

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 97-110-1]

RIN 0579-AA92

Importation of Grapefruit, Lemons, and Oranges from Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. Surveys conducted by Argentine plant health authorities in that area of Argentina since 1992 have shown the area to be free from citrus canker, and Argentine authorities are enforcing restrictions designed to protect the area from the introduction of that disease. We are also proposing to amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These proposed changes would allow grapefruit, lemons, and oranges to be imported into the United States from Argentina subject to certain conditions.

DATES: Consideration will be given only to comments received on or before October 13, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-110-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-110-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street

and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Campbell, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799; e-mail: rcampbell@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56-8, referred to below as the fruits and vegetables regulations) 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.

The regulations in "Subpart—Citrus Fruit" (7 CFR 319.28, referred to below as the citrus fruit regulations), restrict the importation of the fruit and peel of all genera, species, and varieties of the subfamilies *Aurantioideae*, *Rutoideae*, and *Toddalioideae* of the family *Rutaceae* into the United States from specified countries in order to prevent the introduction of citrus canker disease (*Xanthomonas campestris* pv. *citri* (Hasse) Dye).

Argentina is not currently listed in § 319.28(a)(1) of the citrus fruit regulations as a country from which importations are restricted to prevent the introduction of citrus canker, but scientific literature indicates that the A strain of citrus canker—i.e., that which is referred to in § 319.28(a)(1)—occurs in Argentina. Therefore, in this document, we are proposing to amend § 319.28(a)(1) by adding Argentina to the list of countries from which importations are restricted to prevent the introduction of citrus canker. However, as explained below under the heading "Citrus Canker Free Area," the entry for Argentina would contain an exception for the States of Catamarca, Jujuy, Salta, and Tucuman.

The citrus fruit regulations also restrict the importation of the fruit and peel of all species and varieties of the

genus *Citrus* into the United States from specified countries, including Argentina, in order to prevent the introduction of the citrus diseases sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins) and the B strain of citrus canker, which is referred to in the citrus fruit regulations as "Cancrosis B."

In this document, the A and B strains of citrus canker are referred to collectively as citrus canker, except in those instances where it is necessary to refer specifically to either of the two strains.

Citrus Canker Free Area

The Government of Argentina has requested that the Animal and Plant Health Inspection Service (APHIS) recognize the citrus production areas in four States in northwestern Argentina—Catamarca, Jujuy, Salta, and Tucuman—as free from citrus canker. In support of its request, the Argentine Government submitted the results of surveys conducted in the citrus-producing areas of those four States since 1992 by Argentina's national plant protection organization, the Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA).

APHIS has reviewed the documentation submitted by the Government of Argentina in support of its request and conducted an on-site evaluation in 1994 of Argentina's plant health programs in Catamarca, Jujuy, Salta, and Tucuman with regard to citrus diseases.¹ The evaluation consisted of a review of Argentina's citrus canker survey activities, laboratory and testing procedures for the examination of samples collected during the surveys, and the administration of laws and regulations intended to prevent the introduction of citrus canker into the citrus-growing areas of Catamarca, Jujuy, Salta, and Tucuman from the rest of Argentina and from outside the country. After reviewing the documentation provided by Argentina and the data gathered during the on-site visit, we believe that the Government of Argentina has demonstrated, in accordance with the standards established by the United Nations' Food and Agriculture Organization (FAO) for

¹ Information regarding the documentation submitted by the Government of Argentina and the on-site visit conducted by APHIS may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

pest-free areas, that the citrus-growing areas of Catamarca, Jujuy, Salta, and Tucuman are free from citrus canker.

Based on the information provided by Argentina and the information gathered by APHIS, we are proposing to amend § 319.28(a) to reflect the citrus canker-free status of Catamarca, Jujuy, Salta, and Tucuman. Currently, the regulations in § 319.28(a)(3) list the entire country of Argentina, among other places, as being affected with Cancrosis B. Therefore, we would amend the entry for Argentina in § 319.28(a)(3) to indicate that the States of Catamarca, Jujuy, Salta, and Tucuman are considered to be free from Cancrosis B. Similarly, the proposed new entry for Argentina in § 319.28(a)(1), as discussed above, would also indicate that those four States are considered to be free from citrus canker (i.e., the A strain).

We are also proposing to amend § 319.28(a)(2) of the citrus fruit regulations, which prohibits the importation of citrus fruit and peel from certain countries, including Argentina, based on the presence of sweet orange scab in those countries. As discussed in the next paragraph, we are proposing to amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from Argentina under conditions designed to prevent the introduction of sweet orange scab. Therefore, in order to prevent a conflict between the citrus fruit regulations and the fruits and vegetables regulations, we are proposing to add an exception to the prohibition on citrus fruit and peel from Argentina in § 319.28(a)(2). Specifically, we would add the words "except as provided by § 319.56–2f of this part" after the entry for Argentina in the list of countries considered to be affected with sweet orange scab. That proposed exception would refer the reader to § 319.56–2f of the fruits and vegetables regulations, which is the section we are proposing to add that would contain the conditions under which grapefruit, lemons, and oranges could be imported into the United States from Argentina.

Importation of Grapefruit, Lemons, and Oranges

The Government of Argentina has requested that APHIS allow the importation of grapefruit, lemons, and oranges into the United States from the citrus canker-free States of Catamarca, Jujuy, Salta, and Tucuman. Because there are plant pests of concern other than citrus canker known to exist in Argentina, the proposed importation of grapefruit, lemons, and oranges would be subject to certain conditions. As noted above in our discussion of the

content of the citrus fruit regulations, the disease sweet orange scab exists in Argentina. In addition to sweet orange scab, Argentina is also affected with a fungal disease known as citrus black spot (*Guignardia citricarpa*), the Mediterranean fruit fly (Medfly) (*Ceratitis capitata*), and certain fruit flies of the genus *Anastrepha*. To prevent the introduction into the United States of those diseases and fruit flies, the Government of Argentina, with the cooperation of APHIS, has formulated a systems approach of tiered and overlapping measures that, when combined with specified cold treatments, would reduce the risks presented by those pests to a negligible level.

Therefore, we are proposing to allow fresh grapefruit, lemons, and oranges to be imported into the United States from Argentina if they are grown, packed, and shipped under specified phytosanitary conditions designed to mitigate the risk of plant pest introduction. The proposed conditions for importation, which would be set out in a new § 319.56–2f in the fruits and vegetables regulations, are explained below.

Permit Requirement

The fruits and vegetables regulations require persons contemplating the importation of fruits or vegetables that are authorized entry under the regulations to first apply for a permit from APHIS. That permit requirement, which is found in § 319.56–3 of the fruits and vegetables regulations, would be applicable to the importation of grapefruit, lemons, and oranges under the provisions of this proposed rule.

Origin Requirement

The grapefruit, lemons, or oranges would have to have been grown in a grove located in a region of Argentina that has been determined to be free from citrus canker. As discussed above, we believe that the Government of Argentina has demonstrated, in accordance with FAO standards, that the citrus-growing areas of Catamarca, Jujuy, Salta, and Tucuman are free from citrus canker. This proposed requirement would ensure that the grapefruit, lemons, or oranges would not present a risk of introducing citrus canker into the United States.

Grove requirements

The grapefruit, lemons, or oranges would have to have been grown in a grove that meets several specified conditions intended to prevent the introduction of sweet orange scab and citrus black spot into the United States.

We would require that the grove be registered with the citrus fruit export program of SENASA. Grower registration would, from an administrative standpoint, allow SENASA to identify specific groves and thus track each grove's compliance with the requirements of the export program during the growing season and during the movement of fruit to the packinghouses and subsequent export.

We would also require that the grove be surrounded by a 150-meter-wide buffer area that would be subject to the same treatments as would be applied in the export grove. This buffer area, in which citrus fruit could be grown but from which no citrus fruit could be offered for importation into the United States, would separate the export grove from surrounding agricultural or nonagricultural areas. Because those areas lying outside the buffer area would not be subject to the same measures as would be applied in the export grove and buffer area, there is the possibility that sweet orange scab or citrus black spot may be present in those areas. Thus, by providing for the suppression of disease inoculum over a wide area, the buffer area would offer the export grove an additional measure of protection from those diseases.

In order to prevent the introduction of diseased trees into an export grove, we would require that any new citrus planting stock used in the grove be obtained from a "clean" source. This proposed requirement is already being implemented by SENASA as part of its administration of laws and regulations intended to prevent the introduction of citrus canker into the citrus-growing areas of Catamarca, Jujuy, Salta, and Tucuman from the rest of Argentina and from outside the country.

Under our proposed regulations, planting stock would have to be obtained from a source (e.g., the grove itself, another grove, or a nursery) located within the States of Catamarca, Jujuy, Salta, or Tucuman, or from a SENASA-approved citrus stock propagation center. We would allow the use of planting stock that originated within Catamarca, Jujuy, Salta, or Tucuman because those States have been determined to be free of citrus canker and because Argentine Government regulations restrict the entry of potential citrus canker host material into those States. Similarly, any citrus plants imported into Argentina, and any domestic-origin citrus plants from outside the four citrus canker-free States, must meet strict phytosanitary requirements before they may enter the States of Catamarca, Jujuy, Salta, or Tucuman. Under SENASA supervision,

such citrus plants are officially tested to ensure their freedom from quarantine pests and diseases, and are grown in quarantine before being released for use in the citrus canker-free area of Argentina. We believe that requiring growers to obtain any new grapefruit, lemon, or orange propagative material from one of these sources would help ensure that disease is not introduced into an export grove by new citrus planting stock.

Fallen fruit, leaves, and branches could serve as potential reservoirs of disease inoculum, especially for citrus black spot. Therefore, we would require those materials to be removed from the grove floor and from the ground in the buffer area before the trees in the grove blossom, which is the phase of the growing cycle in which citrus black spot infection primarily occurs. Removing fallen fruit, leaves, and branches before the trees in the grove blossom would help to ensure that the grove is as clean as possible prior to the development of the fruit that would eventually be exported to the United States. We would further require that the grove and buffer area be inspected by SENASA before blossom to verify that the required sanitation measures had been accomplished.

We would further require that the grove and buffer area be treated at least twice with an oil-copper oxychloride spray during the growing season in which fruit was being produced for export to the United States. Treatment with oil-copper oxychloride has been shown to provide control of sweet orange scab and citrus black spot in Argentina. In order to obtain the maximum benefit from each treatment, the timing of the treatments would be determined by SENASA based on its monitoring of climatic data, fruit susceptibility, and the presence of disease inoculum. SENASA personnel would have to monitor the application of the treatments to ensure that the treatments were being applied correctly and at the proper time.

