comment. The provisions of this final rule reflect mandatory statutory requirements which are non-discretionary. See sec. 119(c), Public Law 108–265, 118 stat. 753, June 30, 2004. Moreover, by law these provisions became effective on October 1, 2004. Id., sec. 502(b)(2).

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs—social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR part 220

Children, Food assistance programs, Grant programs—social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

7 CFR part 226

Accounting, Aged, Day care, Food Assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

■ Accordingly, 7 CFR parts 210, 220, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.19, paragraph (d) is amended by removing the fourth and fifth sentences and adding in their place four new sentences to read as follows:

§ 210.19 Additional responsibilities.

* * * * *

(d) * * * In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 1. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 2. In § 220.15, paragraph (d) is revised to read as follows:

§ 220.15 Management evaluations and audits.

* * * * *

(d) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 1. The authority citation for part 226 continues to read as follows:

Authority: Secs 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 2. In § 226.8, paragraph (e) is revised to read as follows:

§ 226.8 Audits.

* * * * *

(e) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

* * * * *

Dated: May 18, 2006.

Kate Coler,

Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E6–8201 Filed 5–26–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02–132–2]

RIN 0579–AB83

Requirements for Requests To Amend Import Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing regulations governing the submission of requests for changes in our regulations that restrict the importation of plants, plant parts, and plant products. We are taking this action because, despite existing non-regulatory guidance on the submission of requests, few applicants provide the basic information we require to properly consider their requests. The new regulations will help ensure that we are provided with the information we need to prepare a risk analysis and/or other analyses that evaluate the risks and other effects associated with a proposed change to the regulations. This information is needed for us to effectively consider the request, and submission of the information at the time the request is made allows us to proceed with our consideration of the request in a timely manner.

DATES: *Effective Date:* June 29, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Griffin, Director, Plant Epidemiology and Risk Analysis Laboratory, Center for Plant Health, Science, and Technology, PPQ, APHIS, 1730 Varsity Drive, Suite 300, Raleigh, NC 27606; (919) 855–7400.

SUPPLEMENTARY INFORMATION:

Background

The regulations contained in 7 CFR part 319 (referred to below as the regulations) prohibit or restrict the importation of plants, plant parts, and plant products into the United States in accordance with the authority conferred on the Secretary of Agriculture by the Plant Protection Act (7 U.S.C. 7701 *et seq.*). The Animal and Plant Health Inspection Service (APHIS) is the United States Department of Agriculture (USDA) agency responsible for (1) enforcing the part 319 regulations and (2) considering requests to amend the part 319 regulations to allow the importation of plants, plant parts, or plant products that are not currently

allowed importation under the regulations.

On October 28, 2004, we published in the **Federal Register** (69 FR 62823–62829, Docket No. 02–132–1) a proposal to amend the regulations by establishing regulations governing the submission of requests to change the part 319 import regulations. We proposed this action because, despite our publication on June 19, 2001, of a notice in the **Federal Register** (66 FR 32923–32928, Docket No. 00–082–1) containing guidance on the submission of information in support of commodity import requests, and despite other existing guidance on this subject, few applicants provide the basic information we require to properly consider their requests. The proposed regulations were designed to help ensure that we are provided with the information we need to prepare a risk analysis and/or other analyses that evaluate the risks and other effects associated with a proposed change to the regulations. This information is needed for us to effectively consider the request, and the submission of the information at the time the request is made allows us to proceed with our consideration of the request in a timely manner. Without the information, we are unable to effectively consider such requests.

We solicited comments concerning our proposal for 60 days ending December 27, 2004. We received nine comments by that date. The comments came from private citizens, nursery owners and growers in the United States, a State agriculture department, and foreign agriculture agencies. The comments were generally supportive of the proposed changes but did raise several concerns related to the proposed rule. These issues are discussed below.

Issue: The information required when import requests are submitted should include the proposed destination of the commodities (*e.g.*, specific States) to facilitate a more objective analysis of risk.

Response: Exporters most often request access to the entire United States or just the continental United States, and the scope of our pest risk analysis (PRA) may reflect that request. We often decide to expand or reduce the scope based on several factors, including in particular the existence of other similar requests or our past experience with trade of the commodity in question. In some cases, an outcome of the PRA process might be a recommendation for limited distribution within the United States as a mitigation measure, but in those cases it is APHIS, not the exporter, that designates the area into which the particular article may be distributed. On rare occasions, an exporter may request access to only a portion of the United States (*e.g.*, to areas that cannot support fruit fly populations); in such cases, limited distribution is an important element of the import request and is highlighted accordingly in the request. Even in such cases, however, it is likely that APHIS would assess the risks associated with the article in relation to the entire United States or the continental United States to ensure that limited distribution can be expected to serve as an adequate mitigation measure.

