

the port of first arrival, is confusing and misleading. It reads "No crate, box, hamper, or other container of fruits or vegetables, or fruits and vegetables in bulk, shall be removed from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector of the United States Department of Agriculture that the products have been inspected and found to be free from infestation and from plants or portions of plants used as packing or otherwise."

We propose to revise this language to make it consistent with the actual current operating procedures at ports. The proposed revision would state that no person could move any imported fruit or vegetable from the port until an inspector notifies the person that the fruit or vegetable either has been released, or requires reinspection, cleaning, or treatment at that port or at a place other than the port.

This revision would make it clear that the release for movement requirements apply to all imported fruits and vegetables, regardless of whether or how they are packaged. It would also clarify that our inspector, rather than the collector of customs, gives the notice that allows articles to move, to the person moving the articles. While we coordinate our release of materials with customs officials at ports, we do not need to impose a regulatory requirement to do so; the point of the notice requirement in this section is to inform the owners of articles when they can move them as far as USDA is concerned. This change would also remove the requirement that the notice be written. Inspectors at ports currently give notice in person, by telephone, in writing, or by electronic means such as e-mail or entry into an electronic database. We do not find it necessary to require the actual notice to be in written form.

This revision would also clarify the standard we apply in deciding to release a shipment for movement from the port of first arrival. The current language is misleading, because not all shipments we release have been "inspected and found to be free from infestation." Some shipments are released after they are found to be infested and were successfully disinfected, and some shipments are released to be moved to some other location for a required treatment. The current language stating that the products must be free "from plants or portions of plants" is also confusing unless the reader refers back to the definition of "plants or portions of plants" in § 319.56-1. It is easier to understand that the inspector will release articles after determining that they comply with the regulatory

requirements, as we propose in the new language.

The current language allows inspectors to order shipments to be cleaned, disinfected, treated, or refused entry and disposed of, but it does not specify who the inspector must notify when ordering such actions. The current regulations also do not make any person clearly responsible for completing the actions ordered by an inspector. We are proposing to add a new paragraph requiring that an inspector order such actions by filing an emergency action notification (PPQ Form 523) with the owner of the fruit or vegetable or an agent of the owner. We also propose to add language requiring that the person/company named in the PPQ Form 523 must, within the time specified in the PPQ Form 523, destroy the fruits, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to them as prescribed by an inspector to prevent the introduction of plant pests into the United States. This approach is consistent with current procedures at ports, and would clarify the responsibilities of involved parties and aid enforcement of the regulations.

Finally, current § 319.56-6(d) addresses the responsibility of the importer for charges "incident to inspection and disinfection," but provides little detail on what activities might result in charges. We propose to add a new paragraph to state that the Animal and Plant Health Inspection Service (APHIS) 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. The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, storage, movement, or destruction ordered by an inspector under the regulations, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

Correction of Citrus Canker Status of Mexico

In a final rule published in the **Federal Register** and effective on July 23, 1991 (Docket No. 91-022, 56 FR 33703-33704), we removed our "Citrus Canker—Mexico" regulations (7 CFR 319.27 through 319.27-11). This action resulted from our determination that the regulations were no longer needed because citrus canker no longer existed in Mexico. Removing the "Citrus Canker—Mexico" regulations removed restrictions on the importation from

Mexico of citrus fruit and peel.

However, we inadvertently neglected to remove a provision in 7 CFR 319.37-6(e) that restricted importation of citrus seed from Mexico due to citrus canker. To correct this oversight, we now propose to remove Mexico from the list of countries in 7 CFR 319.37-6(e).

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

If adopted, this proposal would clarify procedures for the inspection and release of imported fruits and vegetables at the port of first arrival in the United States. The proposed revision of the regulations would update the regulatory language to conform to procedures currently in use at ports. These changes would provide a clearer standard for importers of fruits and vegetables who must comply with the regulations, and would enhance enforcement of the regulations. The proposed changes would 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 would 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 proposed rule would clarify the requirements at the port of first arrival for fruits and vegetables imported into the United States. If this proposed rule is adopted, State and local laws and regulations regarding the importation of fruits and vegetables under this rule would 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 would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce