Federal Register
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Tuesday, July 27, 1993

Presidential Documents

Title 3—

The President

Proclamation 6581 of July 22, 1993

National Veterans Golden Age Games Week, 1993

By the President of the United States of America

A Proclamation

Today, as many veterans reach their senior years, they are discovering the benefits of physical fitness and recreational activity. In Department of Veterans Affairs (VA) medical facilities, recreation has become an established part of the rehabilitation process. VA experience and research show that sports and competitive involvement can be enriching because of their physical benefits and because of their role in enhancing social, emotional, and psychological well-being.

Recognizing the need to establish meaningful activities for a rapidly growing number of aging veterans, the VA established the National Veterans Golden Age Games in 1983. Since then, numerous veterans have boosted their health and aided their rehabilitation through participation in this showcase program. These competitors remind us of the value of continued physical activity throughout a person's life and the physical goals and fulfillment we can achieve, regardless of age. These games demonstrate that age is no barrier to living life to its fullest.

The 7th National Veterans Golden Age Games, being held at Mountain Home VA Medical Center in Johnson City, Tennessee, offers a multi-event program of recreational competition for veterans, aged 55 and over, who are currently receiving VA medical care. Veterans whose military service covers the span of American history from World War I to Vietnam will participate.

The Congress, by House Joint Resolution 190, has designated July 17, 1993, through July 23, 1993, as "National Veterans Golden Age Games Week" and has authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim July 17 through July 23, 1993, as National Veterans Golden Age Games Week. I urge all Americans to observe the week by remembering our hospitalized older veterans as they struggle to overcome infirmity and disability and to renew their own commitment to personal well-being through healthy recreational activity.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of July, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-18030
Filed 7-23-93; 2:27 pm]
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Rules and Regulations

Federal Register
Vol. 58, No. 142
Tuesday, July 27, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 92–111–3]

Hass Avocados From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of fruits and vegetables to allow Hass avocados from Mexico to be imported into the State of Alaska, subject to certain conditions. This action is warranted because the climatic conditions in Alaska ensure that pests of avocados do not present a threat to agriculture in that State. This action relieves some restrictions on the importation into the United States of avocados from Mexico without presenting a significant risk of introducing injurious insects into the United States.

EFFECTIVE DATE: July 27, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Harabin, Head, Permit Unit, Port Operations, PPQ, APHIS, USDA, room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645.

SUPPLEMENTARY INFORMATION:

Background

The Fruits and Vegetables regulations, contained in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations), prohibit or restrict the importation of fruits and vegetables into the United States to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

Prior to the effective date of this final rule, the regulations in § 319.56 did not provide for the importation of avocados from Mexico. Certain species of fruit flies (*Anastrepha ludens, A. serpentina,* and *A. striata*) and certain species of seed weevils are known to attack avocados in Mexico. These pests would present a significant pest risk to many U.S. crops, particularly in the southeastern and western United States.

Sanidad Vegetal, the plant protection branch of the Mexican Ministry of Agriculture and Water Resources, requested that we consider allowing the importation of Hass avocados from Mexico into any destination in the United States. In a document published in the **Federal Register** on October 19, 1992 (57 FR 47573–47576, Docket No. 92–111–1), we proposed to amend the regulations to allow Hass avocados from Mexico to be imported into the State of Alaska only, subject to certain conditions. We proposed that the avocados be allowed only into Alaska because, as stated above, pests that attack avocados in Mexico could threaten crops in the southeastern and western United States. However, none of the pests that attack avocados in Mexico could become established in Alaska because the pests could not survive that State's cold winters. We added further conditions to the proposal to address the slight risk that some Mexican Hass avocados might eventually move from Alaska to other States.

We solicited comments on the proposed rule for a 30-day period ending on November 18, 1992. In a document published in the **Federal Register** on November 25, 1992 (57 FR 55473, Docket No. 92–111–2), in response to a request, we reopened and extended the comment period for an additional 30 days, ending the comment period on December 18, 1992. We received 312 comments by the closing date. The commenters included State departments of agriculture, fruit growers associations, agricultural marketing and trade associations, a university professor of botany, fruit growers and shippers, and several congresspersons. A small number of commenters expressed support for the proposed rule. The remaining commenters either opposed the proposed rule or had specific concerns regarding the provisions of the proposal. Most of the commenters shared the same or similar concerns, and we address them below.

Discussion of Comments

Comment: Even though this proposal allows avocados from Mexico into Alaska only, some of the avocados will eventually end up in the lower 48 States—either by being rerouted en route to Alaska or by being brought from Alaska to the lower 48 States.

