environmental assessment. The environmental assessment was 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 may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists 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, we propose to amend 7 CFR parts 305 and 319 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 adding, in alphabetical order, entries under Chile (all provinces except provinces of Region 1 or Chanaral Township of Region 3) and Chile (all provinces of Region 1 or Chanaral Township of Region 3), for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
Chile (all provinces except provinces of Region 1 or Chanaral Township of Region 3).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
Chile (all provinces of Region 1 or Chanaral Township of Region 3).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104–a–1 or MB T101–n–2–1. CT T107–a.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104-a-1 or MB T101–n–2–1. CT T107–a.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104–a–1 or MB T101–n–2–1. CT T107–a.

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or
		Ceratitis capitata	MB T101–n–2–1. CT T107–a.
* * *	*	* *	*
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or
		Ceratitis capitata	MB T101–n–2–1. CT T107–a.
* * *	*	* *	*

* * * * *

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. Section 319.56–38 is amended as follows:

a. By revising the section heading and the introductory text to read as set forth below.

b. In paragraph (e), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, or tangerines'' in their place.

c. In paragraph (f), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, and tangerines'' in their place.

§ 319.56–38 Citrus from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the continental United States and Hawaii from Chile and grapefruit (*Citrus paradisi* Macfad.) and sweet oranges (*Citrus sinensis* (L.) Osbeck) may be imported into the continental United States from Chile in accordance with this section and all other applicable provisions of this subpart.

* * * * *

Done in Washington, DC, this 22nd day of August 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–19871 Filed 8–27–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0838]

RIN 1625–AA00

Safety Zone: Christmas Holiday Boat Parade Fireworks Event, Appomattox River, Hopewell, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a safety zone on the Appomattox River in the vicinity of Hopewell, VA in support of the Christmas Holiday Boat Parade Fireworks Event. This action will protect the maritime public on the Appomattox River from the hazards associated with fireworks displays.

DATES: Comments and related material must reach the Coast Guard on or before September 29, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0838 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov*.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Tiffany Duffy, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0838), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.