Issue: If a commodity is already allowed entry into the United States, but is only allowed to be distributed in certain areas of the United States or may only be exported from certain areas in the exporting country, a list of all pests and diseases associated with the commodity proposed for exportation to the United States should not be required.

Response: We agree that in the case of a commodity already allowed entry under one set of mitigations, it may not be necessary for us to prepare a new or updated PRA in order to consider a request to allow entry of the same commodity under a different set of mitigations. In such a case, an update to or confirmation of previously submitted pest and disease information, rather than an entirely new submission, may be appropriate. APHIS will decide on a case-by-case basis whether a complete, formal risk analysis may be required, or whether our understanding of the pests in the exporting country is sufficient to allow us to proceed with our consideration of the request without a new or updated risk assessment. For example, in the case of a request to expand distribution of a commodity to a new region (e.g., to allow an article to be imported into the whole United States when imports are currently limited to the continental United States), we might need to conduct additional pest risk analysis and would need more information. We have added a footnote to § 319.5(d)(4) in this final rule to point out that an update may be appropriate and that a determination as to whether or not that is the case may be obtained by contacting APHIS. Contacting APHIS will allow us to identify the specific information that would aid in our consideration of the request. It is not possible for us to anticipate and specify in advance all of the possible information that may be helpful to evaluating a particular change in the status of a specific commodity. For instance, a change associated with a pest free area will require data regarding pest freedom. The exact nature (quantity and quality) of data required for this purpose will vary with pests, commodities, and origins.

Issue: The information requested under ''Additional Information'' should be made optional for the exporting country, as some of the information requested is very specific and there may not be research available to provide the necessary details.

Response: The information designated by this rule as ''required information'' will be needed at minimum for all commodities. The information designated as ''additional information'' will vary for specific requests and may be critical for determining whether certain commodities should or should not be allowed to enter the United States. APHIS does not intend for all the additional information to be provided for every commodity, but some of it may be required for certain commodities, and it is normally in the exporter's interest to provide such information because it provides details essential to a proper analysis. For example, the susceptibility of particular varieties of fruit to pests can be an important factor in determining host status. In most cases, the variety is not important, but it is a critical issue when the variety is a factor in determining host status. Papayas and avocados in general may represent a risk of introducing fruit flies, but Solo papayas and Hass avocados are poor hosts for fruit flies. Similarly, the unique characteristics of a production area, such as its physical and climatological description, may be important. Altitude and physical barriers such as mountains are likely to play a role in understanding why the pests of concern are not a concern in a particular area. This is important information for the recognition of pest free (or low prevalence) areas.

Rather than make the additional information optional, as suggested by the commenter, we are clarifying in this final rule that such information is not required to be submitted with the initial request, as does the required information, but that APHIS may request any of the additional information if it determines it is necessary for completion of a PRA in accordance with international standards, and because the information is not available from other sources. In such cases, APHIS will notify the plant protection organization of the exporting country in writing as to what specific additional information is required. This additional information applies to those requests where APHIS needs to understand additional details in order to assess the specific situation accurately in the PRA. For example, details such as

whether a fruit is washed with soap, waxed, and culled or only rinsed may be important for determining if certain pests remain associated with fruit or not. In the proposed rule, the additional information items were presented in the **SUPPLEMENTARY INFORMATION** section and not in the proposed regulatory text at the end of the document. In this final rule, we include the additional information items, along with the above explanation as to when and how APHIS may request additional information, in the text of § 319.5 as paragraph (e). The information regarding the availability of additional guidance that had been paragraph (e) in the proposed rule is in a new paragraph (f) in this final rule.

Issue: The required information would be impossible for the discoverer of new species or the small seed importer to provide and would therefore close down research, plant exploration, and new variety introduction. This would injure the small operations in the ornamental horticulture business as well as government crop researchers, botanical gardens, and pharmaceutical companies.