Finally, as an additional means of verifying an export grove's freedom from sweet orange scab and citrus black spot, we would require that each grove and buffer area be surveyed by SENASA 20 days before the harvest of the grove's grapefruit, lemons, or oranges. The required survey would consist of a visual inspection of the grove and the buffer area to check for visible signs of the presence of either disease, followed by the laboratory examination of a sample of fruit. Fruit would be sampled at the rate of 320 fruit from each 200 hectares, and the fruit would be selected

according to a randomized sampling protocol determined by SENASA.

Post-harvest Handling of Fruit

After being harvested from an export grove, the grapefruit, oranges, or lemons would have to be handled in accordance with several specific conditions.

We would require that the grapefruit, lemons, or oranges be moved from the export grove to the packinghouse in field boxes or containers of field boxes that are marked to show the SENASA registration number of the grove in which they were grown. The identity of the origin of the fruit would have to be maintained during the time the fruit is being handled and prepared for shipment in the packinghouse. These proposed requirements would ensure that SENASA inspectors would be able to trace the fruit back to its grove of origin in the event that disease was detected on the fruit.

We would prohibit a packinghouse in which grapefruit, lemons, or oranges are processed for export to the United States from accepting any fruit from nonregistered export groves during the time that fruit intended for export to the United States is being handled in the packinghouse. Barring the entry of fruit from nonregistered groves into the packinghouse would ensure that the fruit intended for export is not commingled with or potentially infected by fruit that was grown in a grove that has not been subject to the same sanitation, inspection, and treatment measures that would be required for export groves.

After its arrival at the packinghouse, we would require the fruit to be held in the packinghouse at room temperature for 4 days. This proposed 4-day holding period would allow sufficient time for the symptoms of citrus black spot to become evident in the grapefruit, lemons, or oranges in the event that any latent infection exists in the fruit. At the conclusion of the 4-day holding period, the fruit would have to be examined by SENASA inspectors to verify its freedom from visible signs of disease.

Once the SENASA inspectors have determined that the fruit is free from visible signs of disease, we would require the grapefruit, lemons, or oranges to be chemically treated. Specifically, the fruit would be sequentially treated with: (1) Immersion in sodium hypochlorite (chlorine) at a concentration of 200 parts per million; (2) immersion in orthophenilphenate of sodium; (3) spraying with imidazole; and (4) application of 2-4 thiazalil benzimidazole and wax. These treatments would surface-sterilize the fruit and protect against the

development of any spores that may be present. After the fruit has been treated, and before it is packed into clean, new shipping cartons for export, we would require that SENASA inspectors examine the grapefruit, lemons, or oranges a final time for any evidence of disease. The clean, new shipping cartons would have to be marked with the registration number of the grove in which the fruit was grown in order for APHIS or SENASA to trace the fruit back to its origin in the event that pests or diseases are detected in the fruit after it leaves the packinghouse.

Phytosanitary Certificate

We would require grapefruit, lemons, and oranges offered for entry into the United States from Argentina to be accompanied by a phytosanitary certificate issued by SENASA that states the grapefruit, lemons, or oranges were produced and handled in accordance with the origin requirement, grove requirements, and post-harvest handling requirements discussed above. The phytosanitary certificate would also have to state that the grapefruit, lemons, or oranges were examined and found to be free from citrus black spot and sweet orange scab. The phytosanitary certificate would serve as SENASA's official confirmation that the requirements of the regulations in proposed § 319.56-2f(a), (b), and (c) had been met.

Cold Treatment

As noted above, Medfly and fruit flies of the genus *Anastrepha* are known to exist in Argentina. Therefore, we would require grapefruit, lemons (except smooth-skinned lemons), and oranges offered for entry from Argentina to be treated with an authorized cold treatment listed in the Plant Protection and Quarantine (PPQ) Treatment Manual in order to prevent the introduction of fruit flies into the United States. (Smooth-skinned lemons would be exempted from the proposed cold treatment requirement because they have been shown through Agricultural Research Service studies² to not be a host of Medfly, and lemons are not reported to be hosts of *Anastrepha* spp. fruit flies.) The cold treatment that would be required, which is designated as T107(c) in the PPQ Treatment Manual, is approved for use on a variety of fruits—including grapefruit and oranges—to treat for

² Information on this research may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT.

Anastrepha spp. fruit flies. The treatment is as follows:

Temperature	Exposure period (days)
32 °F or below	11
33 °F or below	13
34 °F or below	15
35 °F or below	17

Because the exposure times in T107(c) are longer than those in T107(a), the cold treatment for Medfly, the treatment would serve to prevent the introduction of all the fruit flies of concern.

We would have to amend the PPQ Treatment Manual in order to include grapefruit, lemons (except smooth-skinned lemons), and oranges from Argentina in that document's list of countries and fruits for which cold treatment is authorized. Therefore, because the PPQ Treatment Manual is incorporated by reference into the regulations in Title 7, chapter III, we would also have to amend § 300.1, "Materials incorporated by reference; availability," to reflect the date of that amendment to the PPQ Treatment Manual.

The cold treatment would have to be conducted in accordance with the existing requirements of § 319.56-2d of the fruits and vegetables regulations, which applies to the importation of fresh fruits for which cold treatment is a condition of entry. That section sets forth the general requirements concerning the place and manner of cold treatment, safeguarding of untreated fruit, precooling and refrigeration, and special requirements for treatment at certain ports.

