

(j) *State, Territory, or District of the United States.* Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States (including Alaska).

(k) *United States.* The States, the District of Columbia, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) *Oceania.* The islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and the Malay Archipelago.

(m) *Far East.* The countries of East and Southeast Asia, including Japan, Korea, Taiwan, the northeastern provinces of Manchuria, the Philippines, Indo-China, and India.

**§318.82-2 Movement of regulated articles.**

(a) Plants, plant products, and other articles designated in §318.82 may be moved from Guam into or through any other State, Territory, or District of the United States only if, in the case of articles other than soil, they meet the strictest plant quarantine requirements for similar articles offered for entry into such State, Territory, or District from Oceania or the Far East under part 319 or part 321 of this chapter, except requirements for permits, foreign inspection certificates, notices of arrival, and notices of shipment from port of arrival, and in the case of soil if it meets the requirements of §330.300 of this chapter. If such similar articles cannot be imported into the particular State, Territory, or District from Oceania or the Far East under either part 319 or part 321 of this chapter, the interstate movement of the articles from Guam into or through such State, Territory or District shall be similarly prohibited. Plants, plant products, and other articles moved from Guam into or through any other State, Territory or District of the United States shall be subject to inspection at the port of first arrival in another part of the United States to determine whether they are free of plant pests and otherwise meet the requirements applicable to them under this subpart, and shall be subject to release, in accordance with §330.105(a) of this chapter as if they were foreign arrivals. Such arti-

cles shall be released only if they meet all applicable requirements under this subpart.

(b) A release may be issued orally by the inspector when inspection of small quantities of regulated articles is involved except that a release issued in specific cases pursuant to the proviso in §318.82 shall be in writing.

(c) The appropriate provisions of part 352 of this chapter are hereby made applicable to the safeguarding of regulated articles from Guam temporarily in parts of the United States other than Guam, when landing therein is not intended or landing has been refused in accordance with this subpart. The movement of plant pests, means of conveyance, plants, plant products, and other products and articles from Guam into or through any other State, Territory, or District is also regulated by part 330 of this chapter.

**§318.82-3 Costs.**

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

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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).

SOURCE: 24 FR 10788, Dec. 29, 1959, unless otherwise noted.

### Subpart—Foreign Cotton and Covers

#### QUARANTINE

#### § 319.8 Notice of quarantine.

(a) Pursuant to sections 5 and 7 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 160), and after the public hearing required thereunder, the Administrator of the Animal and Plant Health Inspection Service hereby determines that the unrestricted importation into the United States from

all foreign countries and localities of (1) any parts or products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and (2) second-hand burlap and other fabrics, shredded or otherwise, which have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (*Pectinophora gossypiella* (Saund.)), the golden nematode of potatoes (*Heterodera rostochiensis* Wr.), the flag smut disease (*Urocystis tritici* Koern.), and other injurious plant diseases and insect pests, and said Administrator hereby further determines, that, in order to prevent the introduction into the United States of said plant diseases and insect pests, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the plants and products, including fabrics, specified above, except as permitted in the regulations supplemental hereto. Hereafter the plants and products specified above shall not be imported or offered for entry into the United States from any foreign country or locality except as permitted by said regulations, and the plants and products permitted by the regulations to be imported or offered for entry shall be subject to the provisions of sections 1, 2, 3, and 4 of said Plant Quarantine Act (7 U.S.C. 154, 156, 157, and 158): *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find the existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent the restrictions contained in any of such regulations, he shall publish such findings in the administrative in-

structions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

(b) As used in this section the term "United States" shall have the meaning ascribed to it in the regulations supplemental hereto.

[24 FR 10788, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

**§319.8a Administrative instructions relating to the entry of cotton and covers into Guam.**

The plants and products specified in §319.8(a) may be imported into Guam without further permit, other than the authorization contained in this paragraph. Sections 319.8-2 and 319.8-3 shall not be applicable to such importations. In addition, such importations need not comply with the requirements of §319.8-4 relating to notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Sections 319.8-5 through 319.8-27 shall not be applicable to importations into Guam. Inspection of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with §330.106 of this chapter.

REGULATIONS; GENERAL

**§319.8-1 Definitions.**

For the purposes of the regulations in this subpart, the following words shall be construed, respectively, to mean:

(a) *Cotton*. Parts and products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber, not including yarn, thread and cloth; cottonseed hulls, cake, meal, and

other cottonseed products, except oil; waste; and all other unmanufactured parts of cotton plants.

(b) *Seed cotton*. Cotton as it comes from the field.

(c) *Cottonseed*. Cottonseed from which the lint has been removed.

(d) *Lint*. All forms of raw ginned cotton, either baled or unbaled, except linters and waste.

(e) *Linters*. All forms of cotton fiber separated from cottonseed after the lint has been removed, excluding so-called hull fiber.

(f) *Waste*. All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste and thread waste; and waste products derived from the milling of cottonseed. Gin trash is not within the definition of waste.

(g) *Gin trash*. All of the material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except the lint, cottonseed, and gin waste.

(h) *Covers*. Second-hand burlap and other fabrics, shredded or otherwise, including any whole bag, any bag that has been slit open, and any part of a bag, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops. Burlap and other fabrics, when new or unused are excluded from this definition.

(i) *Uncompressed*. Baled or packaged to a density not exceeding approximately 20 pounds per cubic foot.

(j) *Compressed*. Compressed or pressed and baled or packaged to a density greater than approximately 20 pounds and less than approximately 28 pounds per cubic foot.

(k) *Compressed to high density*. Compressed or pressed and baled or packaged to a density of approximately 28 or more pounds per cubic foot.

(l) *Contamination (contaminate)*. Containing or bearing whole cottonseed or seed cotton or other material which may carry the pink bollworm, the golden nematode of potatoes, the flag smut disease, or other injurious plant diseases or insect pests. (The verb con-

taminate shall be construed accordingly.)

(m) *Samples*. Samples of lint, linters, waste, cottonseed cake, and cottonseed meal, of the amount and character usually required for trade purposes.

(n) *United States*. Any of the States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands of the United States.

(o) *North, northern*. When used to designate ports of arrival, these terms mean the port of Norfolk, Virginia, and all Atlantic Coast ports north thereof, ports along the Canadian border, and Pacific Coast ports in the States of Washington and Oregon. When used in a geographic sense to designate areas or locations, these terms mean any State in which cotton is not grown commercially. However when cotton is grown commercially in certain portions of a State, as is the case in Illinois, Kansas, and Missouri, these terms include those portions of such State as may be determined by the Deputy Administrator of the Plant Protection and Quarantine Programs as remote from the main area of cotton production.

(p) *Approved areas of Mexico*. Any areas of Mexico, other than those described in paragraphs (q) and (r) of this section, which are designated by the Deputy Administrator as areas in which cotton and cotton products are produced and handled under conditions comparable to those under which like cotton and cotton products are produced and handled in the generally infested pink bollworm regulated area in the United States.

(q) *West Coast of Mexico*. The State of Sinaloa, the State of Sonora (except that part of the Imperial Valley lying between San Luis Mesa and the Colorado River), and the Southern Territory of Baja California, in Mexico.

(r) *Northwest Mexico*. All of the State of Baja California, Mexico, and that part of the State of Sonora, Mexico, lying between San Luis Mesa and the Colorado River.

(s) *Treatment*. Procedures administratively approved by the Deputy Administrator of the Plant Protection and Quarantine Programs for destroying infestations or infections of insect

pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

(t) *Permit*. A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart.

(u) *Approved*. Approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(v) *Approved fumigation facilities*. Approved vacuum fumigation plant at a port where an inspector is available to supervise the fumigation.

(w) *Utilization*. Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.<sup>1</sup>

(x) *Authorized*. Authorized by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(y) *Deputy Administrator, Plant Protection and Quarantine Programs*. The Deputy Administrator of the Plant Protection and Quarantine Programs, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(z) *Plant Protection and Quarantine Programs*. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the United States Department of Agriculture.