Response: This final rule applies only to applications to change the existing regulations and would primarily affect the importation of fruits and vegetables; it would not affect imported nursery stock unless it was planted in a growing medium. Bareroot plants, seeds, cuttings, and other propagative materials could still be imported without a risk assessment provided these materials are not listed among the items specifically prohibited in the regulations in ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (§§ 319.37 through 319.37–14).

While the rule is not intended to restrict small imports, it may limit the ability of individuals without resources who wish to export unique fruits and vegetables to the United States to pursue a request to do so on their own. However, every country that enters into the World Trade Organization (WTO) must have the infrastructure in place to support their exporters. The exporting country is obliged to certify its exports and will need to (1) be able to provide essentially the same information for export certification purposes, and (2) understand the pest situation associated with the commodities it is certifying for export. The rule serves to ensure that the NPPO of the exporting country is officially involved and able to meet its export obligations.

New species for which there is little information available may indeed be adversely affected simply because the uncertainty amplifies the risk. We do not agree that this rule closes down research or injures small operations since it is incumbent on both the importing and exporting countries to ensure that trade in new commodities does not pose an unacceptable phytosanitary risk.

Issue: Because an extensive commodity-initiated PRA needs to be completed by U.S. authorities before a particular commodity can be imported, and that commodity is prohibited importation until then, the United States is effectively taking phytosanitary measures which are not technically justified and are therefore not in alignment with Article 5, section 1 of the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). As part of international standards, prohibition of commodities is regarded as a last resort, to be used only when no other satisfactory measure to reduce risk to an acceptable level can be found. USDA should therefore adapt its procedures in accordance with international agreements and standards, such as by granting provisional permission to import new commodities subject to temporary measures such as the requirement for a phytosanitary certificate. Final measures could be imposed following the completion of a PRA.

Response: In this case we make a distinction between commodities that are ''prohibited'' and disciplined by Article 5 of the SPS Agreement, and commodities that are ''not yet approved'' or ''pending evaluation'' and disciplined by Annex C of the SPS Agreement. Articles that are prohibited have been evaluated and prohibition is the measure that has been determined to be appropriate. This status may be changed based on new information and a reevaluation using a PRA. Likewise, pest risk analysis is used to evaluate the risk associated with a request for a new commodity not previously evaluated.

Many commodities are excluded from importation by APHIS in our regulations, and our regulations do not make the distinction between (1) commodities that have been evaluated and prohibited, (2) commodities that are not currently allowed importation but that are undergoing risk evaluation, and (3) commodities that are not allowed importation and for which no request for risk evaluation exists. We recognize that our regulatory terminology is not the same as that used in the SPS Agreement; however, regardless of the semantics, APHIS only allows new imports of fruits and vegetables pending completion of some form of risk analysis that enables us to determine that the pest risks posed by the commodity are known, and that the risks can and will be mitigated. We believe that this policy is consistent with the provisions of the SPS Agreement.

Issue: APHIS should provide a target timeline for the processing of an import request at the time the request is made.

Response: It is not possible for APHIS to provide timelines, as there are far too many variables that can affect the amount of time it takes to approve a new import. Some data take longer to get or generate than others, and limitations on resources may affect how quickly APHIS is able to generate documents. If asked, APHIS will inform an exporter about the status of a particular risk assessment.

Issue: The requirement that the national plant protection organization (NPPO) of the exporting country provide the requested information is not in line with international agreements and may delay the obtaining of the information. Furthermore, the required information may be better provided by other sources, such as research institutions or growers associations based in the country of origin.

Response: The information does not have to originate with the NPPO, but it should be provided through the NPPO to ensure its official status and to be sure that both APHIS and the exporting country's NPPO have the same information. It is essential for the exporting country's NPPO to be actively involved because it will be responsible for implementation of export certification. We note that Article IV of the International Plant Protection Convention (IPPC) lists the responsibilities of an NPPO, and that these include surveillance of cultivated and wild plants ''with the object of reporting the occurrence, outbreak, and spread of pests'' and the conduct of pest risk analyses. Articles VII.2i and j of the IPPC also refer to an NPPO's responsibility to maintain pest lists, conduct surveillance, and make the results of surveillance available to other contracting parties.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects of this final rule on small entities as required by the Regulatory Flexibility Act. The economic analysis is set out below.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests and noxious weeds.