Inspection at Port of First Arrival

Grapefruit, lemons, and oranges offered for entry into the United States from Argentina would be subject to § 319.56-6 of the fruits and vegetables regulations, which provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be inspected and shall be subject to disinfection at the port of first arrival, as may be required by a U.S. Department of Agriculture (USDA) inspector to detect and eliminate plant pests. Section 319.56-6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with fruit flies or other injurious plant pests that an inspector determines that it cannot be cleaned or treated. The inspector at the port of arrival would also review the documentation, including the phytosanitary certificate, accompanying the fruit to ensure that it was being

imported in accordance with the regulations.

Disease detection

If citrus black spot or sweet orange scab is detected on any grapefruit, lemons, or oranges during the course of any of the inspections or tests required by proposed § 319.56-2f, the grove in which the fruit was grown, or was being grown, would have to be removed from the SENASA citrus export program for the duration of that year's growing and harvest season. We would also prohibit, for the remainder of that growing and harvest season, the importation of any fruit harvested from a grove determined to be affected with one of those diseases. These proposed measures would be a necessary step in response to the detection of any of the diseases that the proposed regulations are designed to exclude.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

This proposed rule would amend the citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. This proposed rule would also amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These proposed changes would allow grapefruit, lemons, and oranges to be imported into the United States from Argentina subject to certain conditions.

Analysis

This analysis considers the potential economic impact on domestic producers of citrus of allowing the importation of fresh citrus fruits from Argentina into the United States. It focuses on citrus production, price, and potential consumer and producer impacts of the proposed rule. The possible impacts considered include losses to domestic producers and gains to consumers due to decreased prices. The magnitude of the impact would depend on the size of additional Argentine supply, the U.S. supply and demand for citrus, and price conditions in the rest of the world. The data sources used for the analysis

include: USDA, National Agricultural Statistics Service production statistics; USDA, Economic Research Service, "Foreign Agricultural Trade of the United States;" USDA, Agricultural Marketing Service, marketing information; USDA, Foreign Agricultural Service (FAS), "Annual Citrus Report;" and United Nations, Food and Agricultural Organization (FAO), production and trade statistics.

U.S. Citrus Industry

Citrus production

The United States produced an annual average of 31,460 million pounds of citrus between 1992 and 1996, with an average annual total value of \$2.5 billion. Four States—Arizona, California, Florida and Texas—accounted for almost all of the commercial citrus fruit production. Of these, California (21 percent) and Florida (76 percent) accounted for approximately 97 percent of the citrus production. A small amount of citrus fruit is produced in Hawaii and Louisiana. The major varieties of citrus fruit include oranges (73 percent), grapefruit (12 percent), lemons (10 percent) tangerines (2.16 percent), tangelos (0.88 percent), temples (0.65 percent), and limes (0.08 percent). The first four—oranges, grapefruit, lemons, and tangerines—account for about 98 percent of the total U.S. citrus production. The 1996 value of U.S.-produced citrus was: Oranges, \$1.82 billion; grapefruit, \$296 million; lemons, \$251 million; limes, \$4 million; tangelos, \$15 million; tangerines, \$111 million; and temples, \$14 million. The United States accounted for nearly 24 percent of world citrus production.

In 1992 (the latest census year), citrus fruit was produced on 17,898 farms (528 in Arizona; 8,104 in California; 8,205 in Florida; 509 in Texas; 458 in Hawaii; and 94 in Louisiana). Approximately 96 percent of U.S. citrus fruit farms (Standard Industrial Classification 0272) had gross sales of less than \$500,000 and thus are considered to be small entities according to the Small Business Administration size standards (13 CFR 121.601). These small citrus farms accounted for less than 34 percent of the total citrus growing acreage, while the remaining 4 percent of citrus farms (i.e., those with annual gross sales of \$500,000 or more) accounted for about 66 percent of the acreage.

Production for the fresh citrus fruit market accounted for about 28 percent of total citrus production or approximately 4.5 million tons. The share of citrus fruits destined for the fresh market (as opposed to the

processing or export markets) varied by State and by fruit. Nearly 69 percent of citrus production in Arizona, 72 percent in California, 14 percent in Florida, and 69 percent in Texas was for the fresh market. Overall, about 20 percent of oranges, 47 percent of grapefruit, 54 percent of lemons, and 70 percent of tangerines was for the fresh market.

U.S. production of citrus fruits showed an annual growth rate of 3.5 percent between 1985 and 1996. Of the major citrus fruits, oranges increased at an average annual rate of 4.5 percent and tangerines at 3.8 percent, while grapefruits and lemons did not show any increase. The annual average consumption of citrus fruits in the United States has stayed at around 25.2 pounds per person over the last 25 years with very little variability (plus or minus 2.6 pounds per person). Specific per capita fresh citrus fruit consumption varies by fruit.

