

# Proposed Rules

Federal Register

Vol. 65, No. 81

Wednesday, April 26, 2000

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 Part 319

[Docket No. 97-065-1]

RIN 0579-AA93

#### Importation of Fuji Variety Apples From the Republic of Korea

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations governing the importation of fruits and vegetables to allow Fuji variety apples grown in certified orchards within approved production areas in the Republic of Korea to be imported into the United States, without treatment, under conditions designed to prevent the introduction into the United States of the peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*). The conditions to which the proposed importation of Fuji variety apples would be subject, including pest risk-reducing cultural practices, packinghouse procedures, and inspection and shipping procedures, would reduce the risk of pest introduction to an insignificant level.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by June 26, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 97-065-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 97-065-1.

You may read any comments that we receive on this docket in our reading

room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dennis J. Hannapel, Co-director of Asia and Pacific, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-4308.

#### 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 from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Currently, § 319.56-2cc of the regulations specifies that Fuji variety apples may be imported into the United States from the Republic of Korea or Japan if the apples have been cold treated and then fumigated for the peach fruit moth (*Carposina niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*).

The regulations have allowed the importation of Fuji variety apples from the Republic of Korea, if they have been treated, since August 1994. However, the Republic of Korea has only shipped Fuji variety apples to Saipan and the U.S. territory of Guam.

The National Plant Quarantine Service (NPQS) of the Ministry of Agriculture of the Republic of Korea has requested that the Animal and Plant Health Inspection Service (APHIS) consider allowing Fuji variety apples grown in certified orchards within approved production areas in the

Republic of Korea to be imported into the United States without cold treatment and fumigation. In support of its request, the Government of the Republic of Korea submitted the results of scientific studies and surveys that were conducted over a 3-year period in Fuji variety apple producing areas of the Republic of Korea and that reveal data on pest population and pest management. A work plan that accompanied the request contained specific phytosanitary guidelines for mitigating the risk of plant pest introduction associated with the importation of Fuji variety apples from the Republic of Korea into the United States.

The insect pests of concern for Fuji variety apples from the Republic of Korea are the peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*), which can infest Fuji variety apples and other fruits and vegetables.

APHIS has reviewed the documentation submitted by the Government of the Republic of Korea in support of its request and conducted several visits to Fuji variety apple producing areas in the Republic of Korea. We also reviewed the pest risk assessment we prepared prior to allowing the importation of Fuji variety apples with treatment and determined that the pest complex identified is still accurate. Based on our review of the documentation provided by the Republic of Korea, our pest risk assessment, and the data gathered during the site visits, we believe that the Government of the Republic of Korea has demonstrated that the Fuji variety apple producing areas of the Republic of Korea can produce Fuji variety apples that could be imported into the United States without presenting a significant risk of plant pest introduction.

We are proposing to amend § 319.56-2cc of the regulations to allow the importation of Fuji variety apples from the Republic of Korea under certain conditions. These conditions constitute a systems approach to mitigating pest risk and are discussed in detail below.

#### Systems Approaches

Using systems approaches to phytosanitary security, APHIS establishes growing, packing, shipping,

and other conditions whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests. APHIS has used systems approaches to establish conditions for the importation of several commodities, including Unshu oranges from Japan (7 CFR 319.28); tomatoes from Spain, France, Morocco, and Western Sahara (7 CFR 319.56–2dd); peppers from Israel (7 CFR 319.56–2u); Ya variety pears from China (7 CFR 319.56–2ee); and Hass avocados from Mexico (7 CFR 319.56–2ff). Each of these programs has performed successfully.

For the Ya variety pears mentioned above, APHIS used a systems approach to establish growing, treatment, packing, and inspection requirements designed to prevent the introduction of plant pests, including *Bactrocera dorsalis*, which exist in China and can infest Ya pears. The rule requires Chinese growers and agricultural agencies to follow phytosanitary measures, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for insect pests to attack the fruit during the growing season. The rule also requires measures to preclude comminglement with other fruit at the packinghouse and specifies other shipment, treatment, and inspection requirements. The systems approach for Ya variety pears is most like the systems approach that we are proposing for Fuji variety apples from the Republic of Korea.

The systems approach we are proposing for Fuji variety apples from the Republic of Korea combines a series of complementary phytosanitary measures, including pest risk-reducing cultural practices, packinghouse procedures, and inspection and shipping procedures, all intended to prevent the introduction of *Carposina sasakii*, *C. niponensis*, *Conogethes punctiferalis*, *Tetranychus viennensis*, and *T. kanzawai*. Some of the proposed requirements were originally suggested in the mitigation plan that accompanied the request submitted by the Government of the Republic of Korea. The proposed conditions for importation, which would be set out in § 319.56–2cc, are explained below.

#### Permit Requirement

Section 319.56–3 of the regulations requires 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 would be applicable to the importation of Fuji variety apples under the

provisions of this proposed rule. Section 319.56–4 states that, upon receipt of an application and approval by an inspector, a permit will be issued that specifies the conditions of entry and the port of entry. Therefore, our proposed regulations would require that the Fuji variety apples be imported under a permit issued in accordance with § 319.56–4.

#### Registered Growers, Certified Orchards, and Export Production Areas

First, we would require that the Fuji variety apples be grown in a certified orchard in an APHIS-approved export production area by growers registered with the Korean Ministry of Agriculture. An export production area may encompass several orchards. Orchard certification and export production area approval would be granted initially when the grower registers and agrees to comply with the requirements in our regulations and after inspection by APHIS. If any of the listed pests, or any other pests of quarantine significance, are found during the inspections, the orchard would not be certified and, therefore, would not be included in the export program. As part of the ongoing certification and approval, APHIS and the Korean Ministry of Agriculture would inspect the orchards and the export production areas to ensure that the Fuji variety apples were grown in accordance with our regulations.

The export production area would have to be surrounded by a 200-meter-wide buffer area. The buffer area would have to receive the same treatments as would be required in the export production area (see “Pest Risk-Reducing Cultural Practices,” below). This buffer area, in which only trees of the of the genera *malus* (apple or crabapple) could be grown and from which no fruit could be offered for importation into the United States, would separate the export production area from surrounding agricultural and nonagricultural areas. No trees of the *Prunus* species (peach, plum, apricot, cherry, *Prunus tomentosa*, etc.) could be grown in the export production area or buffer zone because these trees are known hosts of *Tetranychus viennensis*. Because those areas lying outside the buffer area would not be subject to the same measures as would be applied in the export production area and buffer area, there is the possibility that *Carposina sasakii*, *C. niponensis*, *Conogethes punctiferalis*, *Tetranychus viennensis*, or *T. kanzawai* may be present in those areas. Thus, by providing for the suppression of plant pests over a wide area, the buffer area would offer the export production area

an additional measure of protection. The buffer area would be inspected by APHIS. If any of the listed pests, or any other pests of quarantine significance, were found in the buffer area, all orchards within 200 meters of the detection site would be removed from the export program until the source of the pest infestation is identified and removed. Then, the buffer area and the removed orchards could be reinspected for recertification.