This rule will require that requests to amend the regulations regarding imported plants, plant parts, or plant products be accompanied by the basic information necessary for APHIS to properly consider such requests. Receipt of necessary information at the time a request to import a currently prohibited commodity is made will help to shorten our process for considering and responding to such requests by minimizing delays in the preparation of risk assessments and other required analyses. Reducing delays in our consideration of import requests will help enhance the standing of the United States as a responsive trading partner.

Commodities in 7 CFR Part 319 Potentially Affected by the Regulations

- Fruits and Vegetables.
- Cotton.
- Logs, lumber.
- Nursery Stock (planted in media).
- Sugarcane.
- Corn, Rice, Wheat, Coffee.
- Packing Material.
- Cut Flowers.

Alternatives Considered

Two alternatives to this rule were considered. The first alternative was to do nothing. This alternative was rejected because the increased volume of import requests and the corresponding increase in the number of risk assessments to be prepared necessitate a mechanism for facilitating the import request process. The second alternative considered was to limit the rule to fresh fruits and vegetables only. Excluding other plants and plant products from this rule was not seen as the most effective regulatory approach, given the growing volume and value of trade in commodities such as grains, cotton, nursery stock, and cut flowers.

Benefits of the Rule

Trade Benefits

Establishing a more efficient process for the consideration of import requests will benefit trading partners seeking to sell their products in U.S. markets by allowing them to bring products to market in the United States in a more timely fashion in those cases where our analyses support a change in existing prohibitions or restrictions. This rule will have a positive effect on U.S. consumers who benefit from increased variety of imported products available in domestic markets and from increased competition and lower prices in affected markets. Enhancing the standing of the United States as a responsive trading partner will help to foster a favorable trade climate with other countries, which can be expected to generally benefit U.S. exporters of fruits, vegetables, and other commodities.

Efficiency Gains

A related benefit of this rule for U.S. interests is internal APHIS efficiency and consistency gains related to processing import requests. Collecting data necessary for risk assessments requires time, which delays processing of import requests.

For the past several years, APHIS has conducted approximately 100 risk assessments associated with import requests per year. Of those risk assessments, 90 percent are routine and 10 percent are complex. Examples of recent complex assessments relate to the importation of citrus from Argentina, clementines from Spain, and citrus from Uruguay. Once initiated, complex risk assessments typically require 2 to 3 months for data collection by APHIS, plus trips to the country of origin; data collection for routine risk assessments usually requires 30 days or less.

Submission of basic information with the import request will substantially decrease the amount of time required for data collection for both routine and complex risk assessments and the need for international travel to collect information. Providing information at the time an import request is made will require some expenditure of time and effort by the applicant. However, assembling data is expected to require substantially less time for the applicant than for APHIS employees, especially if the applicant is in the country of origin. Applicants in the country of origin should have knowledge of the commodity they wish to export and access to the required data.

Even when the risk analysis is not complex, or in cases where a risk analysis may not be required, the information we will require can be used to complete other analyses or documentation required by certain U.S. statutes, such as the Regulatory Flexibility Act, the National Environmental Policy Act, and the Endangered Species Act, to support changes in our regulations. Delays or problems with any of these analyses can affect the timely processing of import requests.

Costs of the Regulations

The regulations will require that the NPPOs of foreign countries provide specific information in support of import requests. This will require an additional expenditure of time and effort on the part of potential exporters and the exporting country's NPPO, but APHIS does not expect major adjustment problems for those entities. Required information about commodities should be known to applicants and readily available.

APHIS believes that the benefits of this rule (streamlining the process for evaluating import requests and reducing costs to APHIS) outweigh the costs to applicants associated with gathering the basic information required by this rule.

Regulatory Flexibility Analysis

As a part of the rulemaking process, APHIS evaluates whether its regulations are likely to have a significant economic impact on a substantial number of small entities. It is unclear whether or to what extent the costs associated with meeting the data requirements of the regulations will be passed on to U.S. brokers/shippers of plants and plant products. More than 11,406 brokers/shippers of plants and plant products would be considered small entities under the Small Business Administration's (SBA) criteria, but we do not expect that the data requirements will have a significant impact on them.

Under the SBA's criteria, an import/export merchant is classified as a small entity if it has 100 or fewer employees.[1] In all cases, these entities can be expected to be affected only to the extent that foreign producers or exporters pass on their additional costs associated with assembling the data required for the original import request, which are expected to be minimal.

