

the activities and costs that may be required to clear a shipment for entry into the United States. In this proposal, we also proposed to correct 7 CFR 319.37-6(e) by removing Mexico from the list of countries with restricted importation of citrus seed due to citrus canker.

We solicited comments concerning our proposal for 60 days ending September 11, 1995. We received one comment by that date. It was from a State agency and supported the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule.

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 purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule clarifies procedures for the inspection and release of imported fruits and vegetables at the port of first arrival in the United States. This revision of the regulations updates the regulatory language to conform to procedures currently in use at ports. These changes provide a clearer standard for importers of fruits and vegetables who must comply with the regulations, and will enhance enforcement of the regulations. The changes do not add any significant new costs for importers of fruits and vegetables or other persons. Importers are already responsible for all costs of treatment, movement, storage, or destruction ordered by an inspector at a port.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule clarifies the requirements at the port of first arrival for fruits and vegetables imported into the United States. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruits and

vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will 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 rule contains no 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

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.37-6 [Amended]

2. In § 319.37-6, paragraph (e) is amended by removing the word "Mexico,".

3. Section 319.56-6 is revised to read as follows:

§ 319.56-6 Inspection and other requirements at the port of first arrival.

(a) *Inspection and treatment.* All imported fruits or vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector, and shall be subject to reinspection at other locations at the option of an inspector. If an inspector finds a plant pest or evidence of a plant pest on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests, the owner or agent of the owner of the fruit or vegetable shall clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable

requirements of this subpart have been accomplished.

(b) *Assembly for inspection.* The owner or agent of the owner shall assemble imported fruits and vegetables for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(c) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited or is so infested with a plant pest that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(d) *Release for movement.* No person shall move from the port of first arrival any imported fruit or vegetable unless and until an inspector notifies the person (in person, in writing, by telephone, or through electronic means) that the fruit or vegetable:

(1) Has been released; or

(2) Requires reinspection, cleaning, or treatment of the fruit or vegetable at that port or at a place other than the port of first arrival, or is prohibited and must be exported from the United States.

(e) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported fruits or vegetables, the inspector shall file an emergency action notification (PPQ Form 523) with the owner of the fruits or vegetables or an agent of the owner. The owner must, within the time specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed by an inspector to prevent the introduction of plant pests into the United States.

(f) *Costs and charges.* The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.¹ The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or

¹ Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.