#### Pest Risk-Reducing Cultural Practices

Under the systems approach, the Fuji variety apples must originate from certified orchards within export production areas where chemical controls and cultural practices ensure that the apples are not infested with the pests previously listed. The Korean Ministry of Agriculture and APHIS would be responsible for conducting field inspections for signs of pest infestations during the growing season. If pests are found during the inspections, the orchard would not be certified and, therefore, would not be included in the export program. The registered growers would be responsible for following phytosanitary measures agreed upon by APHIS and the Ministry of Agriculture. These measures would include applying pesticides and controlling weeds to reduce the pest populations and bagging the apples on the trees to reduce the opportunity for insect pests to attack the fruit during the growing season. Application of pesticides in Fuji variety apple orchards in the Republic of Korea is a routine pest management practice for the control of pests, including mites and rust. NPQS personnel would have to monitor the application of the treatments to ensure that the treatments were being applied correctly and at the proper time. Controlling weeds is another routine pest management practice for reducing mite populations during the growing season. Bagging is also a routine pest management practice for growing Fuji variety apples in the Republic of Korea, and the Republic of Korea submitted research results, which we reviewed, showing that bagging is effective against some of the listed pests.<sup>1</sup> Growers would have to cover individual Fuji variety apples with a bag to keep pests from landing on the fruit and laying eggs in the fruit. The bags could be removed from the apples no earlier than 3 weeks before the harvest.

<sup>1</sup> For information on this research, contact the person listed under **FOR FURTHER INFORMATION CONTACT** at the beginning of this document.

### Post-Harvest Handling of Fruit

After being harvested, the Fuji variety apples would have to be handled in accordance with several specific conditions.

We would prohibit a packinghouse in which Fuji variety apples are packed for export to the United States from accepting any fruit from orchards that are not certified to export Fuji variety apples to the United States during the time that fruit intended for export to the United States is being handled in the packinghouse. Barring the entry of fruit into the packinghouse from orchards that are not certified to export Fuji variety apples to the United States would ensure that the fruit intended for export is not infected or infested as a result of comminglement with fruit that was grown in an orchard that has not been subject to the same phytosanitary measures as orchards producing Fuji variety apples for export to the United States.

The packinghouses would have to be kept clean and free of plant pests and plant debris. In the packinghouse, the fruit would have to be sorted, and all injured and infested fruits would have to be immediately removed from the packinghouse premises. Before packing, the fruit would again have to be inspected by the Korean Ministry of Agriculture to verify its freedom from the pests previously listed. If fruit from a grower were rejected after inspection, then subsequent fruit from that grower would be inspected at a higher sampling rate. Rejected lots would not be eligible for reinspection. A second rejected lot from an orchard would result in the orchard losing its certification for the season.

Fruit to be exported to the United States would have to be packed in boxes used exclusively for export to the United States. All boxes would have to be marked with information identifying the grower and the packinghouse. These proposed requirements would ensure that inspectors would be able to trace the fruit back to its orchard of origin in the event that plant pests were detected on the fruit. Additionally, the Fuji variety apples would have to be loaded at the packinghouse into a shipping container for movement to the United States to prevent contamination during transportation to the port of export. This proposed requirement would ensure that the fruit would not be exposed to insect pests while en route to the port of export. Fruit not immediately loaded after packing would have to be stored in a secure refrigerated warehouse until loaded. After the fruit is loaded into the shipping containers, the shipping

containers would have to be sealed by the Korean Ministry of Agriculture with an official seal whose number is noted on the phytosanitary certificate.

### Phytosanitary Certificate

We would require the Fuji variety apples to be accompanied by a phytosanitary certificate issued by NPQS. The phytosanitary certificate would have to state that the Fuji variety apples were examined and found to be free from *Carposina sasakii*, *C. niponensis*, *Conogethes punctiferalis*, *Tetranychus viennensis*, and *T. kanzawai*. The phytosanitary certificate would also have to include the following declaration: "The apples in this shipment are from certified orchards and comply with all the requirements in 7 CFR 319.56–2cc(e)." The phytosanitary certificate would serve as NPQS's official confirmation that the requirements of the regulations had been met.

### Inspection at the Port of First Arrival

Fuji variety apples imported into the United States from the Republic of Korea under this rule would be subject to § 319.56–6 of the 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 such disinfection at the port of first arrival as may be required by a U.S. Department of Agriculture 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 the fruit was being imported in accordance with the regulations.