Response: This was the greatest concern commenters had regarding the proposed rule. They seemed to feel the proposed rule is basically sound, but that in practice, some shippers will not comply with all the rule's provisions. Almost all the commenters cited as their primary example an interim rule concerning Unshu oranges from Japan, which we published in the **Federal Register** on September 3, 1985 (50 FR 35533, Docket No. 85–354). Unshu oranges from Japan may carry citrus canker. Prior to this interim rule, Unshu oranges were allowed to be imported without further restriction into the State of Alaska. The interim rule added restrictions because inspection found that Unshu oranges were being moved from Alaska to other places in the United States.

While it is certainly true that the illegal movement did occur, it should be explained that there were factors connected with the importation of Unshu oranges that gave shippers great incentive to violate the regulations by shipping their fruit to the lower 48 States. These incentives would not be applicable to the importation of Hass avocados from Mexico. Specifically:

(1) Unshu oranges are not grown in the United States. Fresh Unshu oranges are imported for sale in the United States exclusively from Japan, and are not readily available in all markets because of strict restrictions on their importation. Unshu oranges are an expensive specialty fruit, often given as a gift during winter holidays. The demand for these oranges may not have been met by the heavily restricted (and therefore, expensive) imports into the lower 48 States. For these reasons, there was a definite market for Unshu oranges transshipped illegally from Alaska to other parts of the United States.

In contrast, avocados grown in the United States are readily available in U.S. markets and are relatively inexpensive, especially in the western and southeastern States where they are grown. Furthermore, the particular variety in question, the Hass avocado, is the same variety grown in almost all California avocado orchards (approximately 86 percent of U.S. avocados are grown in California).

(2) According to the regulations in 7 CFR 319.28, "Subpart—Citrus Fruit," Unshu oranges are permitted to enter only certain States, and only if they pass strict preclearance inspections in Japan. To be precleared, the oranges, among other things, must be given a USDA-prescribed surface sterilization, and must be wrapped in specially stamped tissue paper and specially stamped boxes, both of which specify the States into which the Unshu oranges may be imported and from which they are prohibited removal under a Federal plant quarantine. The oranges must also be accompanied by a certificate from the Japanese Plant Protection Service certifying that the fruit is apparently free of citrus canker. Previously, Unshu oranges imported into Alaska were permitted to enter Alaska without meeting any of the preclearance requirements. There is extra cost and effort involved in preparing the oranges to meet the preclearance requirements. Therefore, it benefitted shippers economically to import the Unshu oranges into Alaska, bypassing the preclearance, and then ship them illegally to the lower 48 States.

This would not be the case with Hass avocados from Mexico. Moving the avocados from Alaska to the lower 48 States would not benefit shippers economically, as that practice did for shippers of Unshu oranges. One commenter stated that, after being shipped to Alaska, "(the avocados) could possibly be repackaged or relabeled and shipped into any other State including California or possibly Florida." The likelihood of this happening is minimal because such relabeling and reshipping would significantly increase the shippers' packaging and shipping costs, offsetting any price advantage over California growers; and, since the U.S. demand for Hass avocados is already being met by California and Florida growers, there is no real incentive for shippers to violate the regulations in this way.

For these reasons, we do not believe that our experience with the Unshu orange regulations supports the commenters' argument that Mexican Hass avocados will be moved from Alaska into the lower 48 States.

There are other reasons, as well, why we believe that shippers will not divert the avocados from their destination of Alaska. The regulations require that the avocados be moved through the United States under Customs bond. The value of the bond is normally equal to the value of the shipment. According to current procedure, if a shipper is found in violation of the regulations, the entire bond must be forfeited. In addition, the shipper may be subject to civil penalties, which could involve considerable fines. Finally, under the regulations in § 319.56–5(b), an import permit may be revoked and future permits may be denied if the quarantine is violated. These provisions provide further incentive for compliance with the regulations.

In regard to comments that Mexican avocados will be diverted en route to Alaska, these same avocados have been moving through the United States to Canada for the past 30 years without incident. This is the best assurance the Animal and Plant Health Inspection Service (APHIS) has that Hass avocados from Mexico will not end up in the lower 48 States. As stated in the proposed rule, the regulations in 7 CFR 352.29 allow avocados from Mexico to be moved through the United States to destinations outside the United States. The regulations in 7 CFR 352.29 require that the avocados be moved: (1) Only through certain ports in the United States, which are staffed by APHIS inspectors; (2) only through that corridor of the United States specified in the regulations, which does not include the western and southeastern regions of the United States; and (3) only by air or in a refrigerated truck, refrigerated rail car, or refrigerated containers on a truck or railcar. The containers or the truck or railcar must also be sealed with serially numbered seals by APHIS inspectors at the port of arrival.

