

# Rules and Regulations

Federal Register

Vol. 75, No. 196

Tuesday, October 12, 2010

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2010–0022]

RIN 0579–AD14

#### Importation of Fresh Unshu Oranges From the Republic of Korea Into the Continental United States

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning the importation of citrus fruit to remove certain restrictions on the importation of Unshu oranges from the Republic of Korea that are no longer necessary. Specifically, we are removing requirements for the fruit to be grown in specified canker-free export areas and for joint inspection in the groves and packinghouses by the Government of the Republic of Korea and the Animal and Plant Health Inspection Service. We are also amending the regulations to clarify that surface sterilization of the fruit must be conducted in accordance with 7 CFR part 305 and to expand the area in the continental United States where Unshu oranges from the Republic of Korea may be distributed. Finally, we are requiring that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization and inspected and found free of *Elsinoe australis*. These changes will make the regulations concerning the importation of Unshu oranges from the Republic of Korea consistent with our domestic regulations concerning the interstate movement of citrus fruit from areas quarantined because of citrus canker.

**DATES:** *Effective Date:* November 12, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith C. Jones, Regulatory Coordination Specialist, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 734–7467.

**SUPPLEMENTARY INFORMATION:**

#### Background

The regulations in 7 CFR 319.28 govern the importation of citrus fruit into the United States. These regulations are intended to prevent the introduction of citrus canker, among other citrus diseases and pests, into the United States via the importation of citrus from affected foreign regions. Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas citri* subsp. *citri*.

On June 8, 2010, we published in the **Federal Register** (75 FR 32310–32313, Docket No. APHIS–2010–0022) a proposal<sup>1</sup> to amend the regulations concerning the importation of citrus fruit to remove certain restrictions on the importation of Unshu oranges from the Republic of Korea (South Korea) that were no longer necessary. Specifically, we proposed to remove requirements for the fruit to be grown in specified canker-free export areas and for joint inspection in the groves and packinghouses by the Government of the Republic of Korea and the Animal and Plant Health Inspection Service. We also proposed to clarify that surface sterilization of the fruit must be conducted in accordance with 7 CFR part 305 and to expand the area in the continental United States where Unshu oranges from the Republic of Korea could be distributed. Finally, we proposed to require that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization and inspected and found free of *Elsinoe australis*, the fungus that is the causal agent of sweet orange scab. (In addition to citrus canker, sweet orange scab was identified by the pest risk analysis that provided the basis for the June 2010 proposed rule as a quarantine pest requiring specific mitigation measures

in order to ensure the safe importation of Unshu oranges from South Korea.) These proposed changes were necessary to make the regulations concerning the importation of Unshu oranges from the Republic of Korea consistent with our domestic regulations concerning the interstate movement of citrus fruit from areas quarantined because of citrus canker.

We solicited comments concerning our proposal for 60 days ending August 9, 2010. We received two comments by that date. They were from members of the general public. Both commenters supported the proposed rule.

One of the commenters, however, did ask if there had been testing conducted to determine whether the Unshu oranges were affected by *Elsinoe australis*.

While *Elsinoe australis* infects many species of citrus, including sweet orange, mandarin orange, tangerine, lemon, and lime, at this time, we have no evidence that it attacks Unshu oranges. Pending definitive evidence that Unshu variety oranges are not affected by sweet orange scab, however, we will continue to apply measures to mitigate the risk that *Elsinoe australis* might follow the pathway of Unshu oranges from South Korea.

The same commenter asked what regulations and sanitation guidelines have been put in place to prevent the entry of *Elsinoe australis* into the United States.

As noted in the June 2010 proposed rule and the accompanying risk management document, risk management measures that will be employed for Unshu oranges imported into the United States from South Korea under this rulemaking include surface sterilization of the oranges prior to packing, registration of packinghouses with the national plant protection organization of South Korea, and the requirement that each shipment be accompanied by a phytosanitary certificate stating that the fruit was given the required surface sterilization and was inspected and found free of *Elsinoe australis*. We consider visual inspection by the national plant protection organization of South Korea of Unshu oranges for symptoms of sweet orange scab prior to export to be an effective mitigation measure against the spread of that disease to the U.S. citrus crop because the symptoms can be

<sup>1</sup>To view the proposed rule and the comments we received, go to <http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0022>.

detected if present, and if the symptoms are not present, the Unshu oranges are unlikely to be a pathway for sweet orange scab.

Finally, the same commenter asked what could be done to kill *Elsinoe australis* or prevent it from spreading if it were introduced into the United States.

On August 23, 2010, we announced that sweet orange scab had been detected in citrus trees on residential properties in two Texas counties and one parish in Louisiana. We have established a technical working group of subject matter experts to discuss survey and control strategies in response to sweet orange scab. This group will recommend specific mitigation strategies. In countries where sweet orange scab has been endemic in production areas, producers have been able to control the pest and minimize its effects through properly timed fungicide applications. It is likely that such fungicide applications could be employed domestically as well.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

#### Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (*see* footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This rule removes certain restrictions on the importation of Unshu oranges from South Korea that are no longer necessary and expands the area in the continental United States where Unshus from South Korea may be distributed.

The impact of Unshu orange imports from South Korea is expected to be minimal for U.S. domestic producers. The United States does not commercially produce Unshu oranges, and price differences suggest that they are not a close substitute for U.S.-grown mandarin varieties, such as tangerines. Effects of the rule in terms of product displacement may be borne by Japanese exporters, since Japan is currently the other major supplier of Unshu oranges to the United States.

Even if all Unshu orange imports from South Korea were to directly replace a portion of U.S.-grown tangerine consumption, the effect on U.S. producers would be still insignificant. Under such a scenario, annual imports of Unshu oranges from South Korea of 2,000 metric tons (the upper limit of the projected range of imports, well surpassing the peak import volume of 1,611 metric tons recorded in 2002) will displace only 0.6 percent of fresh tangerines produced by U.S. operations in 2008–2009. Even a small impact such as this for U.S. producers is highly unlikely.

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 Unshu oranges to be imported into the United States from the Republic of Korea. State and local laws and regulations regarding Unshu oranges imported under this rule will be preempted while the fruit is in foreign commerce. Fresh Unshu oranges are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

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

#### List of Subjects in 7 CFR Part 319

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

■ Accordingly, we are amending 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

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

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

■ 2. Section 319.28 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 319.28 Notice of quarantine.

\* \* \* \* \*

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

(1) The Unshu oranges must be grown and packed in isolated, canker-free export areas established by the plant protection service of Japan. Only Unshu orange trees may be grown in these areas, which must be kept free of all citrus other than the propagative material of Unshu oranges. The export areas must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both Japan and the United States. The export areas must be surrounded by 400-meter-wide buffer zones. The buffer zones must be kept free of all citrus other than the following 10 varieties: Buntan Hirado (*Citrus grandis*); Buntan Vietnam (*C. grandis*); Hassaku (*C. hassaku*); Hyuganatsu (*C. tamurana*); Kinkan (*Fortunella* spp. non *Fortunella hindsii*); Kiyomi tangor (hybrid); Orange Hyuga (*C. tamurana*); Ponkan (*C. reticulata*); Unshu (*C. unshiu* Marcovitch, Tanaka [*Citrus reticulata* Blanco var. *unshu*, Swingle]); and Yuzu (*C. junos*). The buffer zones must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both Japan and the United States.

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

(3) Inspection of the Unshu oranges shall be performed jointly by plant protection officers of Japan and the United States in the groves prior to and during harvest, and in the packinghouses during packing operations.

(4) Before packing, such oranges shall be given a surface sterilization as

prescribed by the U.S. Department of Agriculture.

(5) To be eligible for importation into Arizona, California, Florida, Hawaii, Louisiana, or Texas, each shipment of oranges grown on Honshu Island or Shikoku Island, Japan, must be fumigated with methyl bromide in accordance with part 305 of this chapter after harvest and prior to exportation to the United States. Fumigation will not be required for shipments of oranges grown on Honshu Island or Shikoku Island, Japan, that are to be imported into States other than Arizona, California, Florida, Hawaii, Louisiana, or Texas.

(6) The identity of the fruit shall be maintained in the following manner:

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

(ii) Each shipment of oranges handled in accordance with these procedures shall be accompanied by a certificate of the plant protection service of Japan certifying that the fruit is apparently free of citrus canker disease.

(7) The Unshu oranges may be imported into the United States only through a port of entry identified in § 319.37–14 that is located in an area of the United States into which their importation is authorized. The following importation restrictions apply:

(i) Unshu oranges from Honshu Island or Shikoku Island, Japan, that have been fumigated in accordance with part 305 of this chapter may be imported into any area of the United States except American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(ii) Unshu oranges from Honshu Island or Shikoku Island, Japan, and from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only), that have not been fumigated in accordance with part 305 of this chapter may be imported into any area of the United States except American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands.

(c) *Unshu oranges from the Republic of Korea*. The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for

those specified in paragraph (c)(4) of this section, *Provided*, that each of the following safeguards is fully carried out:

(1) Before packing, such oranges shall be given a surface sterilization in accordance with part 305 of this chapter.

(2) The packinghouse in which the surface sterilization treatment is applied and the fruit is packed must be registered with the national plant protection organization of the Republic of Korea.

(3) The Unshu oranges must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of Korea, which includes an additional declaration stating that the fruit was given a surface sterilization in accordance with 7 CFR part 305 and was inspected and found free of *Elsinoe australis*.

(4) The Unshu oranges may be imported into any area of the United States except American Samoa, Hawaii, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

\* \* \* \* \*

Done in Washington, DC, this 5th day of October 2010.

**Gregory Parham,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–25570 Filed 10–8–10; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2010–0354 Airspace  
Docket No. 10–AAL–10]

#### Establishment of Class E Airspace; Port Clarence, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Port Clarence Coast Guard Station (CGS), AK. The United States Coast Guard operates this airstrip and has developed a military-use instrument approach procedure. This instrument approach procedure at the Port Clarence CGS Airport has made this action necessary to enhance safety by establishing Class E airspace for air traffic management of Instrument Flight Rules (IFR) operations.

**DATES:** Effective 0901 UTC, January 13, 2011. The Director of the Federal Register approves this incorporation by

reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

#### FOR FURTHER INFORMATION CONTACT:

Derril Bergt, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–2796; fax: (907) 271–2850; email: [derril.bergt@faa.gov](mailto:derril.bergt@faa.gov). Internet address: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/ato/service\\_units/systemops/fs/alaskan/rulemaking/](http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/).

#### SUPPLEMENTARY INFORMATION:

##### History

On Thursday, June 17, 2010, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class E airspace at Port Clarence, AK (75 FR 34393).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9U, *Airspace Designations and Reporting Points*, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

This final rule also updates the coordinate of longitude that was published in the notice of proposed rulemaking. The establishment of an instrument approach procedure necessitated a more accurate survey and the corrected coordinate is based on this more recent data. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

##### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace to accommodate a new military-use special instrument approach procedure at Port Clarence CGS Airport, Port Clarence, AK. This Class E airspace will provide adequate controlled airspace upward from 700 feet and 1,200 feet above the surface for the safety and management of IFR operations at Port Clarence CGS Airport. The 1,200 foot controlled airspace will extend into the Norton Sound Low Offshore Airspace Area and