### Trust Fund Agreement and APHIS Participation

APHIS would be directly involved with NPQS in the monitoring and supervision of Fuji variety apple exports to the United States. APHIS would monitor orchard and export production area inspections, harvest, and packinghouse operations to ensure that our export requirements are met. The costs of APHIS' involvement during each shipping season would be covered by a trust fund agreement between APHIS and NPQS or an industry association representing Korean Fuji variety apple growers, packers, and exporters. Under the agreement, NPQS

or the Korean industry association would pay in advance all estimated costs that APHIS expected to incur through its involvement in the required growing, harvest, and packinghouse operations prescribed in proposed § 319.56–2cc(e). Those costs would include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing those services. The agreement would require NPQS or the Korean industry association to deposit a certified or cashier's check with APHIS for the amount of the costs, as estimated by APHIS. If the deposit was not sufficient to meet all costs incurred by APHIS, the agreement would further require NPQS or the Korean industry association to deposit another certified or cashier's check with APHIS for the amount of the remaining costs, as determined by APHIS, before APHIS' services would be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to NPQS or the Korean industry association or held on account until needed.

### 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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we need information on the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule and the economic effect of those benefits or costs.

We propose to amend the regulations to add a new option for the importation into the United States of Fuji variety apples from the Republic of Korea. Although Fuji variety apples with required treatments from the Republic of Korea have been eligible for importation into the United States for several years, Fuji variety apples have only been shipped from the Republic of

Korea to Saipan and the U.S. territory of Guam.

### Analysis

This economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and considers the potential economic effects of this proposed action on domestic producers of apples. It focuses on apple production, price, and potential effects of the proposed rule on producers and consumers. The possible economic effects considered include losses to domestic producers due to increased competition from imports. The magnitude of the economic effects would depend on the size of additional supply from the Republic of Korea and the U.S. supply and demand for Fuji variety apples. As explained below, we expect that any economic effect on U.S. producers and consumers would be small due to the relative sizes of the U.S. apple industry and expected import volumes from the Republic of Korea. In addition, although this is not taken into account in the analysis below, Fuji apples grown in Korea are a specialty fruit (they are larger than U.S. grown Fuji apples about the size of a softball), and we do not believe that they will be marketed in direct competition with U.S. grown Fuji apples. Rather, we expect that they will have their own market niche.

Our analysis used information from the following sources: Pest Risk Assessment for Fuji Variety Apples from the Republic of Korea, APHIS, Biological Assessment and Taxonomic Support, December 1, 1995; APHIS, International Services; USDA, Agricultural Statistics 1998, Table 5-4; USDA FAS, Global Agricultural Trade System (data from the United Nations Statistical Office); USDA, National Agricultural Statistics Service; U.S. Department of Agriculture, 1997 Census of Agriculture, Volume 1, Part 51, Chapter 1, Table 43; Washington Apple Commission; U.S. Apple Commission; "Production and Utilization Analysis Book (1998 Edition)," U.S. Apple Association; Northwest Horticultural

Council; Yakima Growers and Shippers Association; and Washington State University.

### Small Businesses

The Small Business Administration (SBA) includes apple producers in the "deciduous tree fruits" category; in this category SBA defines small businesses as those that have annual receipts of less than \$500,000. For U.S. apple producers, annual average apple yields range from 32,000 to 36,000 pounds per acre. Apple prices at the producer level, for the 5-year period 1993-1997, averaged 14.8 cents per pound. These data imply average returns of between \$4,736 and \$5,328 per acre. Given these returns, an apple producer would be considered a small entity if the area of production were less than 93 to 105 acres. According to the 1997 Census of Agriculture, of 28,100 farms producing apples that year, more than 95 percent had less than 100 acres. These farms accounted for 44 percent of apple production acreage and 38 percent of the apple trees. U.S. Fuji variety apple producers may tend to have larger-than-average operations, but, like apple farms in general, the vast majority are small entities. Of the 28,100 U.S. farms producing apples in 1997, over 60 percent had apple orchards of less than five acres. These farms accounted for only four percent of the acreage and two percent of the trees. Therefore, most apple producers in the United States can be considered small entities.

### Fuji Variety Apple Production in the United States

Apple growers in Washington and California produce the majority of Fuji variety apples grown in the United States. Table 1, below, shows the dramatic increase in Fuji variety apple production in these two States from 1993 to 1997; 1998 production is expected to be four times 1993 production. Production and plantings of Fuji variety apples in California in 1995 show the variety's expansion:

- 20 percent of California's apple-bearing trees (7,315 of 35,676 acres) were Fuji variety apple trees and

- 62 percent of the apple trees that had not yet borne fruit (2,413 of 3,896 acres) were also Fuji variety apple trees.

This rapid growth is in contrast to U.S. apple production in general, which increases about one percent each year.

TABLE 1.—FUJI VARIETY APPLE PRODUCTION IN CALIFORNIA AND WASHINGTON, 1993 TO 1998.

Year	Metric tons
1993 .....	90,760
1994 .....	176,071
1995 .....	196,932
1996 .....	248,332
1997 .....	300,399
1998 (estimated) .....	376,795

U.S. apple producers initially planted Fuji variety apples in response to attractive export markets, in particular, high Taiwanese prices. A grower may earn about \$150 (normal net return) per bin (about 1,000 pounds) of Red Delicious apples (one of the most popular apple varieties). Growers exporting Fuji variety apples to Taiwan were earning about \$600 per bin. However, Taiwanese demand has dropped and, given the widespread financial crisis in Asia, it is likely that a significant share of Fuji variety apples once intended for the export market will be diverted to the domestic market. Last year's yield of 7.5 million 42-pound boxes of Fuji variety apples increased to 10 million boxes this year and is expected to reach 15 million boxes by the year 2000. Fuji variety apples were expected to overtake the Rome and Granny Smith varieties to become the third-leading U.S. apple variety in 1998.

### Apple Industries in the United States and the Republic of Korea

Table 2 shows apple industry information for 1996. The table shows the quantity and value of apples (1) produced by the United States, (2) exported from the United States, (3) imported into the United States, and (4) exported from the Republic of Korea.

TABLE 2.—U.S. APPLE PRODUCTION, EXPORTS AND IMPORTS, AND GLOBAL KOREAN APPLE EXPORTS, 1996

	Quantity (metric tons)	Value (1000\$)
U.S. utilized commercial production .....	4,690,224	1,644,226
U.S. exports .....	590,649	381,591
U.S. imports .....	182,961	129,165
Global Korean exports .....	5,822	9,731
Global Korean exports as a percentage of U.S. supply (production + imports—exports) .....	0.1%	0.7

Under the proposal, Fuji variety apple orchards in the Republic of Korea must be certified to be eligible to export their apples into the United States. According to the Korean Ministry of Agriculture, annual production of Fuji variety apples from certified orchards is expected to be about 1,920 metric tons. The Korean Ministry of Agriculture does not anticipate any substantial increase in this volume of production in the next 5 years. This expectation is reasonable, given that nearly all arable land in this mountainous country is already under cultivation, and the Republic of Korea's apple acreage has been more or less constant for several years. Table 3 shows the expected volume of Fuji variety apple exports from these orchards to the United States for the next 5 years. These amounts are of such negligible size that the impact on the U.S. apple industry and consumers would be insignificant. A quantity of 600 metric tons is less than 0.2 percent of U.S. Fuji variety apple production in 1997. U.S. consumers would benefit marginally only if the imports increased the net domestic supply. Given the large volumes of apples produced and traded by the United States, any impact would be extremely small. Fuji variety apple imports from the Republic of Korea will be competing with imports from Canada, Chile, New Zealand, and South Africa; these four countries supply approximately 97 percent of U.S. apple imports.

TABLE 3.—EXPECTED FUJI VARIETY APPLE EXPORTS FROM KOREA TO THE UNITED STATES, 1999 TO 2003, UNDER THE PROPOSED CERTIFICATION AND PRECLEARANCE PROGRAM

Year	Metric tons
1999 .....	150
2000 .....	200
2001 .....	300
2002 .....	400
2003 .....	600

Source: Korean Ministry of Agriculture.

The Republic of Korea's annual apple production is about 650,000 metric tons, and the Fuji variety comprises 77 percent of this total. Fuji variety apple production expected from the Republic of Korea's certified orchards, 1,920 metric tons per year, represents only about 0.3 percent of the country's total apple production and 0.4 percent of its Fuji variety production. Therefore, export prices received for apples from certified orchards are not expected to have a significant effect on the Republic

of Korea's apple production and exports overall.

The effect of this rule on U.S. apple producers and consumers is expected to be negligible, given that the United States exports significantly more apples than it imports and the potential imports from the Republic of Korea are so small relative to U.S. apple production. In addition, apple imports comprise only a small percentage of U.S. supply. The market for Fuji variety apples is expanding rapidly. Fuji variety apples imported from the Republic of Korea are not likely to dampen prices or sales by domestic producers and will help meet the expanding demand.

The alternative to this proposed rule would be to make no changes to the current Fuji variety apple import regulations. Currently, we allow the importation of Fuji variety apples into the United States from the Republic of Korea or Japan when the apples undergo cold treatment and fumigation. After consideration, we rejected this alternative since there appears to be no pest risk reason to maintain the prohibition on untreated Fuji variety apples from the Republic of Korea, in light of the safeguards that would be applied to their importation.

The proposed changes to the regulations would result in new information collection or recordkeeping requirements, as described below under the heading "Paperwork Reduction Act."

#### Executive Order 12988

This proposed rule would allow Fuji variety apples to be imported into the United States from the Republic of Korea. If this proposed rule is adopted, State and local laws and regulations regarding Fuji variety apples imported under this rule would be preempted while the fruit is in foreign commerce. Fresh Fuji variety apples 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 will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

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. 97-065-1. Please send a copy of your comments to: (1) Docket No. 97-065-1, 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.

Our regulations currently allow Fuji variety apples grown in the Republic of Korea to be imported into the United States after they have been cold treated and fumigated. In this document, we are proposing to amend our regulations to allow Fuji variety apples grown in certified orchards within approved production areas in the Republic of Korea to be imported into the United States, without treatment, under conditions designed to prevent the introduction of the peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*) into the United States.

These proposed amendments would require the use of several information collection activities, including a phytosanitary certificate and a trust fund agreement. We are asking OMB to approve our use of these information collections in connection with our efforts to ensure that Fuji variety apples from the Republic of Korea do not pose a risk of introducing the aforementioned pests into the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will 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 .75 hours per response.

*Respondents:* Korean plant health authorities; growers, exporters, and shippers of Fuji variety apples in the Republic of Korea; and U.S. importers of Fuji variety apples.

*Estimated annual number of respondents:* 30.

*Estimated annual number of responses per respondent:* 8.53.

*Estimated annual number of responses:* 256.

*Estimated total annual burden on respondents:* 192 hours.

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 in 7 CFR Part 319

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

Accordingly, we propose to amend 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. 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).

2. Section 319.56–2cc would be amended as follows:

a. In paragraph (a), by removing the words “The apples” and adding the words “Except when imported under the requirements in paragraph (e) of this section, the apples” in their place.

b. By adding a new paragraph (e) to read as set forth below.

#### § 319.56–2cc Administrative instructions governing the entry of Fuji variety apples from Japan and the Republic of Korea.