We have adopted these provisions for the importation of Hass avocados into Alaska because these provisions have proven to be adequate safeguards in preventing avocados moving from Mexico to Canada from being diverted en route. The inspection staffs at Canadian ports of entry are sometimes small, particularly in more remote areas on the western U.S./Canadian border. However, APHIS has closely monitored these ports over the past 30 years, sometimes conducting unannounced inspections, and has found no violations of the regulations concerning avocados from Mexico.

In addition, it is standard operating procedure for APHIS inspectors at the U.S./Mexican border to notify personnel at the port of arrival on the U.S./Canadian border that a shipment of avocados from Mexico is en route, and of the estimated date of arrival in Canada for the shipment. The same operating procedure will be followed for Hass avocados moving to Alaska, with APHIS staff on the U.S./Mexican border notifying staff at the port of arrival in Alaska of the scheduled arrival in Alaska for each shipment of Hass avocados. Communication between the ports will allow APHIS to know if Mexican avocados are being diverted en route to Alaska, in which case we will consider terminating the program immediately.

APHIS has also considered the suggestion by some commenters that Mexican avocados may be moved inadvertently from Alaska to the lower 48 States by tourists or business travellers who would carry them in their pocket or handbag. It is our belief that this is not likely to occur. Avocados are not generally eaten in travel, like an apple or banana, because they usually require some preparation, such as for use in a salad or dip. Also, avocados are expected to be more expensive in Alaska than in California or other southwestern States, so a business traveller would not likely buy his or her avocados in Alaska if he or she is returning to one of those States.

Comment: Reliance on Sanidad Vegetal's avocado export program inspection is not an adequate precaution against pests being carried by the fruit.

Response: As stated in the proposed rule, we expect that the Sanidad Vegetal program will minimize the risk that Hass avocados infested with seed weevils and other pests would be exported to the United States. The Sanidad Vegetal avocado export program is not intended to be a preclearance program. Its inclusion in the rule is only one of several safeguards in the proposal. The basis for APHIS' assessment that the rule will pose no significant threat to U.S. agriculture is the fact that the fruit is moving only to the State of Alaska and that the pests of concern cannot survive there because of Alaska's climate. The shipping requirements and restrictions have already been discussed. In addition, under this rule, the avocados are subject to APHIS inspection at the U.S./Mexican border, at any stops in the United States en route to Alaska, and at the port of arrival in Alaska. If any pests are found on the fruit during these inspections, entry or further movement of the fruit will be denied. Some commenters expressed concern that APHIS does not have enough inspectors to adequately monitor movement of the avocados from Mexico to Alaska. Especially since this is a new program, we want to assure all concerned that APHIS will give priority to strict monitoring of avocado shipments to ensure that shippers of these avocados do not violate the conditions of the regulations.

Comment: Sharwil avocados from Hawaii were found to be infested with Trifly larvae, even after being inspected and approved for shipment to the mainland by APHIS inspectors. If a USDA program regulating interstate movement of avocados between our own States did not work, how can we expect this program to be successful?

Response: Although not considered to be the preferred host of Trifly (three species of fruit flies in Hawaii that attack fruit, and that are collectively referred to as Trifly), Sharwil avocados are known to become infested with Trifly. Trifly is not present in the continental United States, and could seriously threaten U.S. agriculture. Originally, the Sharwil avocado program (7 CFR 318.13) only allowed the movement of untreated Sharwil avocados from Hawaii to the State of Alaska. As with this rule, shipment into the State of Alaska was considered to carry no significant risk because the pests of concern could not survive that State's cold winters. The program proved successful, in that the importation of avocados into Alaska did not result in Trifly occurring anywhere in the United States.

In a document published in the **Federal Register** on September 4, 1990 (55 FR 38975–38980, Docket No. 89–121), the regulations in § 318.13 were amended to allow the movement of untreated Sharwil avocados from Hawaii to any destination in the United States. Research performed by the Agricultural Research Service (ARS) from 1985–1987 indicated that unblemished avocados on the tree are not subject to infestation by fruit flies. Repeated inspection of avocados moving from Hawaii to Alaska supported ARS' conclusions, as the Sharwil avocados shipped to Alaska were not infested with Trifly. Therefore, it was thought that shipping the avocados to other States would not pose any significant risk of spreading Trifly to the mainland.

However, on February 25, 1992, fruit fly larvae were discovered in an unblemished Sharwil avocado picked by an APHIS inspector from a tree in an orchard that shipped Sharwil avocados to the mainland United States. Soon after, a significant fruit fly infestation was discovered in the Kona area of Hawaii. This infestation affected some Sharwil avocados that could have been shipped to the mainland. For these reasons, the program to allow untreated Sharwil avocados from Hawaii into the United States was suspended by APHIS on February 26, 1992, and was removed completely in an interim rule published in the **Federal Register** on July 15, 1992 (57 FR 31306–31307, Docket No. 92–081–1).