According to the most recent information available from the SBA's Office of Advocacy, a total of 5,403 firms comprised the ''Fresh Fruit and Vegetable Merchant Wholesalers'' category in 1999.[2] Seventy-eight percent of these firms (4,227) employed 20 or fewer individuals, and 99 percent of the firms had 500 or fewer employees. Clearly, the majority of fruit and

[1] North American Industrial Classification System code 424480, Fresh Fruit and Vegetable Merchant Wholesalers.

[2] See *http://www.sba.gov/advo/stats/us99_n6.pdf.*

vegetable wholesalers are small entities, having 100 or fewer employees. Other types of wholesalers potentially affected by the regulations (wholesalers of cut flowers and nursery stock, grain and beans, and other farm product raw materials) demonstrate similar demographic profiles, with the majority of firms in each industry considered small under SBA's criteria. Even though the majority of potentially affected wholesalers have 100 or fewer employees, and will thus be classified as small entities, the regulations are not expected to have a significant economic impact on them.

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 has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0261.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

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. A new ''Subpart-Requests To Amend The Regulations'' (§ 319.5) is added to read as follows:

Subpart—Requests To Amend The Regulations

§ 319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.

(a) *Definitions.*

Commodity. A plant, plant product, or other agricultural product being moved for trade or other purpose.

(b) *Procedures for submitting requests and supporting information.* Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or plant products that are not allowed importation under the conditions of this part must file a request with the Animal and Plant Health Inspection Service (APHIS) in order for APHIS to consider whether the new commodity can be safely imported into the United States. The initial request can be formal (e.g., a letter) or informal (e.g., made during a bilateral discussion between the United States and another country), and can be made by any person. Upon APHIS confirmation that granting a person's request would require amendments to the regulations in this part, the national plant protection organization of the country from which the commodity would be exported must provide APHIS with the information listed in paragraph (d) of this section before APHIS can proceed with its consideration of the request; requests that are not supported with this information in a timely manner will be considered incomplete and APHIS may not take further action on such requests until all required information is submitted.

(c) *Addresses.* The national plant protection organization of the country from which commodities would be exported must submit the information listed in paragraph (d) of this section to: Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

(d) *Information.* The following information must be provided to APHIS in order for APHIS to consider a request to change the regulations in part 319:

(1) *Information about the party submitting the request.* The address, telephone and fax numbers, and e-mail addresses of the national plant protection organization of the country from which commodities would be exported; or, for requests that address a multi-country region, the address, telephone and fax numbers, and e-mail addresses of the exporting countries' national and regional plant protection plant protection organizations.

(2) *Information about the commodity proposed for importation into the United States.* (i) A description and/or map of the specific location(s) of the areas in the exporting country where the plants, plant parts, or plant products are produced;

(ii) The scientific name (including genus, species, and author names), synonyms, and taxonomic classification of the commodity;

(iii) Identification of the particular plant or plant part (i.e., fruit, leaf, root, entire plant, etc.) and any associated plant part proposed for importation into the United States;

(iv) The proposed end use of the imported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.); and

(v) The months of the year when the commodity would be produced, harvested, and exported.

(3) *Shipping information:* (i) Detailed information as to the projected quantity and weight/Volume of the proposed importation, broken down according to varieties, where applicable, and;

(ii) Method of shipping in international commerce and under what conditions, including type of conveyance, and type, size, and capacity of packing boxes and/or shipping containers.

(4) *Description of pests and diseases associated with the commodity* [1] (i) Scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, virus, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop;

(ii) Plant part attacked by each pest, pest life stages associated with each plant part attacked, and location of pest (in, on, or with commodity); and

(iii) References.

(5) *Current strategies for risk mitigation or management.* (i) Overview of agronomic or horticultural

[1] When a change is being sought to the conditions governing the importation of a commodity that is already authorized for importation into the United States, an update to or confirmation of previously submitted pest and disease information, rather than a new, complete submission of that information, may be appropriate. Persons seeking such a change may contact APHIS for a determination as to whether an update will be appropriate in a particular case.

management practices used in production of the commodity, including methods of pest risk mitigation or control programs; and

(ii) Identification of parties responsible for pest management and control.