\* \* \* \* \*

(e) *Systems approach requirements.* Fuji variety apples may be imported from the Republic of Korea into the United States only under a permit issued in accordance with § 319.56–4

and only under the following conditions:

(1) *Growing and harvest conditions.* The apples must have been grown in a certified orchard in an APHIS-approved export production area by growers registered with the Korean Ministry of Agriculture. APHIS and the Korean Ministry of Agriculture will inspect orchards and production areas to certify that the Fuji variety apples were grown according to the following conditions:

(i) The export production area must be surrounded by a 200-meter-wide buffer zone. Only fruit trees of the *malus* species (apple or crabapple) may be grown in the export production area and buffer zone. Fruit trees of the *Prunus* species (peach, plum, apricot, cherry, *Prunus tomentosa*, etc.), which are major hosts of *Tetranychus viennensis*, must not be grown in the export production area or buffer zone. No fruit grown in the buffer zone may be imported into the United States. If pests of quarantine significance are found in the buffer zone, all orchards within 200 meters of the detection site will be removed from the export program.

(ii) Field inspections for signs of pest infestation and for compliance with the requirements of this section must be conducted by the Korean Ministry of Agriculture and APHIS during the growing season. The Korean Ministry of Agriculture and APHIS will conduct field inspections after bagging and prior to harvest to detect signs of pest infestation. If pests of quarantine significance are found during the inspections, the orchard will not be certified and, therefore, will not be included in the export program.

(iii) To ensure that Fuji variety apples exported to the United States are not infested with peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*), registered growers must comply with the phytosanitary measures agreed to by APHIS and the Korean Ministry of Agriculture, including bagging the apples on the trees to reduce the opportunity for pests to attack the fruit during the growing season; applying pesticides to reduce the mite, rust, and other pest populations; and controlling weeds to reduce mite populations. The bags must remain on the apples until 3 weeks prior to the harvest.

(2) *After harvest.* After harvest, the Fuji variety apples must be handled in accordance with the following conditions:

(i) During the time that a packinghouse is used to prepare Fuji variety apples for export to the United States, the packinghouse may accept fruit only from orchards that meet the requirements of paragraph (e)(1) of this section.

(ii) The packinghouses must be kept clean and free of plant pests and plant debris.

(iii) In the packinghouse, the fruit must be sorted and all injured and infested fruits must be immediately removed from the packinghouse premises. Before packing, the fruit must again be inspected by the Korean Ministry of Agriculture to verify its freedom from peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*). If fruit from a grower is rejected after inspection, then subsequent fruit from that grower will be inspected at a higher sampling rate. Rejected lots are not eligible for reinspection and must be immediately removed from the packinghouse premises. A second rejected lot from an orchard will result in the orchard losing its certification for the season.

(iv) Fruit to be exported to the United States must be packed in boxes used exclusively for export to the United States. All boxes must be marked with information identifying the grower and the packinghouse. The boxes must be loaded at the packinghouse into a shipping container for movement to the United States to prevent contamination during transportation to the port of export. Fruit not immediately loaded after packing must be stored in a secure refrigerated warehouse until loaded. After the fruit is loaded into the shipping containers, the shipping containers must be sealed by the Korean Ministry of Agriculture with an official seal whose number is noted on the phytosanitary certificate.

(3) *Certificates.* Each shipment of apples must be accompanied by a phytosanitary certificate issued by the Korean Ministry of Agriculture stating that the Fuji variety apples were examined and found to be free from *Carposina sasakii*, *C. niponensis*, *Conogethes punctiferalis*, *Tetranychus viennensis*, and *T. kanzawai*. The phytosanitary certificate must include the following additional declaration: “The apples in this shipment are from certified orchards and comply with all the requirements in 7 CFR 319.56–2cc(e).”

Done in Washington, DC, this 20th day of April 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00-10388 Filed 4-25-00; 8:45 am]

**BILLING CODE 3410-34-U**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 71, 77, and 78

[Docket No. 99-090-2]

#### Livestock Identification; American Identification Numbering System

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** We are extending the comment period for our advance notice of proposed rulemaking that solicited public comment on our intent to recognize the American Identification Numbering System as a means of providing unique identification for livestock. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We invite you to comment on Docket No. 99-090-1. We will consider all comments that we receive by May 16, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 99-090-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 99-090-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. John F. Wiemers, National Animal

Health Programs Staff, VS, APHIS, 2100 South Lake Storey Road, Galesburg, IL 61401; (309) 344-1942.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 3, 2000, we published in the **Federal Register** (65 FR 11485-11486, Docket No. 99-090-1) an advance notice of proposed rulemaking to solicit public comment on our intent to recognize the American Identification Numbering System as a means of providing unique identification for livestock.

Comments on the advance notice of proposed rulemaking were required to be received on or before May 2, 2000. We are extending the comment period on Docket No. 99-090-1 for an additional 14 days. This action will allow interested persons additional time to prepare and submit comments.

**Authority:** 21 U.S.C. 111-113, 114, 114a, 114a-1, 115-117, 120-126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 19th day of April 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00-10387 Filed 4-25-00; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 431

[Docket No. EE-RM-96-400]

#### Energy Efficiency Program for Certain Commercial and Industrial Equipment: Petition for Recognition of CSA International To Be a Nationally Recognized Certification Program for Electric Motor Efficiency

**AGENCY:** Office of Energy Efficiency and Renewable Energy; Department of Energy.

**ACTION:** Public notice and solicitation of comments.

**SUMMARY:** CSA International has petitioned the Department of Energy (Department) to classify its motor efficiency verification service program as a nationally recognized certification program in the United States for the purposes of section 345(c) of the Energy Policy and Conservation Act, as amended (EPCA). The Department solicits comments, data and information as to whether to grant CSA International's petition.

**DATES:** Written comments, data and information, in triplicate, must be received at the Department of Energy by May 26, 2000.

**ADDRESSES:** Written comments, data and information should be labeled "CSA International Petition to be Classified as a Nationally Recognized Certification Program for Electric Motor Efficiency," and submitted to: Ms. Brenda Edwards-Jones, Office of Energy Efficiency and Renewable Energy, EE-41, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0121.

Telephone: (202) 586-2945; Telefax: (202) 586-4617. Also, a copy of such comments should be submitted to Mr. Otto Krepps, Manager, Accreditations, CSA International, 178 Rexdale Boulevard, Toronto, Ontario, Canada M9W 1R3. Telephone: (416) 747-2798; or Telefax (416) 747-4173.

#### FOR FURTHER INFORMATION CONTACT:

James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE-41, 1000 Independence Avenue, SW, Washington, DC 20585-0121, telephone (202) 586-8654, telefax (202) 586-4617, or: [jim.raba@ee.doe.gov](mailto:jim.raba@ee.doe.gov)

Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-72, 1000 Independence Avenue, SW, Washington, DC 20585-0103, (202) 586-9507, telefax (202) 586-4116, or: [edward.levy@hq.doe.gov](mailto:edward.levy@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** A copy of the CSA International petition for national recognition is appended to this notice. Supporting documents that accompanied the petition may be viewed at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW, Washington, DC 20585-0101, telephone (202) 586-3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Additional information about CSA International's electric motor efficiency verification service, and petition to be a nationally recognized certification program for electric motor efficiency, can be obtained on the World Wide Web at <http://www.csa-international.org/welcome.html>, or from Mr. Otto Krepps, Manager, Accreditations, CSA International, 178 Rexdale Boulevard, Toronto, Ontario, Canada M9W 1R3, or telephone (416) 747-2798, or telefax (416) 747-4173, or electronic mail at [otto.krepps@csa-international.org](mailto:otto.krepps@csa-international.org).

The Final Rule for Test Procedures, Labeling, and Certification Requirements for Electric Motors, 10 CFR Part 431, was published in the