The situation presented risk to U.S. agriculture only because, at the time the infestation was discovered, APHIS was allowing Sharwil avocados to move untreated to the mainland. It would not have presented any significant risk had the fruit been moving only to the State of Alaska, as was previously the case, and as will be the case with Hass avocados from Mexico. During the time that Sharwil avocados were moved only to the State of Alaska, we had no evidence of any infestations of Trifly. However, even if an infestation had been present in Hawaii, Trifly would not have become established in Alaska because of Alaska's freezing winters. Again, the basis for our proposal to allow Hass avocados into Alaska is that climatic conditions in Alaska would not allow for the establishment of pests of avocado in the United States. Because Hass avocados will not be imported into the lower 48 States and will not move through the southeastern and western States, our experience with the Sharwil avocado does not affect our decision to allow Hass avocados from Mexico into Alaska.

Comment: Since Alaska does not experience freezing temperatures all the time, pests of avocado could survive there during certain months of the year.

Response: A few commenters were concerned that any pests which may be carried by the avocados could become established during Alaska's warmer summer months. Our experience with fruit fly infestations as far south as the Rio Grande valley of Texas show that, at the first sign of frost, the infestation is completely eliminated. Alaska has a subarctic climate, with freezing temperatures throughout most of the year. Since fruit flies can take up to a year to establish themselves, even in more conducive climates, the short summer in Alaska is not enough time to allow an infestation to develop.

For example, for over 30 years APHIS has allowed large quantities of mangoes from Mexico, which are prohibited entry into the United States, to be transhipped through the United States to Canada. Unlike avocados, mangoes are a preferred host of the Mexican fruit fly, and it is certain that Mexican mangoes imported into Canada carry these flies. Canada, however, has never reported an infestation of fruit flies. Further, Canada produces apples and pears that are permitted unrestricted entry into the United States; but APHIS has never found fruit flies on any Canadian produce shipped to the United States. This indicates to us that the climate in Canada, similar to that in Alaska, does not allow fruit flies to become established.

In addition to fruit flies, avocados car also be infested with seed weevils. However, like the fruit flies that attack avocados, seed weevils exist only in tropical or subtropical climates, and would not survive in colder temperatures. Additionally, seed weevils attack only avocados, and since no avocados are grown in Alaska, the pests would have no hosts there.

Comment: The packing requirements are not adequate.

Response: One commenter specifically was concerned about the sealed containers, saying that the seals could rupture or be broken. However, APHIS inspectors will be looking to see if any ruptures or breaks are present and will reject any container that is not properly sealed.

Another commenter felt that our allowance that the fruit may be covered with a tarpaulin, as opposed to moving in an enclosed vehicle, while in transit through Mexico is not an adequate precaution against fruit flies. As a result of discussions with representatives of the Mexican government and experience with other Mexican commodities, it is our understanding that nearly all the avocados would be moving through Mexico in enclosed refrigerated trucks, in order to keep the fruit fresh during transit. However, if some of the fruit does move in an open vehicle under tarpaulin cover, our experience indicates that it would still be adequately protected from fruit flies.

Comment: There is no sense in risking infestation of U.S. fruit industries for the token benefit to Mexico's avocado industry in light of the relatively small amount of avocados that they will be shipping to Alaska.

Response: As discussed, we do not believe that allowing Mexico to import Hass avocados into Alaska presents a significant risk of infesting U.S. fruit.

Comment: APHIS should require the establishment of pest-free zones in Mexico and the development of more extensive preclearance programs in Mexico before going ahead with this rule.

Response: Decisions to establish pest-free zones and preclearance programs are decisions that must be made by the government of Mexico. If the Mexican government should decide to establish pest-free zones, APHIS will give as much assistance as possible. If the Mexican government should decide to establish preclearance programs, APHIS would work with the Mexican government to implement those programs. However, without these programs in Mexico, it is still the agency's belief that the importation of Hass avocados into the State of Alaska under the stated conditions will not present a significant threat to agriculture in the United States.

Miscellaneous

We have made a minor editorial change. The section designation of this provision has been changed from the proposed "§ 319.56–2x" to "§ 319.56–2bb" because of final rules on fruits and vegetables for which treatment is required (§ 319.56–2x), cantaloupe from Ecuador (§ 319.56–2y), cherimoyas from Chile (§ 319.56–2z), and honeydew melons from Brazil (§ 319.56–2aa) that were published in the interim.

Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions, and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of APHIS has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 601 *et seq.*, we have prepared a Final Regulatory Flexibility Analysis, as follows, for this final rule.

Mexico is the largest producer of avocados in the world, accounting for about 45 percent of worldwide avocado production. Approximately 77 percent of Mexican avocados are produced in the State of Michoacan, with the Hass variety accounting for 95 percent of Michoacan's avocado production. Because of large domestic demand, exports of Mexican avocados remain small, accounting for only about 3 percent of production.