(aa) *Inspector*. A properly identified employee of the U.S. Department of Agriculture or other person authorized by the Department to enforce the provisions of the Plant Quarantine Act.

(bb) *Person*. Any individual, firm, corporation, company, society, or association, or any organized group of any of the foregoing.

(cc) *Root crop*. The underground crop portions of any plants.

(dd) *Pink bollworm regulated area; generally infested pink bollworm regulated area*. The pink bollworm regulated area consists of those States or parts there-

of designated as regulated area in Administrative Instructions issued under § 301.52-2 of this chapter. The generally infested pink bollworm regulated area is that part of the regulated area designated as generally infested in the said Administrative Instructions.

(ee) *Approved mill or plant*. A mill or plant operating under a signed agreement with the Plant Protection and Quarantine Programs required for approval of a mill or plant as specified in § 319.8-8(a)(2).

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

#### CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

##### § 319.8-2 Permit procedure.

(a) Except as otherwise provided for in §§ 319.8-10 and 319.8-18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§ 319.8-6 through 319.8-20. Persons desiring to import cotton or covers under §§ 319.8-6 through 319.8-20 shall, in advance of departure of such material from a foreign port, submit to the Plant Protection and Quarantine Programs an application<sup>2</sup> stating the name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import. Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

(b) Applications to import lint, linters, or waste at a port<sup>3</sup> other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

(c) Applications for permits may be made orally or on forms provided for

<sup>2</sup>Applications for permits should be made to Plant Importations Branch, Plant Protection and Quarantine Programs, 209 River Street, Hoboken, N.J. 07030.

<sup>3</sup>Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

<sup>1</sup> A list of approved mills and plants may be obtained from the Plant Protection and Quarantine Programs, Room 710, U.S. Appraisers Stores, 408 Atlantic Ave., Boston, Mass. 02210.

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the purpose by the Plant Protection and Quarantine Programs, or may be made by a letter or telegram containing all the information required by this section.

(d) Upon receipt and approval of such application by the Plant Protection and Quarantine Programs, an individual or continuing permit will be issued authorizing the importation and specifying the port of entry and the conditions of entry. A copy of the permit will be supplied to the importer.

(e) Upon receipt of an application to import lint, linters, waste, or covers, without treatment, for utilization under agreement as defined in §319.8-8(a)(2), an investigation will be made by an inspector to determine that the receiving mill or plant is satisfactorily located geographically, is equipped with all necessary safeguards, and is apparently in a position to fulfill all precautionary conditions to which it may agree. Upon determination by the inspector that these qualifications are fulfilled, the owner or operator of the mill or plant may sign an agreement specifying that the required precautionary conditions will be maintained. Such signed agreement will be a necessary requisite to the release at the port of entry of any imported lint, linters, waste, or covers for forwarding to and utilization at such mill or plant in lieu of vacuum fumigation or other treatment otherwise required by this subpart. Permits for the importation of such materials will be issued in accordance with paragraph (a) of this section.

(f) Permits for importation of any cotton or covers are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit. Permits may also be cancelled or may be refused as provided in §319.8-3, or entry denied as provided in §§319.8-11, 319.8-12, and §319.8-13.

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the

importer, pending issuance of a permit, for a period not exceeding 20 days.

(h) Pending development of adequate treating facilities in Guam, any cotton or covers that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

#### §319.8-3 Refusal and cancellation of permits.

(a) Permits for entry from the West Coast of Mexico, as authorized in §319.8-12 of lint, linters, waste, cottonseed, and cottonseed hulls may be refused and existing permits cancelled by the Deputy Administrator if he has determined that the pink bollworm is present in the West Coast of Mexico or in Northwest Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

(b) Permits for entry from Northwest Mexico as authorized in §319.8-13 of lint, linters, waste, cottonseed, cottonseed hulls, and covers that have been used for cotton, may be refused and existing permits cancelled by the Deputy Administrator if he has determined that the pink bollworm is present in Northwest Mexico or in the West Coast of Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971]

#### §319.8-4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Protection and Quarantine Programs, a notice of such arrival, on a form provided for that purpose (Form

## Animal and Plant Health Inspection Service, USDA

## § 319.8-8

PQ-368) and shall give such information as is called for by that form.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

### § 319.8-5 Marking of containers.

Every bale or other container of cotton lint, linters, waste, or covers imported or offered for entry shall be plainly marked or tagged with a bale number or other mark to distinguish it from other bales or containers of similar material. Bales of lint, linters, and waste from approved areas of Mexico, the West Coast of Mexico, or Northwest Mexico shall be tagged or otherwise marked to show the gin or mill of origin unless they are immediately exported.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[27 FR 5389, June 7, 1962, as amended at 48 FR 57466, Dec. 30, 1983]

### § 319.8-6 Cottonseed cake and cottonseed meal.

Entry of cottonseed cake and cottonseed meal will be authorized through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination. If found to be free of contamination, importations of such cottonseed cake and cottonseed meal will be released from further plant quarantine entry restrictions. If found to be contaminated such importations will be refused entry or subjected as a condition of entry to such safeguards as the inspector may prescribe, according to a method selected by him from administratively authorized procedures known to be effective under the conditions under which the safeguards are applied.

### § 319.8-7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint,

linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

### § 319.8-8 Lint, linters, and waste.

(a) *Compressed to high density.* (1)(i) Entry of lint, linters, and waste, compressed to high density, will be authorized subject to vacuum fumigation by approved methods at any port where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste, arriving at a northern port where there are no approved fumigation facilities may be entered for transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Such lint, linters, and waste compressed to high density arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond via an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector to (a) any port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (b) to an approved mill or plant for utilization.

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

(i) The lint, linters, and waste so entered will be processed or manufactured at the mill or plant and until so used will be retained thereat, unless written authority is granted by the Plant Protection and Quarantine Programs to move the material to another mill or plant;

(ii) Sanitary measures satisfactory to the Plant Protection and Quarantine Programs will be taken with respect to the collection and disposal of any waste, residues, and covers, including the collection and disposal of refuse from railroad cars, trucks, or other carriers used in transporting the material to the mill or plant;

(iii) Inspectors of the Plant Protection and Quarantine Programs will have access to the mill or plant at any reasonable time to observe the methods of handling the material, the disposal of refuse, residues, waste, and covers, and otherwise to check compliance with the terms of the agreement;

(iv) Such reports of the receipt and utilization of the material, and disposal of waste therefrom as may be required by the inspector will be submitted to him promptly;

(v) Such other requirements as may be necessary in the opinion of the Deputy Administrator of the Plant Protection and Quarantine Programs to assure retention of the material, including all wastes and residues, at the mill or plant and its processing, utilization or disposal in a manner that will eliminate all pest risk, will be complied with.

(3) Failure to comply with any of the conditions of an agreement specified in paragraph (a)(2) of this section may be cause for immediate cancellation of the agreement by the inspector and refusal to release, without vacuum fumigation, lint, linters, and waste for transportation to the mill or plant.

(4) Agreements specified in paragraph (a)(2) of this section may be executed only with owners or operators of mills or plants located in States in which cotton is not grown commercially and at locations in such other States as may be administratively designated by the Deputy Administrator of the Plant Protection and Quarantine Programs after due consideration of possible pest risk involved and the proximity of growing cotton.

(b) *Uncompressed or compressed.* (1)(i) Entry of uncompressed or compressed lint, linters, and waste will be authorized, subject to vacuum fumigation by approved methods, through any northern port, through any port in the State of California, and through any port on

the Mexican Border, where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste arriving at a northern port where there are no approved fumigation facilities may be entered for immediate transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Compressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector, to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to any northern port for movement to an approved mill or plant for utilization.

(iv) Uncompressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to a northern port for movement to an approved mill or plant for utilization.

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not produce cotton,<sup>4</sup> arriving at a northern

<sup>4</sup>For the purposes of this subpart the following countries are considered to be those in which cotton is not produced: Austria, Belgium, Canada, Denmark, Republic of Ireland (Eire), Finland, France, Germany (both East and West), Great Britain and Northern Ireland (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden, and Switzerland.

port, subject to movement to an approved mill or plant.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

**§ 319.8-9 Hull fiber and gin trash.**

(a) Entry of hull fiber will be authorized under the same conditions as are applicable to waste under this subpart.

(b) Gin trash may be imported only under the provisions of § 319.8-20.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962]

**§ 319.8-10 Covers.**

(a) Entry of covers (including bags, slit bags, and parts of bags) which have been used as containers for cotton grown or processed in countries other than the United States may be authorized either (1) through a Mexican border port named in the permit for vacuum fumigation by an approved method in that part of the United States within the generally infested pink bollworm regulated area; or (2) through a northern port or a port in the State of California subject to vacuum fumigation by an approved method or without vacuum fumigation when the covers are to be moved to an approved mill or plant for utilization. When such covers are forwarded from a northern port to a mill or plant in California for utilization, or from a California port to another California or northern port for vacuum fumigation thereat or for movement to a mill or plant for utilization such movement shall be made by an all-water route unless the bales are compressed to a density of 20 pounds or more per cubic foot in which case the bales may be moved overland in van-type trucks or box cars if all-water transportation is not available. Such overland movement may be made only after approved surface treatment or under such other conditions as may be deemed necessary and are prescribed by the inspector. When such covers arrive at a port other than a northern, California, or Mexican border port they will be required to be transported therefrom immediately in bond by an all-water route to a northern or California port where approved vacuum fumigation facilities are available for

vacuum fumigation thereat by an approved method or for forwarding therefrom to an approved mill or plant for utilization.

(b) American cotton bagging, commonly known as coarse gunny, which has been used to cover only cotton grown or processed in the United States, may be authorized entry at any port under permit and upon compliance with §§ 319.8-4 and 319.8-5, without fumigation or other treatment. Marking patches of the finer burlaps or other fabrics when attached to bales of such bagging may be disregarded if, in the judgment of the inspector, they do not present a risk of carrying live pink bollworms, golden nematode cysts or flag smut spores.

(c) Bags, slit bags, parts of bags, and other covers which have been used as containers for root crops or are of a kind ordinarily used as containers for root crops may be authorized entry subject to immediate treatment in such manner and according to such method as the inspector may select from administratively authorized procedures known to be effective under the conditions under which the treatment is applied, and subject to any additional safeguard measures that may be prescribed by the inspector pursuant to § 319.8-24, or that he may prescribe in regard to the manner of discharge from the carrier and conveyance to the place of treatment: *Provided*, That such covers may be authorized entry from Canada without treatment as prescribed in this paragraph unless the covers are found to be contaminated.

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening, and which arrive from a country named in § 319.59-2(a)(2) of this part, if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant

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the owner or operator of which has executed an appropriate agreement with the Plant Protection and Quarantine Programs similar to that described in §319.8-8(a)(2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

(f) If upon their arrival at a port of entry covers are classified by the inspector as coming within more than one paragraph of this section, they will be authorized entry only upon compliance with such requirements of the applicable paragraphs as the inspector may deem necessary to prevent the introduction of plant diseases and insect pests.

(g) Notwithstanding the provisions of any other paragraph of this section the entry from any country of bags, slit bags, parts of bags, and other covers will be authorized without treatment but upon compliance with other applicable sections of this subpart if the inspector finds that they have obviously not been used in a manner that would contaminate them or when in the inspector's opinion there is otherwise no plant pest risk associated with their entry.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998]

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### SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

SOURCE: Sections 319.8-11 through 319.8-14 appear at 27 FR 5309, June 7, 1962, unless otherwise noted.

#### §319.8-11 From approved areas of Mexico.

(a) Entry of lint, linters, and waste (including gin and oil mill wastes) which were derived from cotton grown in, and which were produced and handled only in approved areas of Mexico<sup>5</sup> may be authorized through Mexican Border ports in Texas named in the permits

(1) For movement into the generally infested pink bollworm regulated area such products becoming subject immediately upon release by the inspector to the requirements, in §301.52 of this chapter, applicable to like products originating in the pink bollworm regulated area, or

(2) For movement to an approved mill or plant for utilization, or

(3) For movement to New Orleans for immediate vacuum fumigation.

(b) Entry of cottonseed or cottonseed hulls in bulk, or in covers that are new or which have not been used previously to contain cotton or unmanufactured cotton products, may be authorized through Mexican Border ports in Texas named in the permits, for movement into the generally infested pink bollworm regulated area when certified by an inspector as having been produced in an approved area and handled subsequently in a manner satisfactory to the inspector. Upon arrival in the generally infested pink bollworm regulated area such cottonseed or cottonseed hulls will be released from further plant quarantine entry requirements and shall become subject immediately

<sup>5</sup>See §319.8-1(p) for definition of "Approved areas of Mexico." These are within that part of Mexico not included in the "West Coast of Mexico" (§319.8-1(q)) or "Northwest Mexico" (§319.8-1(r)).

to the requirements in § 301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 63 FR 31101, June 8, 1998]

**§ 319.8-12 From the West Coast of Mexico.**

Contingent upon continued freedom of the West Coast of Mexico and of Northwest Mexico from infestations of the pink bollworm, entry of the following products may be authorized under permit subject to inspection to determine freedom from hazardous plant pest conditions:

- (a) Compressed lint and linters.
- (b) Uncompressed lint and linters for movement into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.
- (c) Compressed or uncompressed cotton waste for movement under bond to Fabens, Texas, for vacuum fumigation after which it will be released from further plant quarantine entry requirements.
- (d) Cottonseed when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.
- (e) Untreated, non-certified cottonseed contained in new bags for movement by special manifest to any destination in the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.
- (f) Cottonseed hulls when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.
- (g) Any cotton products for movement through Mexican border ports in Texas directly into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971]

**§ 319.8-13 From Northwest Mexico.**

Contingent upon continued freedom of Northwest Mexico and of the West Coast of Mexico from infestations of the pink bollworm and other plant pest

conditions that would increase risk of pest introduction into the United States with importations authorized under this section, entry of the following products may be authorized under permit subject to inspection upon arrival to determine freedom from hazardous plant pest conditions:

- (a) Lint, linters, and waste.
- (b) Cottonseed.
- (c) Cottonseed hulls.
- (d) Covers that have been used for cotton only.

**§ 319.8-14 Mexican cotton and covers not otherwise enterable.**

Mexican cotton and covers not enterable under § 319.8-11, § 319.8-12, or § 319.8-13 may be entered in accordance with §§ 319.8-6 through 319.8-10 and §§ 319.8-16 through 319.8-20 insofar as said sections are applicable.

MISCELLANEOUS PROVISIONS

**§ 319.8-16 Importation into United States of cotton and covers exported therefrom.**

(a) Cotton and covers grown, produced, or handled in the United States and exported therefrom, and in the original bales or other containers in which such material was exported therefrom, may be imported into the United States at any port under permit, without vacuum fumigation or other treatment or restriction as to utilization, upon compliance with §§ 319.8-2, 319.8-4, and § 319.8-5, and upon the submission of evidence satisfactory to the inspector that such material was grown, produced, or handled in the United States and does not constitute a risk of introducing the pink bollworm into the United States.

(b) Cotton and covers of foreign origin imported into the United States in accordance with this subpart and exported therefrom, when in the original bales or other original containers, may be reimported into the United States under the conditions specified in paragraph (a) of this section.

**§ 319.8-17 Importation for exportation, and importation for transportation and exportation; storage.**

(a) Importation of cotton and covers for exportation, or for transportation and exportation, in accordance with

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this subpart shall also be subject to §§ 352.1 through 352.8 of this chapter, as amended.

(b) Importation at northern ports of unfumigated lint, linters, waste, cottonseed cake, cottonseed meal and covers used only for cotton, for exportation or for transportation and exportation through another northern port, may be authorized by the inspector under permit if, in his judgment, such procedures can be authorized without risk of introducing the pink bollworm.

(c) Entry under permit of lint, linters, or waste compressed to high density will be authorized for purposes of storage in the north pending exportation, fumigation, or utilization in an approved mill or plant provided the owner or operator of such proposed storage place has executed an agreement with the Plant Protection and Quarantine Programs similar to those required for mills or plants to utilize lint, linters, and waste as specified in §319.8-8(a)(2), and provided further that

(1) Inspectors are available to supervise the storage,

(2) The bales of material to be stored are free from surface contamination,

(3) The material is kept segregated from other cotton and covers in a manner satisfactory to the inspector, and

(4) The waste is collected and disposed of in a manner satisfactory to the inspector.

(d) Except as provided in §319.8-23(a)(4), compressed lint, linters, and waste, uncompressed waste derived from cotton milled in a non-cotton-producing country,<sup>6</sup> and covers, arriving at a port in the north for entry for exportation, vacuum fumigation, or utilization in accordance with the requirements in this subpart, may be allowed movement in Customs custody for storage at a point in the north pending such exportation, or movement to an approved mill or plant for vacuum fumigation or utilization, when there are inspectors available to

supervise such storage, if the bales are free of surface contamination, if they are kept segregated from other cotton and covers in a manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector. Such lint, linters, waste, and covers shall remain under Customs custody until released by the inspector.

(e) Importation of lint, linters, and waste from Mexico for transportation and exportation will be authorized under permit if such material is compressed before, or immediately upon entering into the United States, or is compressed while en route to the port of export at a compress specifically authorized in the permit. The ports of export which may be named in the permit shall be limited to those that have been administratively approved for such exportation. Storage of such compressed cotton may be authorized, in approved bonded warehouses in Texas.

(f) Entry of uncompressed lint, linters, and waste from Mexico may be authorized at ports named in the permit for exportation at ports within the generally infested pink bollworm regulated area or for transportation and exportation via rail to Canada under such conditions and over such routes as may be specified in the permit.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998]

**§319.8-18 Samples.**

(a) Samples of lint, linters, waste, cottonseed cake, and cottonseed meal may be entered without further permit other than the authorization contained in this section, but subject to inspection and such treatment as the inspector may deem necessary. Samples which represent either such products of United States origin or such products imported into the United States in accordance with the requirements of this subpart, and which were exported from the United States, may be entered into the United States without inspection when the inspector is satisfied as to the identity of the samples.

(b) Samples of cottonseed or seed cotton may be entered subject to the conditions and requirements provided in §§ 319.8-2, 319.8-4, and 319.8-19.

<sup>6</sup>For the purposes of this subpart the following countries are considered as non-cotton-producing countries: Austria, Belgium, Canada, Denmark, Eire, Finland, France, Germany, Great Britain (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland.

(c) Bales or other containers of cotton shall not be broken or opened for sampling and samples shall not be drawn until the inspector has so authorized and has prescribed the conditions and safeguards under which such samples shall be obtained.

**§ 319.8-19 Cottonseed or seed cotton for experimental or scientific purposes.**

Entry of small quantities of cottonseed or seed cotton for experimental or scientific purposes may be authorized through such ports as may be named in the permit, and shall be subject to such special conditions as shall be set forth in the permit to provide adequate safeguards against pest entry.

**§ 319.8-20 Importations by the Department of Agriculture.**

Cotton and covers may be imported by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Services.

**§ 319.8-21 Release of cotton and covers after 18 months' storage.**

Cotton and covers, the entry of which has been authorized subject to vacuum fumigation or other treatment because of the pink bollworm only, and which have not received such treatment but have been stored for a period of 18 months or more will be released from further plant quarantine entry restrictions.

**§ 319.8-22 Ports of entry or export.**

When ports of entry or export are not specifically designated in this subpart but are left to the judgment of the inspector, the inspector shall designate only such ports as have been administratively approved for such entry or export.

**§ 319.8-23 Treatment.**

(a)(1) Vacuum fumigation as required in this subpart shall consist of fumigation, in a vacuum fumigation plant ap-

proved by the Deputy Administrator of the Plant Protection and Quarantine Programs, under the supervision of an inspector and to his satisfaction. Continued approval of the plant will be contingent upon the granting by the operator thereof, to the inspector, of access to all parts of the plant at all reasonable hours for the purpose of supervising sanitary and other operating conditions, checking the efficacy of the apparatus and chemical operations, and determining that wastage has been cleaned up and disposed of in a manner satisfactory to the inspector; and upon the maintenance at the plant of conditions satisfactory to the inspector.

(2) After cotton and covers have been vacuum fumigated they shall be so marked under the supervision of an inspector. Such material may thereafter be distributed, forwarded, or shipped without further plant quarantine entry restriction.

(3) Cotton and covers held by an importer for vacuum fumigation must be stored under conditions satisfactory to the inspector.

(4) Prompt vacuum fumigation of cotton and covers (other than high density cotton free of surface contamination) will be required at non-northern ports. Similar prompt vacuum fumigation will be required at Norfolk, Virginia, during the period June 15 to October 15 of each year, except for covers which have been used to contain only lint, linters, or waste, and the bales of which are compressed to a density of 28 or more pounds per cubic foot and are free of surface contamination.

(b) An inspector may authorize the substitution of processing, utilization, or other form of treatment for vacuum fumigation when in his opinion such other treatment, selected by him from administratively authorized procedures, will be effective in eliminating infestation of the pink bollworm.

**§ 319.8-24 Collection and disposal of waste.**

(a) Importers shall handle imported, unfumigated cotton and covers in a manner to avoid waste. If waste does occur, the importer or his agent shall collect and dispose of such waste in a manner satisfactory to the inspector.

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(b) If, in the judgment of an inspector, it is necessary as a safeguard against risk of pest dispersal to clean railway cars, lighters, trucks, and other vehicles and vessels used for transporting such cotton or covers, or to clean piers, warehouses, fumigation plants, mills, or other premises used in connection with importation of such cotton or covers, the importer or his agent shall perform such cleaning, in a manner satisfactory to the inspector.

(c) All costs incident to such collection, disposal, and cleaning other than the services of the inspector during his regular tour of duty and at the usual place of duty, shall be borne by the importer or his agent.

**§ 319.8-25 Costs and charges.**

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer. The Plant Protection and Quarantine Programs will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the entry, inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical entry of an importation of a restricted material.

**§ 319.8-26 Material refused entry.**

Any material refused entry for non-compliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, or other expenses incidental to the safeguarding or disposal of material refused entry by

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the inspector, nor will the Department of Agriculture or the inspector assume responsibility for the value of material destroyed.

**Subpart—Sugarcane**

**§ 319.15 Notice of quarantine.**

(a) On and after October 1, 1934, under authority conferred by the Plant Quarantine Act approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151-167), as amended, the importation into the United States of canes of sugarcane, or cuttings or parts thereof, sugarcane leaves, the bagasse, from all foreign countries and localities, is prohibited: *Provided*, That this prohibition shall not apply to importations by the U.S. Department of Agriculture for scientific or experimental purposes, nor to importations of specific materials which the Department may authorize under permit on condition that they have been or are to be so treated, processed, or manufactured that, in the judgment of the Department, their entry will involve no pest risk: *Provided further*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of bagasse and related sugarcane products into Guam, make it safe to modify by making less stringent the restrictions of this section with respect to such importation, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent and imposing such conditions on such importation as he deems necessary to carry out the purposes of this section, whereupon such modification shall become effective.

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

**§ 319.15a Administrative instructions and interpretation relating to entry into Guam of bagasse and related sugarcane products.**

Bagasse and related sugarcane products have been so processed that, in the

judgment of the Department, their importation into Guam will involve no pest risk, and they may be imported into Guam without further permit, other than the authorization contained in this paragraph. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

#### Subpart—Citrus Canker and Other Citrus Diseases

##### § 319.19 Notice of quarantine.

(a) In order to prevent the introduction into the United States of the citrus canker disease (*Xanthomonas citri* (Hasse) Dowson) and other citrus diseases, the importation into the United States of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae is prohibited, except as provided in paragraphs (b), (c), and (d) of this section.