Fresh fruits are marketed throughout the year, most heavily between October and May. Overall, domestic shipments of citrus fruit are at their lowest during the months of July, August, and September, dropping to approximately 3.5 to 5 percent of average annual shipments. U.S. citrus exports are also at their lowest during these months. Citrus imports are also widely distributed throughout the year, but with above-average imports during July, August, and September (about 29 percent). Wholesale prices follow the same seasonal supply patterns, as they are lower during peak production months—October to May—and higher during summer months from June to September. Since the peak production period for citrus in Argentina is from May to October, the entry of Argentine fresh citrus fruits would likely peak during these months, which represent the most likely window of opportunity for Argentine imports to enter the U.S. market. The annual average terminal market wholesale prices in major U.S. cities is approximately 38 cents per pound, while the average from June through September is 43 cents per pound. Importers and brokers would likely benefit from the entry of Argentine citrus fruit into the U.S. market because they would be able to provide quality fruits during the months when domestic production is lowest. Consumers would be able to obtain a wide choice of fresh citrus throughout the year and would not need to wait for the peak domestic production season or switch to non-citrus fruits. Producers would not need to spend additional resources promoting their product as each new harvest season arrives.

Citrus trade

Since consumption of citrus fruits increased by only 1.5 percent between 1985 and 1996 and production increased at 3.5 percent, domestic consumption is not keeping up with the growth rate of production. As a result, foreign markets play an increasingly important role for U.S. producers, accounting for approximately 29 percent of the 1996 annual fresh citrus fruit sales. The total value of the U.S. fresh citrus fruit exports was approximately \$704 million in 1996, accounting for approximately 14 percent of world citrus fruit exports in 1996. In terms of value, oranges accounted for 41 percent of citrus exports; grapefruit for 35.6 percent; lemons and limes for 17.5 percent; mandarins and tangerines for 5.2 percent; and other citrus for 0.4 percent. By weight, about 44 percent of 1996 fresh citrus export was oranges, about 41 percent grapefruit, 12 percent lemons and limes and 3 percent tangerines and other fresh citrus fruits. The United States is a net exporter of citrus fruits. The U.S. supply of fresh citrus fruits in 1996 was 6,633 million pounds (= 8,712 + 406—2,485 [production plus imports minus exports]).

A few countries accounted for the bulk of the U.S. fresh citrus export market. In Asia, Japan (44 percent), Hong Kong (10 percent), the Republic of Korea (2.8 percent), Taiwan (2.8 percent), and Singapore (1.5 percent) together accounted for approximately 60 percent of the total U.S. export market. Next, exports to Canada were about 25 percent. In Europe, France (3.14 percent), The Netherlands (2.87 percent), and the United Kingdom (1.13 percent) are the major importers. The small remaining proportion is exported to many other countries. The United States, as noted above, is not a major importer of fresh citrus fruits. Major suppliers are Mexico (42 percent), Spain (29.4 percent), and Australia (20 percent). These countries together supplied about 91 percent of U.S. fresh citrus imports. Imports of fresh citrus fruits were valued at about \$92 million.

U.S. fresh citrus fruit exports increased at an average growth rate of 3.1 percent between 1985 and 1996. By fruit, orange exports grew at an average rate of 4.2 percent and grapefruit by 3.7 percent, while lime and tangerine exports did not change. On the other hand, exports of lemons declined by an average rate of 1.1 percent. Since the United States is the second largest producer of oranges and the largest producer of grapefruits in the world, the positive export growth rate in these two

commodities is encouraging. Combined with the lower growth rate of domestic consumption, the importance to producers of growth in export markets is clear.

Interestingly, imports to the United States increased at an average annual growth rate of 10 percent during this period. Most of the imports were from countries in the Southern Hemisphere, where growing and harvesting seasons are different. Imports are heaviest during the months when U.S. production and shipments are lowest. There is also a reciprocal window of opportunity for U.S. producers to step in during the months when production is low in these countries. The United States is developing its trade relationship with Argentina, which is one of few countries with which the United States has a favorable balance of trade. The United States exported an average of \$4,390 million worth of goods to Argentina while importing goods and services valued at \$1,920 million. At present, the United States is exporting approximately \$100,000 worth of citrus fruit to Argentina and importing none. Worldwide, the United States exported fresh citrus fruits valued at \$704 million in 1996, while it imported only \$92 million worth of fresh citrus fruits. Thus, maintaining competitiveness and creating a positive trade environment is very important to U.S. citrus producers.

Argentine Citrus Industry

Production

Argentina produced an annual average of 3,726 million pounds of citrus fruit between 1985 and 1996, with production at about 4,010 million pounds in 1996. Citrus fruit production has increased at an annual growth rate of about 2.3 percent in Argentina, mostly in the States of Entre Rios, Tucuman, Misiones, Salta, Corrientes, Buenos Aires, and Jujuy, which together account for about 93 percent of production. Three of those States—Jujuy, Salta, and Tucuman—would be affected by this proposed rule; those States account for 35 percent of the total Argentine production, or about 1,550 million pounds of citrus fruit. Nearly 51 percent of Argentine citrus fruit production is consumed domestically as fresh fruit, 34 percent is processed, and 15 percent is exported.

The annual rate of increase in Argentine citrus production between 1985 and 1996 is attributable mostly to increased lemon production. For the other citrus varieties, the growth rate was less than 1 percent or there was no change. However, since the current

export growth rates are higher than the production growth rates, large additional export supplies are not expected. Production growth rates (2.3 percent) were outpaced by export growth rates (6.92 percent) in Argentina. The export growth rates varied by fruit and ranged between a 0.7 percent annual increase for grapefruit and a 16.9 percent increase for tangerines.

Citrus Trade

Argentina is one of the major citrus fruit exporters in South America. It exported 718 million pounds in 1996 and an average of 545 million pounds per year between 1992 and 1996. Major destinations included The Netherlands (52 percent), France (14 percent), Spain (8 percent), the United Kingdom (10 percent), and Russia (8 percent). Smaller importers of Argentine citrus include Portugal, Belgium, Germany, Hong Kong and Saudi Arabia. The major destination for Argentine fresh citrus fruit is Europe, accounting for nearly 87 percent of exports. Since the majority of the U.S. fresh citrus exports went to the Far East, the two countries appear to be serving distinct markets. Using the production and export averages, about 15 percent of Argentine citrus production is exported. Imports of fresh citrus accounted for only about 0.06 percent of the utilized total Argentine citrus supply.

Argentina can be expected to maintain its well-established export markets, mainly in Europe. Because there have been substantial investments to cultivate these markets, it is expected that Argentine producers and exporters will continue to value them. Developing

heavy dependence on a single market, such as the United States, would make Argentina vulnerable to fluctuations in economic conditions of that market. Nevertheless, a moderate level of exports to the United States would provide another potential outlet for the Argentine citrus industry.

Wholesale Terminal Market Prices

Fresh citrus fruit wholesale prices are lower in Argentina than in the United States. The weighted annual average wholesale price is about 18 cents per pound (where the weights reflect the respective citrus fruit variety production percentages). This does not include the overland transport cost from northwestern Argentina to the south central coast, the sea freight rate, cold treatment while onboard the ship, or the tariff rates, which would add about 15 cents per pound to the average Argentine wholesale price. Wholesale prices in the United States average 38 cents per pound, or about 20 cents per pound more than the average Argentine wholesale price. However, by the time the fresh citrus from Argentina would arrive at U.S. ports, with the additional costs, the gap would narrow. Current wholesale market prices in the Montreal terminal markets indicate that the Argentine fresh citrus fruit sells for about the same price or for slightly more than the California or Florida varieties. The average (from June through September) California lemon price was 46 cents per pound in Montreal, while the average for the Argentine lemons was 50 cents per pound. Similarly, the average price for California oranges was

40 cents while oranges from Argentina sold for 42 cents per pound.

Impact on Producers and Consumers

Allowing the importation into the United States of citrus from Argentina under the conditions described in this proposed rule could potentially result in losses for citrus producers in the United States, approximately 96 percent of whom, as noted above, are considered to be small entities with less than \$0.5 million annually in sales. However, Argentina exports most of its fresh citrus fruit during the summer months, so citrus from Argentina would not compete with the late fall, winter, and early spring citrus peak production season in the United States, thus limiting the impact on U.S. producers, exporters, and importers of citrus, and on other small entities that depend on citrus fruit sales. Citrus importers in the United States could be expected to benefit from the increased availability of citrus fruit, especially navel oranges, during the time of year when U.S. production is at its lowest; U.S. consumers of fresh citrus fruits, brokerage houses, packers, and truckers could also be expected to benefit.

The potential economic effects of those imports would depend upon the size of the pre-import U.S. supply, pre-import fresh citrus fruit prices, and the elasticities of demand. Overall, the expected impacts would be a slight loss for producers and a slight gain for consumers, due to increased supply and potentially lower prices. The estimated impacts of introducing imported citrus from Argentina into the U.S. market are as shown in Table 1.

TABLE 1.—IMPORTATION OF CITRUS FROM ARGENTINA: POTENTIAL IMPACT ON U.S. CITRUS MARKET (PRICE ELASTICITY OF DEMAND IS -0.233)

	10	20	30	40	50
Imports ¹ (millions of pounds)	10	20	30	40	50
Percent change in price	(0.29)	(0.58)	(0.87)	(1.17)	(1.46)
Percent change in quantity ²	(0.08)	(0.17)	(0.25)	(0.33)	(0.41)
Decrease in producer surplus (millions of dollars)	(7.347)	(14.688)	(22.023)	(29.352)	(36.674)
Increase in consumer surplus (millions of dollars)	7.353	14.710	22.073	29.440	36.813
Total surplus (millions of dollars)	0.006	0.022	0.050	0.088	0.139

¹ The projected import totals of 10, 20, 30, 40, and 50 million pounds are based on a 20, 40, 60, 80, and 100 percent diversion, respectively, to the U.S. market of the total expected increase in Argentine citrus exports to all countries. Between 1985 and 1996, Argentine citrus exports increased by an average of 6.92 percent per year. Using the 1996 export of 717.8 million pound as a baseline number, the expected increase in Argentine citrus exports would be 49.67 (=717.8 x 0.0692) million pounds, which we have rounded to 50 million pounds. We assume a certain proportion of this increase would be directed to the newly accessible U.S. market.

² Decrease in quantity may be due to diversion of fresh citrus fruit to the processing sector as the price of fresh citrus fruit declines.

Table 1 includes the potential percent change in price, the percent change in quantity, the resultant producer losses, consumer benefits, and net benefits. Price decreases as the volume of imported citrus fruits increases. For example, for a price elasticity of

demand -0.233, given an import level of 10 million pounds of Argentine citrus entering the U.S. market, the expected price decrease would be 0.29 percent. (Although there are estimates for oranges and grapefruit, aggregate elasticity estimates for citrus fruit

supply and demand were not readily available. The data used for estimating these elasticities and for assessing the impact were obtained from various sources. Citrus production and export data were obtained from various issues of the FAO "Production and Trade

Yearbook," from the FAS "Annual Citrus Report," and from Argentine Embassy sources. U.S. production and trade data were obtained from various issues of "Fruit and Tree Nuts: Situation and Outlook Yearbook." Consumer price index, U.S. gross domestic product, and producer price index data were obtained from the August 1997 issue of "Survey of Current Business." The elasticity of supply and demand are estimated using a simple log-log model and are 0.284 and -0.233, respectively.)