In the United States, over 99 percent of avocados come from California and Florida, with California accounting for approximately 86 percent of production. In recent years, Hawaii has produced a small amount, as well. In Florida and Hawaii, varieties of avocado other than Hass are predominant, while in California the Hass variety accounts for approximately 85 percent of the total production.

This rule allows the importation into the United States of Hass avocados from Mexico, subject to certain conditions. This rule will mainly affect avocado growers in California, who supply almost all of Alaska's current domestic purchases of Hass avocados. According to the most current information available to us, there were 7,300 avocado growers in California in 1990. Of these, approximately 6,730 are considered to be small entities. We do not have information on whether any small entities growing avocados in California depend extensively or primarily on sales to Alaska for their income. In the proposed rule, we invited comments on this subject, and received no comments. In 1990, California produced approximately 125,000 tons of avocados. The total annual demand for avocados in Alaska is approximately 375 tons; thus, total sales in Alaska consume less than one-half of one percent of California's total available avocado supply.

This rule change will benefit small United States specialized transport companies and brokerage houses, since the current Interstate Commerce Commission regulations forbid Mexican carriers from hauling this product beyond the U.S./Mexico border. At present, the cost of transporting a truck load (40,000 lb) of avocados from Michoacan to the U.S. border at El Paso is $1,200. This includes the margin for truckers and brokerage houses. The total revenue will depend upon the volume of export from Michoacan to Alaska.

We considered alternatives to this rule, such as requiring the avocados to be treated before they may enter the United States, in order to minimize the impact on small entities. We rejected requiring treatment, as there is currently no approved treatment for seed weevils that can be used on avocados. We also considered taking no action and continuing the prohibition on the importation of avocados from Mexico We rejected this alternative because it would retain an unnecessary restriction, as it appears that this rule will allow the importation of Hass avocados from Mexico while preventing the introduction of injurious insects into the United States.

This rule change will encourage transactions between Mexico and the United States, without increasing the risk of disease to U.S. agriculture. Economic theory indicates that the potential increase in transactions will likely stabilize prices and stimulate economic growth in both countries. Facilitating export opportunities for the Mexican avocado industry may provide incentives for Mexico's continued efforts to eradicate seed weevils and other related plant pests and diseases in Mexico. Consumers in Alaska will be affected in a positive manner by the increased competition and expanded choice that will be induced by this rule. For the United States, employment and investment could be affected in a positive manner by this rule.

Executive Order 12778

This rule has been reviewed pursuant to Executive Order 12778, Civil Justice Reform. This rule allows Hass avocados to be imported into the United States from the Mexican State of Michoacan. State and local laws and regulations regarding Hass avocados imported under this rule will be preempted while the fruit is in foreign commerce. Fresh avocados are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court to challenge the provisions of the rule or to challenge the application of these provisions.

Paperwork Reduction Act

This document contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c), unless otherwise noted.

2. In Subpart—Fruits and Vegetables, a new § 319.56–2bb is added to read as follows:

§ 319.56–2bb Administrative instructions governing movement of Hass avocados from Mexico to Alaska.

Hass avocados may be imported from Mexico into the United States for distribution in Alaska only under a permit issued in accordance with § 319.56–4, and only under the following conditions:

(a) *Commercial shipments.* The avocados may be imported in commercial shipments only.

(b) *Safeguards in Mexico.* The avocados must have been grown in the Mexican State of Michoacan by a participant in the avocado export program administered by Sanidad Vegetal. Upon request, Sanidad Vegetal will provide APHIS with a list of all participants. Under the supervision of Sanidad Vegetal personnel:

(1) The avocados must have been inspected during growing, harvesting, and packing and must have been found free from seed weevils and other pests;

(2) The avocados must have been sealed in boxes after inspection at the packing house with a seal that will be broken when the box is opened; and

(3) The avocados must be packed in an enclosed container or vehicle or under a tarpaulin cover while in transit through Mexico to prevent exposure of the fruit to fruit flies.

(c) *Certification.* All shipments of avocados must be accompanied by a document issued by Sanidad Vegetal certifying that the conditions specified in paragraph (b) of this section have been met.

(d) *Marking requirements.* The boxes of avocados must be clearly marked with the statement "Distribution limited to the State of Alaska."

(e) *Ports.* The avocados may enter the United States only at the following ports: Galveston or Houston, Texas; the border ports at Nogales, Arizona; Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, Texas; any port in Alaska; or other ports within that area of the United States specified in paragraph (f) of this section.

(f) *Shipping areas.* Except as explained below for avocados that enter the United States at Nogales, Arizona, avocados moved by truck or rail car may transit only that area of the United States bounded on the west and south by a line extending from El Paso, Texas, to Salt Lake City, Utah, to Portland, Oregon, and due west from Portland; and on the east and south by a line extending from Brownsville, Texas, to Galveston, Texas, to Kinder, Louisiana, to Memphis, Tennessee, to Louisville, Kentucky, and due east from Louisville. All cities on these boundary lines are included in this area. If the avocados are moved by air, the aircraft may not land outside this area. Avocados that enter the United States at Nogales, Arizona, must be moved to El Paso, Texas, by the route specified on the permit, and then must remain within the shipping area described above.

(g) *Shipping requirements.* The avocados must be moved through the United States either by air or in a refrigerated truck or refrigerated rail car or in refrigerated containers on a truck or rail car. If the avocados are moved in refrigerated containers on a truck or rail car, an inspector must seal the containers with a serially numbered seal at the port of first arrival in the United States. If the avocados are moved in a refrigerated truck or a refrigerated rail car, an inspector must seal the truck or rail car with a serially numbered seal at the port of first arrival in the United States. If the avocados are transferred to another vehicle or container in the United States, an inspector must be present to supervise the transfer and must apply a new serially numbered seal. The avocados must be moved through the United States under Customs bond.

(h) *Inspection.* The avocados are subject to inspection by the Animal and Plant Health Inspection Service at the U.S./Mexico border, at any stops in the United States en route to Alaska, and at the port of arrival in Alaska.

Done in Washington, DC, this 21st day of July 1993.

Eugene Branstool,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–17858 Filed 7–26–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 1030

[DA–93–11]

Milk in the Chicago Regional Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions of the Chicago Regional Federal milk marketing order for the months of August 1993 through January 1994. The action suspends the shipping standard that applies to each plant in a unit of pool supply plants. Currently, each plant in a unit of supply plants must ship during certain months at least three percent of its receipts of milk or 47,000 pounds, whichever is less, to plants that distribute fluid milk products. The suspension was requested by Central Milk Producers Cooperative, (CMPC), a federation of cooperatives that represents producers who supply milk for the market. This action is necessary to prevent uneconomical and inefficient movements of milk.

EFFECTIVE DATE: August 1, 1993, through January 31, 1994.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1366.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension: Issued June 4, 1993; published June 10, 1993 (58 FR 32464).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This action has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This action 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) (the "Act"), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. 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.

This order of suspension is issued pursuant to the provisions of the Act and of the order regulating the handling of milk in the Chicago Regional marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on June 10, 1993 (58 FR 32464) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded the opportunity to file written data, views or arguments thereon. No comments opposing this action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the period of August 1, 1993, through January 31, 1994, the following provisions of the order do not tend to effectuate the declared policy of the Act: In § 1030.7, paragraph (b)(6)(v).

Statement of Consideration

This action suspends certain provisions of the order during the months of August 1993 through January 1994. The suspension eliminates the shipping standard that applies to each plant in a unit of pool supply plants during each of these months.

The order defines a unit of supply plants as two or more plants located basically in the marketing area and from which Grade A milk is shipped to qualified plants. The order provides that for pooling purposes, a unit of supply plants must ship a specified percentage of total receipts to other plants and that each plant within a unit must ship in each of five months during the period of August through January at least three percent of the plant's receipts of milk or 47,000 pounds, whichever is less, to plants that distribute fluid milk products. This action suspends the shipping standard for individual plants during the months of August 1993 through January 1994.

The action was requested by Central Milk Producers Cooperative (CMPC), a federation of cooperative associations that represent a substantial number of producers who supply the market. Kerry Ingredients and Farmers Union Milk Marketing Cooperative filed comments supporting the proposed suspension.

In their comments supporting the suspension, Kerry Ingredients requested that the suspension be expanded to include pool plants that are not included in a unit of supply plants. Farmers Union requested that the suspension be extended to decrease the touch base provisions from once a month during the months of August through January to once during this qualifying season. The touch base provisions require that to be eligible for diversion, a dairy farmer's milk must be physically received at a pool plant.

The requests to expand the suspension action go well beyond the intent of the proposed suspension. The pooling standards of the order are intended to reflect the extent to which shipments of milk from supply plants are necessary to furnish sufficient supplies of milk to distributing plants. The proposed action would not reduce supply plant shipping standards but would provide flexibility to market suppliers to ship milk from the most advantageously located areas. Removal of the shipping standards to individual plants that are not in a unit would essentially be the same as the removal of shipping standards for supply plants. As a result, plants could continue to be pooled under the order without having any association with the market. Thus, there would be no assurance that sufficient supplies of milk would be made available to distributing plants. Likewise, removal of the touch base provisions for each of the months during the suspension period would reduce the effectiveness of the order to assure that the milk of individual producers would continue to be eligible for use at distributing plants. Both of these requested extensions go beyond the considerations requested in the proposed action and cannot be implemented on the basis of this proceeding.

Current supply and demand projections indicate that there are substantial fluid milk supplies from close-in sources available for the fluid market and it appears that this supply will continue. Based on these projections, it is impractical and unnecessary to require qualifying shipments from distant unit plants, while forcing the milk from nearby unit plants to be moved to other areas for manufacturing merely for pooling purposes. This double hauling of milk will put a financial burden on handlers who operate pool units. Thus, this action is necessary to prevent uneconomical and inefficient movements of milk.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action is necessary to permit the continued pooling of supply plants and the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and,

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning the suspension. Two comments in support of this action were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1030

Milk marketing orders.

Title 7, Part 1030 is amended as follows:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. The authority citation for 7 CFR part 1030 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1030.7 [Temporarily suspended in Part]

2. In § 1030.7 paragraph (b)(6)(v) is hereby suspended for the period of August 1, 1993, through January 31, 1994.

Dated: July 21, 1993.

Eugene Branstool,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–17857 Filed 7–26–93; 8:45 am]

BILLING CODE 3410–02–P

Farmers Home Administration

Rural Development Administration

7 CFR Part 1980

RIN 0575–AB34

Business and Industrial Loan Program

AGENCY: Farmers Home Administration and Rural Development Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) and Rural Development Administration (RDA) are revising the guaranteed Business and Industry (B&I) loan program regulations to change the requirement for the submission of feasibility studies. This action will reduce the burden to some borrowers by making an exception to the requirement of feasibility studies for some borrowers while ensuring that feasibility studies are required when they are needed most. The intended effect is to require feasibility studies for business start-ups and allow exceptions for established businesses with financial history.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Rural Development Administration, USDA, room 6327, 14th & Independence Avenue SW., Washington, DC 20250, Telephone (202) 720–6819.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Review

The program impacted by this action is listed in the Catalog of Federal Domestic Assistance under number 10.422, Business and Industrial Loans, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Background

The current regulation for the FmHA B&I guaranteed loan program requires feasibility studies in connection with applications but includes authority to waive the requirement for loans of $2 million or less. The regulation is being revised to provide authority to make an exception to the requirement for a feasibility study based not on the size of the loan, but rather based on the history of the business. FmHA/RDA may make an exception to the requirement for feasibility studies for existing businesses when the financial history and current condition is sufficient to protect the lender and FmHA. New businesses, even if the loan amount is small, will not be eligible for an exception.

Comments

This action was published in the **Federal Register** as a proposed rule on November 2, 1992, (57 FR 49428) with a 30 day comment period. Four comment letters were received, one from a recent B&I loan recipient, one from the credit and finance manager of an Indian tribe, and two from B&I chiefs of FmHA field offices. Both letters from outside FmHA were highly supportive of the proposal. Both letters from FmHA employees proposed retaining the authority to except feasibility study requirements for start-up businesses applying for loans of $2,000,000 or less. FmHA/RDA believes that when a borrower has no operating history upon which projections may be based, an independent feasibility study is needed to ensure adequate projections and analysis. No substantive change is made from the proposed rule. Minor editorial changes of an administrative nature have been made in the language.

List of Subjects in 7 CFR Part 1980

Loan programs—Business and industry—Rural development assistance, Rural areas.

Accordingly, part 1980 of chapter XVIII, title 7 of the Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart E—Business and Industrial Loan Program

§ 1980.441 [Amended]

2. Section 1980.441 is amended by removing the *Administrative* paragraph.

3. Section 1980.442 is amended by revising the introductory text and adding an *Administrative* paragraph at the end of the section to read as follows:

§ 1980.442 Feasibility studies.

A feasibility study by a recognized independent consultant will be required for all loans, except as provided in this paragraph. The cost of the study will be borne by the borrower and may be paid from funds included in the loan. The loan approval official may make an exception to the requirement of a feasibility study for loans to existing businesses when the financial history of the business, the current financial condition of the business, and guarantees or other collateral offered for the loan are sufficient to protect the interest of the lenders and FmHA. FmHA will thoroughly document the justification for the exception to the feasibility study for such businesses. An acceptable feasibility study should include but not be limited to:

* * * * *

Administrative

FmHA loan approval officials will be selective in approving borrowers for new business ventures involved in unproven products, services, or markets. Should such businesses be considered, additional equity will usually be required.

Dated: June 24, 1993.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93–17790 Filed 7–26–93; 8:45 am]

BILLING CODE 3410–07–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701 and 722

Definitions; Organization and Operation of Federal Credit Unions; and Appraisals

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Amendments.

SUMMARY: The NCUA Board is issuing final amendments to reduce regulatory burden. The amendments: (1) Extend the maturity date of certain investments not considered risk assets from 3 to 5 years; (2) increase the dollar value from $25,000 to $50,000 for determining when loans are subject to the business loan regulation; (3) make the recordkeeping requirements for business loans consistent with the definition of member business loans; and (4) raise the de minimus amount for an appraisal performed by a state-certified or -licensed appraiser from $50,000 to $100,000. NCUA believes these changes will decrease paperwork requirements and regulatory burden without any effect on safety and soundness.

EFFECTIVE DATE: July 27, 1993.

ADDRESSES: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance, at the above address or telephone: (202) 682–9640, or Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION:

A. Background

NCUA continually reviews its regulations to improve efficiency and reduce burdens on credit unions. NCUA's goal is to strike a proper balance between safety and soundness concerns and credit unions' need to compete in the marketplace. On April 19, 1993, the NCUA Board issued proposed amendments (*see* 58 F.R. 21953, 4/26/93) to Sections 700.1(i), 701.21(h) and 722.3 of NCUA's Regulations to reduce regulatory burden. The amendments: (1) Extend the maturity date of certain investments not considered risk assets from 3 to 5 years; (2) increase the dollar value from $25,000 to $50,000 for determining when loans are subject to the business loan regulation; (3) make the recordkeeping requirements for business loans consistent with the definition of member business loans; and (4) raise the de minimus amount for an appraisal performed by a state-certified or -licensed appraiser from $50,000 to $100,000.

B. Comments

One hundred and twenty-nine comment letters were received. Seventy-seven comments were received from federal credit unions, forty-one from state-chartered credit unions, five from state credit union leagues, three from national trade associations, two from state agencies, and one from a federal agency. The commenters expressed overwhelming approval of the proposed amendments. Eighty commenters support the proposed amendments in their entirety. Most of these commenters believe the amendments will not have an effect on safety and soundness and will greatly reduce paperwork requirements. Furthermore, many commenters believe these changes will allow credit unions to meet member needs and stay competitive in the marketplace. Eight commenters believe these changes will increase lending by credit unions. Four commenters completely disapprove of the proposed amendments.

Section 700.1(i)—Risk Assets

Section 116(a) of the Federal Credit Union Act (12 U.S.C. 1762(a) (the "Act") requires that federal credit unions set aside a certain percentage of gross income at the end of each accounting period as a Regular Reserve. Pursuant to section 116(a) of the Act, the amount of reserve transfer is determined by the size and age of the credit union and the credit union's ratio of reserves to risk assets. Section 700.1(i) of NCUA's Regulations (definition of risk assets) lists which assets are exempt from the reserve requirements. Section 741.9 of NCUA's Regulations states that federally insured state-chartered credit unions must comply with the statutory reserve requirements.

Currently, NCUA's Regulations require that certain assets with maturities in excess of 3 years be treated as risk assets for reserving purposes. The proposed amendment would extend the 3 year maturity requirement to 5 years. One hundred and seven commenters approve of this amendment. Most of these commenters believe there is no significant difference in interest rate risk between assets with maturities of three years and assets with maturities of five years. One commenter states the amendment makes sense, particularly now with rates depressed, credit union share deposits on the rise, and depositors maintaining balances for longer periods of time in the credit union. Another commenter states that the removal of 3 to 5 year investments from the risk asset category will allow credit unions to take advantage of the sharp yield curve.

One commenter requests NCUA consider further modifications to the risk assets definition as it applies to investments. He believes that the definition should apply to effective maturity. The Board Recognizes that with regard to many investments, "maturity" is dynamic, a function of prepayment activity, i.e., for some investment instruments, if underlying mortgages prepay faster or slower than originally anticipated, maturity shortens or lengthens as compared to initial expectations. It is the Board's intent that "maturity" be defined as that which is consistent with generally accepted accounting principles and investment industry practice as regards a specific investment given the particular circumstances at the date of required reserve transfer. Another commenter suggests that assets with more than 5 years remaining to maturity be considered as risk assets based on a percentage of the credit union's book value. NCUA does not believe that this approach is a practical or sound basis for reserving against risk associated with long-term assets.

Four commenters oppose this amendment. One commenter believes this change will add significant risk to the insurance fund. Two commenters state that long-term assets contain greater interest rate risk, and thus the amendment could generate losses and impact the safety and soundness of the insurance fund in an increasing interest rate environment. Although NCUA recognizes that there is a slight increase in interest rate risk between assets with maturities of 3 years versus those of 5 years, NCUA does not believe this difference is of such magnitude that it will pose an undue risk of loss to the NCUSIF. Furthermore, the additional risk is acceptable given the strong capital positions of credit unions and thus should not affect the safety and soundness of the NCUSIF. One commenter believes NCUA should move toward full implementation of a risk-based capital requirement as currently required by corporate credit unions as well as banks and thrifts In the near