(e) *Additional information.* None of the additional information listed in this paragraph need be provided at the same time as information required under paragraphs (a) through (d) of this section; it is required only upon request by APHIS. If APHIS determines that additional information is required in order to complete a pest risk analysis in accordance with international standards for pest risk analysis, we will notify the party submitting the request in writing what specific additional information is required. If this information is not provided, and is not available to APHIS from other sources, a request may be considered incomplete and APHIS may be unable to take further action on the request until the necessary additional information is submitted. The additional information may include one or more of the following types of information:

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

(2) *Additional information about the commodity:* (i) Common name(s) in English and the language(s) of the exporting country;

(ii) Cultivar, variety, or group description of the commodity;

(iii) Stage of maturity at which the crop is harvested and the method of harvest;

(iv) Indication of whether the crop is grown from certified seed or nursery stock, if applicable;

(v) If grown from certified seed or stock, indication of the origin of the stock or seed (country, State); and

(vi) Color photographs of plant, plant part, or plant product itself.

(3) *Information about the area where the commodity is grown:* (i) Unique characteristics of the production area in terms of pests or diseases;

(ii) Maps of the production regions, pest-free areas, etc.;

(iii) Length of time the commodity has been grown in the production area;

(iv) Status of growth of production area (i.e., acreage expanding or stable); and

(v) Physical and climatological description of the growing area.

(4) *Information about post-harvest transit and processing:* (i) Complete description of the post-harvest processing methods used; and

(ii) Description of the movement of the commodity from the field to processing to exporting port (e.g., method of conveyance, shipping containers, transit routes, especially through different pest risk areas).

(5) *Shipping methods:* (i) Photographs of the boxes and containers used to transport the commodity; and

(ii) Identification of port(s) of export and import and expected months (seasons) of shipment, including intermediate ports-of-call and time at intermediate ports-of-call, if applicable.

(6) *Additional description of all pests and diseases associated with the commodity to be imported:* (i) Common name(s) of the pest in English and local language(s);

(ii) Geographic distribution of the pest in the country, if it is a quarantine pest and it follows the pathway;

(iii) Period of attack (e.g., attacks young fruit beginning immediately after blooming) and records of pest incidence (e.g., percentage of infested plants or infested fruit) over time (e.g., during the different phenological stages of the crops and/or times of the year);

(iv) Economic losses associated with pests of concern in the country;

(v) Pest biology or disease etiology or epidemiology; and

(vi) Photocopies of literature cited in support of the information above.

(7) *Current strategies for risk mitigation or management:* (i) Description of pre-harvest pest management practices (including target pests, treatments [e.g., pesticides], or other control methods) as well as evidence of efficacy of pest management treatments and other control methods;

(ii) Efficacy of post-harvest processing treatments in pest control;

(iii) Culling percentage and efficacy of culling in removing pests from the commodity; and

(iv) Description of quality assurance activities, efficacy, and efficiency of monitoring implementation.

(8) *Existing documentation:* Relevant pest risk analyses, environmental assessment(s), biological assessment(s), and economic information and analyses.

(f) *Availability of additional guidance.* Information related to the processing of requests to change the import regulations contained in this part may be found on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pra/.*

(Approved by the Office of Management and Budget under control number 0579–0261)

Done in Washington, DC, this 23rd day of May 2006.

Charles D. Lambert,

Acting Under Secretary for Marketing and Regulatory Programs.

[FR Doc. E6–8238 Filed 5–26–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 780

RIN 0560–AG88

Appeal Procedures

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: In an interim rule that was published on July 27, 2005, and made effective on August 26, 2005, the Farm Service Agency (FSA) amended the regulations for informal agency appeals to make conforming and clarifying changes. This rule adopts the interim rule with some minor clarifying amendments.

DATES: *Effective Date:* This rule is effective June 29, 2006.

FOR FURTHER INFORMATION CONTACT: H. Talmage Day, Appeals and Litigation Staff, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., AG STOP 0570, Washington, DC 20250–0570. Telephone: 202–690–3297. E-mail: *Tal.Day@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2005, the Farm Service Agency (FSA) published an interim final rule amending the FSA appeal regulations at 7 CFR part 780 (70 FR 43262–43270). The interim final rule became effective on August 26, 2005.

Public Comment

FSA received 20 comments from the public concerning the interim final rule: one comment from the lead plaintiff in class action litigation pending against FSA, one comment from class counsel in that litigation, one comment from a minority advocacy organization, one comment from a farm advocacy organization, two comments from farm advocates, one comment from an organization of recipients of grants under FSA's Certified Agricultural Mediation Program, 7 CFR part 785, and 13 comments from recipients of grants under that program. These comments and FSA's responses are as follows: