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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2008–0016]

RIN 0579–AD15

Importation of Mexican Hass Avocados; Additional Shipping Options

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for the importation of Hass avocados originating in Michoacán, Mexico, into the United States by adding the option to ship avocados to the United States in bulk shipping bins when safeguarding is maintained from the packinghouse to the port of first arrival in the United States and by making it clear that the avocados may be shipped by land, sea, or air. We are also amending the regulations to allow avocados from multiple packinghouses that participate in the avocado export program to be combined into one consignment. We are taking these actions in response to requests from the Government of Mexico and inquiries from a U.S. maritime port. These actions will allow additional options for shipping Hass avocados from Mexico to the United States and allow Mexican exporters to ship full container or truck loads from multiple packinghouses while continuing to provide an appropriate level of protection against the introduction of plant pests.

DATES: *Effective Date:* November 29, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River

Road Unit 133, Riverdale, MD 20737–1236; (301) 734–0627.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–50) 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, including fruit flies, that are new to or not widely distributed within the United States.

Under the regulations in § 319.56–30 (referred to below as the regulations), fresh Hass avocado fruit grown in approved orchards in approved municipalities in Michoacán, Mexico, may be imported into specified areas of the United States after meeting the requirements of a systems approach. The systems approach, which is described in the regulations, includes surveys for pathway pests in municipalities and orchards; municipality, orchard, and packinghouse certification; protection of harvested fruit from infestation; shipment in sealed, refrigerated trucks or containers; and the cutting and inspection of fruit in orchards, in packinghouses, and at ports of entry. The overlap of the phytosanitary measures helps ensure the effectiveness of the systems approach.

On May 27, 2010, we published in the **Federal Register** (75 FR 29680–29684, Docket No. APHIS–2008–0016) a proposal¹ to amend the regulations by adding the option to ship avocados to the United States in bulk shipping bins when safeguarding is maintained from the packinghouse to the port of first arrival in the United States and by making it clear that the avocados may be shipped by land, sea, or air. We also proposed to allow avocados from multiple packinghouses that participate in the avocado export program to be combined into one consignment.

We solicited comments concerning our proposal for 60 days ending July 26, 2010. We received three comments by that date, from the operators of a U.S. maritime port, an association of Mexican Hass avocado producers,

packers, and exporters, and a State department of agriculture. Two commenters were in favor of adopting the rule as proposed.

The remaining commenter expressed concern that allowing consignments of avocados from multiple packinghouses might result in difficulties with traceback in the event of a pest introduction.

The regulations require that the boxes or crates must be clearly marked with the identity of the grower, packinghouse, and exporter. We are adding the option to use bulk shipping bins as well as boxes or crates, but we are also continuing to require the identifying markings for boxes, crates, or bins in any consignment of avocados, whether from a single packinghouse or from multiple packinghouses. Furthermore, avocados from multiple packinghouses will not be commingled in the same box, crate, or bulk shipping bin. Instead, the regulations will allow a refrigerated truck or refrigerated shipping container to be loaded with full boxes, crates, or bulk shipping bins from more than one approved packinghouse when phytosanitary safeguarding is maintained. We believe that the existing marking provisions will continue to provide sufficient information to conduct a traceback investigation in the event of a pest introduction. We are making no changes in response to this comment.

Therefore, for the reasons given in the proposed rule, 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 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. 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**.

Currently, Hass avocado exports from Michoacán, Mexico, are allowed to enter all 50 States throughout the year. Since

¹To view the proposed rule and the comments we received, go to <http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0016>.

there is no limit to the volume that may be shipped, market forces of supply and demand and the extent to which any maritime shipments are in addition to—rather than in place of—shipments by truck will determine the size of any market effects of the rule. These actions will allow additional options for shipping Hass avocados from Mexico to the United States and allow Mexican exporters to ship full container or truck loads from multiple packinghouses while continuing to provide an appropriate level of protection against the introduction of plant pests.

U.S. producers of avocado are predominantly small entities. Other small entities that theoretically could be affected by the rule include fresh avocado importers, brokers, truck drivers, and maritime shippers. The price and supply impacts that this rule may have on U.S. entities are not known.

Executive Order 12988

This final rule allows Hass avocados to be imported into the United States from Mexico in bulk consignments and in consignments from multiple packinghouses when phytosanitary safeguarding is maintained from the packinghouse to the first port of entry in the United States. State and local laws and regulations regarding Hass avocados imported under this rule will be preempted while the fruit is in foreign commerce. Fresh avocados 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 319.56–30 is amended as follows:

- a. In paragraph (c)(3)(v), by removing the words “shipping boxes” and adding the words “containers in which they will be shipped” in their place.
- b. In paragraph (c)(3)(vi), by removing the words “in boxes” and adding the words “for shipping” in their place.
- c. By revising paragraphs (c)(3)(vii) and (c)(3)(viii) to read as set forth below.
- d. By removing paragraphs (f) and (g) and redesignating paragraphs (h) and (i) as paragraphs (f) and (g), respectively.
- e. In newly redesignated paragraph (g), by adding the words “, crates, or bulk shipping bins” after the words “original shipping boxes” and by removing the words “new boxes” and adding the words “new packaging” in their place.

§ 319.56–30 Hass avocados from Michoacan, Mexico.

* * * * *

- (c) * * *
- (3) * * *

(vii) The avocados must be packed in clean, new boxes or bulk shipping bins, or in clean plastic reusable crates. The boxes, bins, or crates must be clearly marked with the identity of the grower, packinghouse, and exporter, and with the statement “Not for importation or distribution in Puerto Rico or U.S. Territories.” The boxes, bins, or crates must be covered with a lid, insect-proof mesh, or other material to protect the avocados from fruit-fly infestation prior to leaving the packinghouse. Those safeguards must be intact at the time the consignment arrives in the United States.

(viii) The packed avocados must be placed in a refrigerated truck or refrigerated container and remain in that truck or container while in transit through Mexico to the port of export for consignments shipped by air or sea or the port of first arrival in the United States for consignments shipped by land. Prior to leaving the packinghouse, the truck or container must be secured by the Mexican NPPO with a seal that will be broken when the truck or container is opened. The seal may be broken and a new seal applied by the Mexican NPPO if the truck or container stops at another approved packinghouse for additional avocados meeting the requirements of this section to be placed

in the truck or container. The seal on the refrigerated truck or refrigerated container must be intact at the time the truck or container reaches the port of export in Mexico or the port of first arrival in the United States.

* * * * *

Done in Washington, DC, this 25th day of October 2010.

Kevin Shea,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–27426 Filed 10–28–10; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R–1377]

Electronic Fund Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation E, which implements the Electronic Fund Transfer Act, and the official staff commentary to the regulation, in order to implement legislation that modifies the effective date of certain disclosure requirements in the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009.

DATES: This final rule is effective November 29, 2010.

FOR FURTHER INFORMATION CONTACT: Dana Miller or Mandie Aubrey, Senior Attorneys, Ky Tran-Trong or Vivian Wong, Counsels, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

On May 22, 2009, the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law.¹ Section 401 of the Credit Card Act amended the Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.*, and imposed certain restrictions on a person’s ability to impose dormancy, inactivity, or service fees with respect to gift certificates, store gift cards, and general-use prepaid cards. In addition, the Credit Card Act generally prohibited

¹ Public Law 111–24, 123 Stat. 1734 (2009).