In the scenario in which 10 million pounds of citrus would be exported from Argentina to the United States, U.S. producers would lose about \$7.347 million while U.S. consumers would gain about \$7.353 million. The net benefit in this scenario would be about \$6,000. At the opposite extreme, an export level of 50 million pounds (i.e., all of the anticipated increase in Argentine citrus exports being sent to the U.S. market rather than to other countries) would result in a price decrease of about 1.46 percent. Producers would lose about \$36.674 million and consumers would gain about \$36.813 million, resulting in net benefit of about \$139,000. Additionally, there would be a direct relationship between producer losses and consumer gains on the one hand and the quantity of imports on the other hand. Therefore, the larger the share of imports from Argentina, relative to U.S. domestic supply, the larger the U.S. producer losses and the larger the U.S. consumer gains. In all cases, consumer gains would slightly outweigh grower losses.

The only significant alternative to this proposed rule would be to make no changes in the regulations, i.e., to continue to prohibit the importation of grapefruit, lemons, and oranges from Argentina. We have rejected that alternative because we believe that Argentina has demonstrated that the citrus-growing areas of the States of Catamarca, Jujuy, Salta, and Tucuman are free from citrus canker and because we believe that the systems approach offered by Argentina to prevent the introduction of other plant pests reduces the risks posed by the importation of grapefruit, lemons, and oranges to a negligible level. Maintaining a prohibition on the importation of grapefruit, lemons, and oranges from the Argentine States of Catamarca, Jujuy, Salta, and Tucuman in light of those State's demonstrated freedom from citrus canker would run counter to the United States' obligations under international trade agreements and would likely be challenged through the World Trade Organization. Conversely, our proposal to declare the

citrus-growing areas of Catamarca, Jujuy, Salta, and Tucuman free from citrus canker and allowing the importation of grapefruit, lemons, and oranges from those States subject to certain conditions would likely have a beneficial effect on international trade in general, and trade between the United States and Argentina in particular, by reaffirming the United States' continuing commitment to using scientifically valid principles as the basis for regulation.

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 12988

This proposed rule would allow the importation of grapefruit, lemons, and oranges from Argentina under certain conditions. If this proposed rule is adopted, State and local laws and regulations regarding grapefruit, lemons, and oranges imported under this rule would be preempted while the rule is in foreign commerce. Grapefruit, lemons, and oranges 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 ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect would be given to this rule, and this rule would not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97-110-1. Please send a copy of your comments to: (1) Docket No. 97-110-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full

effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker and would amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under certain conditions. These proposed changes would provide for the importation into the United States of grapefruit, lemons, and oranges from Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests.

The proposed program for the importation of grapefruit, lemons, and oranges from Argentina would require the use of import permits, phytosanitary certificates, and other information-gathering documents to help ensure that the fruit has been grown and handled in accordance with the conditions set forth in the regulations.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .7009 hours per response.

Respondents: Argentine plant health authorities, growers/exporters of citrus in the citrus canker-free area of Argentina.

Estimated annual number of respondents: 470.

Estimated annual number of responses per respondent: 2.1702.

Estimated annual number of responses: 1,020.

Estimated total annual burden on respondents: 715. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

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, we propose to amend title 7, chapter III, of the Code of Federal Regulations as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162 and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), the introductory text would be revised to read as follows:

§ 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [date], has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue 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 2.22, 2.80, and 371.2(c).

§ 319.28 [Amended]

4. In Subpart—Citrus Fruit, § 319.28 would be amended as follows:

a. In paragraph (a)(1), by adding the words “Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of

citrus canker),” immediately after the word “Seychelles,”.

b. In paragraph (a)(2), by adding the words “(except as provided by § 319.56-2f)” immediately after the word “Argentina”.

c. In paragraph (a)(3), by adding the words “(except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of Cancrosis B)” immediately after the word “Argentina”.

5. In Subpart—Fruits and Vegetables, a new § 319.56-2f would be added to read as follows:

§ 319.56-2f Administrative instructions governing importation of grapefruit, lemons, and oranges from Argentina.

Fresh grapefruit, lemons, and oranges may be imported from Argentina into the United States only under permit and only in accordance with this section and all other applicable requirements of this subpart.

(a) *Origin requirement.* The grapefruit, lemons, or oranges must have been grown in a grove located in a region of Argentina that has been determined to be free from citrus canker. The following regions in Argentina have been determined to be free from citrus canker: The States of Catamarca, Jujuy, Salta, and Tucuman.

(b) *Grove requirements.* The grapefruit, lemons, or oranges must have been grown in a grove that meets the following conditions:

(1) The grove must be registered with the citrus fruit export program of the Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA).

(2) The grove must be surrounded by a 150-meter-wide buffer area. No citrus fruit grown in the buffer area may be offered for importation into the United States.

(3) Any new citrus planting stock used in the grove must meet one of the following requirements:

(i) The citrus planting stock originated from within a State listed in paragraph (a) of this section; or

(ii) The citrus planting stock was obtained from a SENASA-approved citrus stock propagation center.

(4) All fallen fruit, leaves, and branches must be removed from the ground in the grove and the buffer area before the trees in the grove blossom. The grove and buffer area must be inspected by SENASA before blossom to verify that these sanitation measures have been accomplished.

(5) The grove and buffer area must be treated at least twice during the growing season with an oil-copper oxychloride spray. The timing of each treatment shall be determined by SENASA based

on its monitoring of climatic data, fruit susceptibility, and the presence of disease inoculum. The application of treatments shall be monitored by SENASA to verify proper application.

(6) The grove and buffer area must be surveyed by SENASA 20 days before the grapefruit, lemons, or oranges are harvested to verify the grove's freedom from citrus black spot (*Guignardia citricarpa*) and sweet orange scab (*Elsinoe australis*). The grove's freedom from citrus black spot and sweet orange scab shall be verified through:

(i) Visual inspection of the grove and buffer area; and

(ii) Laboratory examination of 320 fruits taken from each 200 hectares according to SENASA's randomized sampling protocol.

(c) *After harvest.* After harvest, the grapefruit, oranges, or lemons must be handled in accordance with the following conditions:

(1) The fruit must be moved from the grove to the packinghouse in field boxes or containers of field boxes that are marked to show the SENASA registration number of the grove in which they were grown. The identity of the origin of the fruit must be maintained.

(2) During the time that a packinghouse is used to prepare grapefruit, lemons, or oranges for export to the United States, the packinghouse may accept fruit only from groves that meet the requirements of paragraph (b) of this section.

(3) After arriving at the packinghouse, the fruit must be held at room temperature for 4 days to allow for symptom expression of citrus black spot in the event that latent infection exists in the fruit.

(4) After the 4-day holding period, the fruit must be inspected by SENASA to verify its freedom from citrus black spot and sweet orange scab. The fruit must then be chemically treated as follows:

(i) Immersion in sodium hypochlorite (chlorine) at a concentration of 200 parts per million;

(ii) Immersion in orthophenilphenate of sodium;

(iii) Spraying with imidazole; and

(iv) Application of 2-4 thiazalil benzimidazole and wax.

(5) Before packing, the treated fruit must again be inspected by SENASA to verify its freedom from citrus black spot and sweet orange scab.

(6) The fruit must be packed in clean, new boxes that are marked with the SENASA registration number of the grove in which the fruit was grown.

(d) *Phytosanitary certificate.* Grapefruit, lemons, and oranges offered for entry into the United States from

Argentina must be accompanied by a phytosanitary certificate issued by SENASA that states the grapefruit, lemons, or oranges were produced and handled in accordance with the requirements of paragraphs (a), (b), and (c) of this section, and that the grapefruit, lemons, or oranges are apparently free from citrus black spot and sweet orange scab.

(e) *Cold treatment.* Due to the presence in Argentina of Mediterranean fruit fly (Medfly) (*Ceratitidis capitata*) and fruit flies of the genus *Anastrepha*, grapefruit, lemons (except smooth-skinned lemons), and oranges offered for entry from Argentina must be treated with an authorized cold treatment listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. The cold treatment must be conducted in accordance with the requirements of § 319.56-2d of this subpart.

(f) *Disease detection.* If, during the course of any inspection or testing required by this section or § 319.56-6 of this subpart, citrus black spot or sweet orange scab is detected on any grapefruit, lemons, or oranges, the grove in which the fruit was grown or is being grown shall be removed from the SENASA citrus export program for the remainder of that year's growing and harvest season, and the fruit harvested from that grove may not be imported into the United States from the time of detection through the remainder of that shipping season.

Done in Washington, DC, this 6th day of August 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-21595 Filed 8-11-98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

[DA-98-08]

Milk in the Southwest Plains Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend a portion of the supply plant shipping standard and the touch-base requirement of the Southwest Plains

Federal milk marketing order (Order 106) for the period of September 1998 through August 1999. The action was requested by Kraft Foods, Inc. (Kraft), which contends the suspension is necessary to prevent the uneconomical and inefficient movement of milk and to ensure that producers historically associated with the market will continue to have their milk pooled under Order 106.

DATES: Comments must be submitted on or before August 19, 1998.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments may be faxed to (202) 690-0552 or e-mailed to OFB_FMMO_Comments@usda.gov. Reference should be given to the title of action and docket number.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932, e-mail address Nicholas_Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of June 1998, 2,187 dairy farmers were producers under Order 106. Of these producers, 2,138 producers (*i.e.*, 98%) were considered small businesses. For the same month, 16 handlers were pooled under Order 106, of which, two were considered small businesses.

The supply plant shipping standard and the touch-base requirement are designed to attract an adequate supply of milk to the market to meet fluid needs. Kraft, the proponent of this proposal, anticipates that there will be an adequate supply of milk available within the general area to meet the needs to the Order 106 market and states supplemental milk supplies will not be needed.

The proposal would allow a supply plant that has been associated with the Southwest Plains market during the months of September 1997 through January 1998 to qualify as a pool plant without shipping any milk to a pool distributing plant during the following months of September 1998 through August 1999. The proposed action would also suspend the requirement that producers touch-base at a pool distributing plant with at least one day of production during the month before their milk is eligible to be diverted to nonpool plants. Thus, this rule would lessen the regulatory impact of the order on certain milk handlers and would