(b) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae may be imported into the United States for experimental or scientific purposes in accordance with conditions prescribed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae may be imported into Guam in accordance with § 319.37-6.

(d) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family

Rutaceae that are regulated articles under §§ 319.40-1 through 319.40-11 may be imported into the United States in accordance with §§ 319.40-1 through 319.40-11 and without restriction by this subpart.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27674, May 25, 1995]

#### Subpart—Corn Diseases

##### QUARANTINE

##### § 319.24 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that maize or Indian corn (*Zea mays* L.) and closely related plants are subject to certain injurious diseases, especially *Peronospora maydis* Raciborski, *Sclerospora sacchari* Miyake and other downy mildews; also the *Physoderma* diseases of maize, *Physoderma zae-maydis* Shaw, and *Physoderma maydis* Miyake, new to and not heretofore widely prevalent or distributed within and throughout the United States, and that these diseases occur in southeastern Asia (including India, Siam, Indo-China and China), Malayan Archipelago, Australia, Oceania, Philippine Islands, Formosa, Japan, and adjacent islands.

(b) Except as provided for in paragraph (d) of this section for corn seed from New Zealand, on and after July 1, 1916, and until further notice, by virtue of section 7 of the act of Congress approved August 20, 1912, known as the "Plant Quarantine Act" (37 Stat. 317; 7 U.S.C. 160), the importation into the United States, in the raw or unmanufactured state, from southeastern Asia (including India, Siam Indo-China and China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Manchuria, Japan, and adjacent islands, of seed and all other portions of Indian corn or maize (*Zea mays* L.), and the closely related plants, including all species of *Teosinte* (*Euchlaena*), *jobs-tears* (*Coix*), *Polytoca*, *Chionachne*, and *Sclerachne*,

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except for experimental or scientific purposes by the Department of Agriculture, except as provided in the regulations supplemental hereto, is prohibited: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental thereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

(d) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993]

**§ 319.24a Administrative instructions relating to entry of corn into Guam.**

Corn may be imported into Guam without further permit, other than the authorization contained in this section but subject to compliance with § 319.24-3. Such imports need not comply with the notice of arrival requirements of § 319.24-4 inasmuch as information equivalent to that in a notice of arrival is available to the inspector from another source. Section 319.24-5 shall not be applicable to importations of corn into Guam. Such importations shall be

subject to inspection at the port of entry. Corn found upon inspection to contain disease infection will be subject to sterilization in accordance with methods selected by the inspector from administratively authorized procedures known to be effective under the conditions in which applied.

REGULATIONS GOVERNING ENTRY OF  
INDIAN CORN OR MAIZE

**§ 319.24-1 Applications for permits for importation of corn.**

Persons contemplating the importation of corn into the United States shall, before shipping the corn, make application for a permit, on forms provided for that purpose, to the Deputy Administrator of the Plant Protection and Quarantine Programs, Department of Agriculture, Washington, DC, stating the name and address of the exporter, the country and locality where grown, the port of departure, the proposed port of entry, and the name and address of the importer or of the broker in the United States to whom the permit should be sent.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.24-2 Issuance of permits.**

(a) Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

(b) Further permits may be refused and existing permits revoked, if the application therefor does not correctly give the locality where the corn was grown, or is false or deceptive in any material particular.

**§ 319.24-3 Marking as condition of entry.**

Every bag or other container of corn offered for entry shall be plainly marked with such numbers or marks as

will make it easily possible to associate the bags or containers with a particular importation.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.24-4 Notice of arrival of corn by permittee.**

Immediately upon the arrival of the corn at the port of entry the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the number of bags or other containers of corn included in the shipment, the bag or other container numbers or marks, the country and locality where the corn was grown, the name and address of the exporter or foreign shipper, the port of departure, the date of arrival, the name of the ship or vessel, and the designation of the dock where the corn is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.24-5 Condition of entry.**

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Protection and Quarantine Programs, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Protection and Quarantine Programs. Corn will be delivered to the

permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of \$5,000, or in an amount equal to the invoice value of the corn if such value is less than \$5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and the satisfaction of an inspector of the Plant Protection and Quarantine Programs; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

**Subpart—Citrus Fruit**

NOTE: Citrus nursery stock, except seeds, is prohibited entry from all foreign countries and localities by the citrus nursery stock quarantine No. 19 (§319.19).

The importation from all foreign countries of fruits of citrus and citrus relatives, other than those specified in this subpart, is restricted by the provisions of fruit and vegetable quarantine No. 56 (§§319.56 to 319.56-8).

**§ 319.28 Notice of quarantine.**

(a) Under the authority conferred by sections 5, 7, and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 160, 162), and having held the public hearing required thereunder, the Secretary of Agriculture does hereby declare, (1) that in order to prevent the introduction into the United States of the citrus canker disease *Xanthomonas campestris* pv. *citri* (Hasse) Dye the importation into the United States of all fruits and peel of all genera, species, and varieties of the subfamilies *Aurantioideae*, *Rutoideae*, and *Toddalioideae* of the botanical family *Rutaceae* from eastern and southeastern Asia (including India, Burma, Ceylon, Thailand, Indochina, and China), the Malay Archipelago, the Philippine Islands, Oceania (except Australia and Tasmania), Japan and adjacent islands, the Republic of Korea, Formosa, Mauritius, Seychelles, Brazil, and Paraguay is prohibited; (2) that in order to prevent the introduction into the United States of sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins) the importation into the United States of fruits and peel of all species and varieties of the genus *Citrus*, including among others *Citrus aurantifolia* (Christm.) Swingle, *C.*

*aurantium* L., *C. hystrix* DC., *C. limon* (L.) Burm. f., *C. paradisi* Macf., *C. reticulata* Blanco, and *C. sinensis* (L.) Osbeck; and *Fortunella margarita* (Lour.) Swingle, from Argentina, Brazil, Paraguay, and Uruguay, is prohibited; and (3) that in order to prevent the introduction into the United States of the bacterial disease known as "Cancrosis B" the importation into the United States of fruits and peel of all species and varieties of the genus *Citrus*, including among others *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. limon* (L.) Burm. f., *C. medica* L., and *C. sinensis* (L.) Osbeck, from Argentina, Paraguay, and Uruguay, is prohibited: *Provided*, That seeds and processed peel of fruits designated herein are excluded from the provisions of this quarantine. Such seeds, however, are subject to the requirements of the Nursery Stock, Plant and Seed Quarantine No. 37 (§§ 319.37 to 319.37-27).

(b) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma, grown in Japan or on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States: *Provided*, that each of the following safeguards is fully carried out:

(1) The Unshu oranges must be grown and packed in isolated, canker-free export areas established by the plant protection service of the country of origin. Only Unshu orange trees may be grown in these areas, which must be kept free of all citrus other than the propagative material of Unshu oranges. The export areas must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both the country of origin and the United States. The export areas must be surrounded by 400-meter-wide buffer zones. The buffer zones must be kept free of all citrus other than the following 10 varieties: Buntan Hirado (*Citrus grandis*); Buntan Vietnam (*C. grandis*); Hassaku (*C. hassaku*); Hyuganatsu (*C. tamurana*); Kinkan

(*Fortunella* spp. non *Fortunella hindsii*); Kiyomi tangor (hybrid); Orange Hyuga (*C. tamurana*); Ponkan (*C. reticulata*); Unshu (*C. unshiu* Marcovitch, Tanaka [*Citrus reticulata* Blanco var. *unshu*, Swingle]); and Yuzu (*C. junos*). The buffer zones must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both the country of origin and the United States.

(2) Inspection of the Unshu oranges shall be performed jointly by plant protection officers of the country of origin and the United States in the groves prior to and during harvest, and in the packinghouses during packing operations.

(3) Before packing, such oranges shall be given a surface sterilization as prescribed by the U.S. Department of Agriculture.

(4) The identity of the fruit shall be maintained in the following manner:

(i) On its tissue paper wrapping, and on the individual box in which such oranges are shipped, there is to be stamped or printed a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

(ii) Each shipment of oranges handled in accordance with these procedures shall be accompanied by a certificate of the plant protection service of the country of origin certifying that the fruit is apparently free of citrus canker disease.

(5) [Reserved]

(6) The Unshu oranges may be imported into the United States only through a port of entry listed in § 319.37-14 of this part, except that the importation is prohibited through ports of entry located in American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States.

(c) This prohibition shall not apply to importations for experimental or scientific purposes by the U.S. Department of Agriculture upon such conditions and under such requirements as may be prescribed in permits that may be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such importations.

(d) Further, this prohibition shall not apply to importations into Guam of the fruits and peel designated in paragraph (a)(1) of this section.

(e) Importations allowed in paragraphs (b), (c), and (d) of this section shall be subject to the permit and other requirements under the Fruits and Vegetables Quarantine (§319.56).

(f) All salary, travel, and subsistence expenses incident to the assignment of personnel of the U.S. Department of Agriculture to such operations in the country of origin of the Unshu oranges shall be paid by those requesting the service of such personnel.

(g) The term *United States* means the States, District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

(h) Any permit that has been issued for the importation of Unshu oranges may be withdrawn by an inspector orally or in writing, if he or she determines that the holder of the permit has not complied with any of the conditions in the regulations. The holder of the permit shall be informed orally or in writing of the reasons for the withdrawal. If the withdrawal is oral, the decision and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. As promptly as circumstances allow, the Deputy Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Deputy Administrator.

(i) The term *inspector* means any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, who is authorized by

the Deputy Administrator to enforce the regulations in this subpart.

[32 FR 7959, June 2, 1967, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 7481, Apr. 15, 1972; 37 FR 23624, Nov. 7, 1972; 43 FR 13491, Mar. 31, 1978; 52 FR 32291, Aug. 27, 1987; 53 FR 50508, Dec. 16, 1988; 59 FR 13183, Mar. 21, 1994; 60 FR 39103, 39104, Aug. 1, 1995]

### Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products<sup>1, 2</sup>

SOURCE: 45 FR 31585, May 13, 1980, as amended at 60 FR 27674, May 25, 1995.

#### § 319.37 Prohibitions and restrictions on importation; disposal of articles refused importation.

(a) No person shall import or offer for entry into the United States any prohibited article, except as otherwise provided in § 319.37-2(c) of this subpart. No person shall import or offer for entry into the United States any restricted article except in accordance with this subpart.

(b) The importer of any article denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, as prescribed by an inspector to prevent the introduction into the

<sup>1</sup>The Plant Protection and Quarantine Programs also enforces regulations promulgated under the Endangered Species Act of 1973 (Pub. L. 93-205, as amended) which contain additional prohibitions and restrictions on importation into the United States of articles subject to this subpart (See 50 CFR parts 17 and 23).

<sup>2</sup>One or more common names of articles are given in parentheses after most scientific names (when common names are known) for the purpose of helping to identify the articles represented by such scientific names; however, unless otherwise specified, a reference to a scientific name includes all articles within the category represented by the scientific name regardless of whether the common name or names are as comprehensive in scope as the scientific name.

United States of plant pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the article, whether the article is a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the article.

(c) No person shall remove any restricted article from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector that the restricted article has satisfied all requirements under this subpart.

[57 FR 43144, Sept. 18, 1992]

#### § 319.37-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

*Bulbs.* The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

*Clean well water.* Well water that does not contain plant pathogens or other plant pests.

*Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for the Plant Protection and Quarantine Programs, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

*Disease.* The term in addition to its common meaning, includes a disease agent which incites a disease.

*Earth.* The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

*Europe.* The continent of Europe, the British Isles, Iceland, the Azores, and the islands in the Mediterranean Sea.

*From.* An article is considered to be "from" any country or locality in which it was grown. *Provided,* That an article imported into Canada from another country or locality shall be considered as being solely from Canada if it meets the following conditions:

(a) It is imported into the United States directly from Canada after having been grown for at least 1 year in Canada,

(b) It has never been grown in a country from which it would be a prohibited article or grown in a country other than Canada from which it would be subject to conditions of § 319.37-5 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) of this subpart, or subject to conditions of § 319.37-6 of this subpart,

(c) It was not grown in a country or locality from which it would be subject to conditions of § 319.37-7 of this subpart unless it was grown in Canada under postentry growing conditions equivalent to those specified in § 319.37-7<sup>3</sup> of this subpart, and

(d) It was not imported into Canada in growing media.

*Indexing.* A procedure for using plant material or its extracts to determine the presence or absence of one or more pests in or on the tested plant material. For the purposes of this subpart, indexing is performed in foreign countries to test the parent stock of designated articles that must meet special foreign inspection and certification requirements in accordance with § 319.37-5 to be eligible for importation into the United States. The results of indexing tests are used by the plant protection services of foreign countries to issue phytosanitary certificates declaring plant articles free of specified diseases. The following indexing procedures are authorized for use with the specified plant genera, if the procedures are performed using protocols acceptable to

<sup>3</sup>Currently only *Chaenomoles* spp. (flowering quince), *Cydonia* spp. (quince), *Malus* spp. (apple, crabapple); *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) and *Pyrus* spp. (pear) are required under the laws of Canada to be grown in Canada under such equivalent conditions after importation.

the plant protection service that issues phytosanitary certificates based on them: mechanical transmission of the pest to an indicator plant for *Dianthus*, *Malus*, *Prunus*, *Rubus*, and *Syringa*; graft transmission of the pest to an indicator plant for *Chaenomeles*, *Cydonia*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; serology for *Dianthus*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; electron microscopy for *Dianthus* and *Prunus*, and nucleic acid probes for *Chaenomeles*, *Cydonia*, *Malus*, and *Pyrus*.

*Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

*Nursery stock.* All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

*Oceania.* The islands of Micronesia, Melanesia, and Polynesia (except Hawaii, Guam, and the Northern Mariana Islands) in the central and southern Pacific Ocean.

*Person.* An individual, corporation, company, society, or association.

*Phytosanitary certificate of inspection.* A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of

the United States, and which contains any specific additional declarations required under this subpart.

*Plant pest.* The egg, pupal, and larval stages as well as any other living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

*Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related laws, and regulations promulgated thereunder.

*Port of first arrival.* The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territory of the United States, and where inspection of articles is carried out by inspectors.

*Potable water.* Water which is approved for drinking purposes by the national or local health authority having jurisdiction.

*Prohibited article.* Any nursery stock, plant, root, bulb, seed, or other plant product designated in § 319.37-2 (a) or (b), except wood articles regulated under §§ 319.40-1 through 319.40-11, "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles."

*Restricted article.* Any class of nursery stock or other class of plant, root, bulb, seed, or other plant product, for or capable of propagation, excluding any prohibited articles listed in § 319.37-2 (a) or (b) of this subpart, excluding any articles subject to any restricted entry orders in 7 CFR part 321 (i.e., potatoes), and excluding any articles regulated in 7 CFR 319.8 through 319.24 or 319.41 through 319.74-7.

*Secretary.* The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in

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his/her stead has been or may hereafter be delegated.

*Soil.* The loose surface material of the earth in which plants, trees, and shrubs grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

*Solanum spp. true seed.* Seed produced by flowers of *Solanum* capable of germinating and producing new *Solanum* plants, as distinguished from *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes.

*Spp. (species).* All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

*State Plant Regulatory Official.* The official authorized by the State to sign agreements with Federal agencies in-

volving operations of the State plant protection agency.

*United States.* The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[45 FR 31585, May 13, 1980, as amended at 50 FR 8706, Mar. 5, 1985; 56 FR 19790, Apr. 30, 1991; 57 FR 43145, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 60 FR 3077, Jan. 13, 1995; 60 FR 27674, May 25, 1995; 63 FR 13484, Mar. 20, 1998]

**§ 319.37-2 Prohibited articles.**

(a) The following listed articles from the designated countries and localities are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in § 319.37-2(c) of this subpart.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Abelmoschus</i> spp. (okra) .....	Africa .....	Cotton leaf curl agent.
	Brazil .....	Cotton Anthracnose agent.
	Bangladesh, India, Sri Lanka .....	Bhendi yellow vein mosaic agent.
	Ivory Coast, Nigeria .....	Okra mosaic virus.
	Iraq .....	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago .....	Okra mosaic agents.
<i>Abies</i> spp. (fir) .....	All except Canada .....	50 or more species of rusts including <i>Chrysomyxa abietis</i> (Walr.) Ung. (a rust causing a serious needle disease); <i>Phacioglyphis pseudotsugae</i> (M. Wils.) Hahn (Douglas fir canker).
		<i>Uromycescladium tepperianum</i> (Sacc.) McAlp. (Rust).
<i>Acacia</i> spp. (acacia) .....	Australia and Oceania .....	<i>Xanthomonas acemea</i> (Ogawa) Burk.
<i>Acer</i> spp. (maple) (except <i>Acer palmatum</i> and <i>Acer japonicum</i> meeting the conditions for importation in §319.37-5(m)).	Japan .....	Maple mosaic or variegation diseases.
<i>Actinidia</i> spp. (Chinese gooseberry, kiwi) .....	Europe, Japan .....	
<i>Adonidia</i> spp. ....	Japan and Taiwan .....	<i>Pucciniastrum actinidiae</i> Hiratsuka (Rust).
	All .....	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Aesculus</i> spp. (horsechestnut) .....	Czechoslovakia, Federal Republic of Germany, Romania, United Kingdom.	Horsechestnut variegation or yellow mosaic diseases.
<i>Aiphanes</i> spp. (coyure, ruffie, and spine palm) .....	All .....	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Allagoptera arenaria</i> .....	All .....	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Althaea</i> spp. (althaea, hollyhock) .....	Africa .....	Cotton leaf curl agent.
	Bangladesh, India, Sri Lanka .....	Bhendi yellow vein mosaic agent.
<i>Arachis</i> spp. (peanut) seed only (all other <i>Arachis</i> articles are included under Fabaceae).	India, Indonesia, Japan, People's Republic of China, Philippines, Taiwan, Thailand.	Peanut stripe virus.
	Ivory Coast, Senegal, Upper Volta .....	Peanut clump virus.
<i>Areca</i> spp. ....	India .....	Indian peanut clump virus.
	All .....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Arenga</i> spp. (sugarpalm) .....	All .....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Arikuryoba</i> spp. (arikury palm) .....	All .....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Articles listed in § 319.37-2(b) .....	All except Canada .....	A diversity of diseases, insects, and other pests, including but not limited to: <i>Cactoblastis cactorum</i> (Berg); <i>Metamasius</i> spp.; <i>Opogona sacchari</i> (Bojer); <i>Chrysomyxa himalensis</i> Barclay (Spruce needle rust); <i>Aecidium mori</i> Barclay (Mulleberry rust); <i>Pseudomonas lignicola</i> Westhead. & Buis. (Bacterial stain); <i>Pucciniastrum areolatum</i> (Fr.) Oth. (Cherry-spruce rust).
Bambuseae (seeds, plants, and cuttings) .....	All .....	Various plant diseases, including bamboo smut ( <i>Ustilago shirataiana</i> )



<i>Cydonia</i> spp. (quince) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for <i>Cydonia</i> in § 319.37-5(b)(1).
<i>Datura</i> spp.	Colombia	Datura Colombian virus.
<i>Dendranthema</i> spp. (chrysanthemum).	India	Datura distortion or enation mosaic virus.
	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Dictyosperma</i> spp. (Princesspalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Elaeis</i> spp. (oil palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Eriarthus</i> spp. (plumegrass)	All	<i>Puccinia melanocephala</i> H. Syd. & P. Syd. (Sugarcane rust).
<i>Eucalyptus</i> spp. (eucalyptus)	Europe, Sri Lanka, and Uruguay	<i>Pestalotia disseminata</i> Thuem. (parasitic leaf fungus).
<i>Euonymus</i> spp. (euonymus)	Europe, Japan	<i>Euonymus</i> mosaic diseases.
Fabaceae (=Leguminosae) (herbaceous spp. only).	All except Canada	A diversity of diseases including but not limited to: African soybean dwarf agent, alfalfa enation virus, azuki bean mosaic virus, bean golden mosaic virus, cowpea mild mottle virus, French bean mosaic virus, groundnut chlorotic leaf streak virus, groundnut chlorotic spotting virus, groundnut rosette agents, groundnut witches broom MLO, horsegram yellow mosaic virus, Indonesian soybean dwarf virus, lima bean mosaic virus, lucerne Australian symptomless virus, lucerne vein yellowing virus, mung bean yellow mosaic virus, peanut stripe virus, red clover mottle virus, and soybean dwarf virus.
<i>Fragaria</i> spp. (strawberry) not meeting the conditions for importation in § 319.37-5(h).	All except Canada	<i>Phytophthora fragariae</i> Hickman (Red stele disease).
<i>Fraxinus</i> spp. (ash)	Europe	<i>Pseudomonas savastanoi</i> var. <i>fraxini</i> (Brown) Dowson (Canker and dwarfing disease of ash).
<i>Gaussia</i> spp. (lumepalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Gladiolus</i> spp. (gladiolus)	Africa	<i>Puccinia maclearii</i> Dodge (rust), <i>Uredo gladioli-buetleri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Gossypium</i> spp. (cotton, cottontree).	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	<i>U. transversalis</i> (Thuem.) Wint. (rust).
<i>Hibiscus</i> spp. (kenaf, hibiscus, rose mallow).	Argentina, Uruguay	<i>U. gladioli</i> P. Henn. (rust).
	All	A diversity of diseases including but not limited to: cotton leaf curl virus; cotton virescence agent; small leaf virus.
	Africa	Cotton leaf curl agent.
	Brazil	Cotton anthracniosis agent.
	India	Hibiscus leaf curl agent.
<i>Howea</i> spp. (sentry palm) not meeting the conditions in § 319.37-5(n).	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Hydrangea</i> spp. (hydrangea)	Japan	<i>Aecidium hydrangeae-paniculatea</i> Dietel
<i>Hyophorbe</i> spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Ipomoea</i> spp. (sweetpotato)	All except Canada	A diversity of diseases including but not limited to: sweetpotato witches broom (little leaf); and sweetpotato viruses of eastern Africa.
<i>Jasminum</i> spp. (jasmine)	Belgium, Federal Republic of Germany, Great Britain	Jasmine variegation diseases.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
India	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
Philippines	Philippines	Sampaguita yellow ringspot mosaic diseases.
Austria, Finland, and Romania	Austria, Finland, and Romania	<i>Stigmata deflectionis</i> (Karst) Ellis (Needlecast disease).
Europe	Europe	<i>Phacidopycnis pseudotsugae</i> (M. Wils.) Hahn (Douglas fir canker).
Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	<i>Lactnellula wilkommii</i> (Hartig) Dennis (European larch canker).
Europe	Europe	<i>Phacidopycnis pseudotsugae</i> (M. Wils.) Hahn (Douglas fir canker).
All	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
All	All	<i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.
South America	South America	<i>Uromyces viciae-fabae</i> (Pers.) Schroet. (Rust).
All	All	<i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.
Europe	Europe	<i>Ligustrum</i> mosaic diseases.
All	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
All	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
All	All	All

<i>Mahonia</i> spp. (mahonia) destined to an eradication State listed in § 301.38-2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All	.....	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Mahonia</i> spp. seed	All	.....	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Malus</i> spp. (apple, crabapple) not meeting the conditions for importation in § 319.37-5(b).	All	.....	A diversity of diseases including but not limited to those listed for <i>Malus</i> in § 319.37-5(b)(1).
<i>Mangifera</i> spp. (mango) seed only	All except North and South America (excluding Barbados, Dominica, French Guiana, Guadeloupe, Martinique, and St. Lucia).	.....	<i>Cryptorhynchus mangiferae</i> F. (mango weevil).
<i>Manihot</i> spp. (cassava)	All except Canada	.....	A diversity of diseases, insects, and other pests including but not limited to: <i>Mononychellus tanajoa</i> (Bondar) (cassava mite); <i>Phenacoccus manihoti</i> Matile-Ferrero (cassava mealybug); <i>Xanthomonas manihoti</i> (Arthand-Berthel) Starr (Bacterial blight); Cassava brown streak virus; Cassava latent virus; Cassava African mosaic virus; Cassava common mosaic virus.
<i>Mascarena</i> spp	All	.....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Morus</i> spp. (mulberry)	India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.	.....	Mulberry dwarf or mulberry mosaic diseases.
<i>Nannorrhops</i> spp. (mazaripalm)	All	.....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Neodypsis</i> spp. (palm)	All	.....	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Persea</i> spp. (avocado) seed	Central and South America, and Mexico	.....	<i>Helipus lauri</i> Boh. (Avocado weevil); <i>Stenoma caterifer</i> Wals. (Avocado seed moth); <i>Conotrachelus</i> spp.
<i>Philadelphus</i> spp. (mock orange)	Europe	.....	Elm mottle virus.
<i>Phoenix</i> spp. (date)	All	.....	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Picea</i> spp. (spruce)	Europe, Japan, and Siberia	.....	<i>Chrysomya lefdi</i> (Alb. & Schw.) d By var. <i>rhododendri</i> (DC) Savile. (Rhododendron spruce needle rust).
<i>Pinus</i> spp. (pine) (2- or 3-leaved)	Europe.	.....	<i>Phacioglyphis pseudotsugae</i> (M. Wils.) Hahn (Douglas fir canker).
	Europe and Japan	.....	<i>Cronartium flaccidum</i> (Alb. & Schw.) Wint. (Rust causing serious stunting of hard pines.)
	Japan.	.....	Gall-forming rust.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Poaceae</i> (vegetative parts of all grains and grasses, except species of <i>Bambuseae</i> ).	All except Canada	A wide diversity of plant diseases, including but not limited to: banana streak virus, barley yellow mosaic virus, barley yellow striate mosaic virus, bromo streak mosaic virus, cereal chlorotic mosaic virus, cocksfoot mild mosaic virus, corn stunt Spiroplasma, Cynodon chlorotic streak virus, cynosurus mottle virus, Echinochloa ragged stunt virus, European aster yellows MLO, European wheat striate mosaic virus, Iranian maize mosaic virus, maize bushy stunt MLO, maize chlorotic mottle virus, maize mosaic virus, maize mottle/chlorotic stunt virus, maize rough dwarf virus, maize streak virus, maize stripe virus, northern cereal mosaic virus, oat red streak mosaic virus, oat sterile dwarf virus, rice dwarf virus, rice gall dwarf virus, rice tungro virus, rice wilted stunt virus, rice yellow mottle virus, rice yellow dwarf agent, yellow dwarf agent, sugarcane white leaf MLO, wheat yellow leaf virus, and wheat yellowing stripe bacterium.
<i>Populus</i> spp. (aspen, cottonwood, poplar).	Europe	<i>Xanthomonas populi</i> Ride (Canker).
<i>Pritchardia</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Prunus</i> spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) not meeting the conditions for importation in §319.37-5(b).	All	A diversity of diseases including but not limited to those listed for <i>Prunus</i> in §319.37-5(b)(1).
<i>Prunus</i> spp. seed only (almond, apricot, nectarine, peach, plum, and prune, but not species in subgenus <i>Cerasus</i> ) not meeting the conditions for importation in §319.37-5(j).	All	Plum pox (Sharka) virus.
<i>Pseudolarix</i> spp. (golden larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	<i>Lachnellula wilkommii</i> (Hartig) Dennis (European larch canker).
<i>Pseudaitsuga</i> spp. (Douglas fir)	Europe	<i>Phaciolyticus pseudatsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Pyrus</i> spp. (pear) not meeting the conditions for importation in §319.37-5(b).	All	A diversity of diseases including but not limited to those listed for <i>Pyrus</i> in §319.37-5(b)(1).
<i>Quercus</i> spp. (oak)	Japan	<i>Stereum hiugense</i> Imazeki (White rot), a gall-forming rust.
<i>Ravenea</i> spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease, cadang-cadang disease.
<i>Ribes</i> spp. (currant, gooseberry)	Europe and New Zealand	Black currant reversion agent.
<i>Rosa</i> spp. (rose)	Australia, Bulgaria, Italy, and New Zealand	Rose wilt virus.
<i>Salix</i> spp. (willow)	Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands.	<i>Erwinia salicis</i> (Day) Chester (Watermark disease).
Seeds of all kinds when in pulp	All except Canada	Fruit flies, or other injurious insects.

<p><i>Solanum</i> spp. (potato) (tuber bearing species only—Section Tuberaurum), including potato tubers.</p> <p><i>Solanum</i> spp. true seed bearing species only—Section Tuberaurum).</p> <p><i>Sorbus</i> spp. (mountain ash) .....</p> <p><i>Syringa</i> spp. (lilac) not meeting the conditions for importation in § 319.37-5(i).</p> <p><i>Theobroma</i> spp. (cacao) .....</p>	<p>All except Canada (except Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road), .....</p> <p>All except Canada, New Zealand, and the X region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37-5(o)).</p> <p>Czechoslovakia, Denmark, Federal Republic of Germany .....</p> <p>Europe .....</p> <p>All .....</p>	<p>Andean potato latent virus; Andean potato mottle virus; potato mop top virus; dulcamara mottle virus; tomato blackring virus; tobacco rattle virus; potato virus Y (tobacco vein necrosis strain); potato purple top wilt agent; potato marginal flavescence agent; potato purple top agent; potato witches broom agent; stolbur agent; parasolbur agent; potato leaflet stunt agent; potato spindle tuber viroid; arracacha virus B; potato yellowing virus.</p> <p>Andean potato latent virus; potato virus T; tobacco ringspot virus (Andean potato calico strain); arracacha virus B; potato yellowing virus.</p> <p>Mountain ash variegation or ringspot mosaic disease.</p> <p>Elm mottle virus.</p>
<p><i>Trachycarpus</i> spp. (windmill palm) All .....</p> <p><i>Ulmus</i> spp. (elm) (including seeds). Europe .....</p> <p><i>Veitchia</i> spp. .... All .....</p> <p><i>Vitis</i> spp. (grape) not meeting the conditions for importation in § 319.37-5(b).</p> <p><i>Watsonia</i> spp. (bugle lily) .....</p>	<p>All .....</p> <p>Europe .....</p> <p>All .....</p> <p>All .....</p> <p>Africa .....</p> <p>Africa, Brazil, France, Italy, Malta, Mauritius, Portugal .....</p> <p>Argentina, Uruguay .....</p> <p>All except Canada .....</p>	<p>A diversity of diseases and pests including but not limited to: cocoa swollen shoot virus, cocoa mottle leaf virus, cocoa yellow mosaic virus, cocoa necrosis virus, <i>Crinipellis perniciosa</i> (Stahel) Singer (witches broom fungus), <i>Monilia rorei</i>—<i>Monilophthora rorei</i> (Cif.) H.C. Evans <i>et al.</i> (watery pod rot), cocoa isolates of <i>Ceratocystis fimbriata</i> Ellis and Halst (wilts), <i>Trachysphaera fructigena</i> Tabor and Bunting (mealy pod agents of cushy gall disease), <i>Oncobasidium theobromae</i> Tabbot and Keane (vascular streak die-back), <i>Xyleborus</i> spp. beetles and <i>Acrocerops cramei</i> (Shellen) (cocoa moth).</p> <p>A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.</p> <p>Elm mottle virus.</p> <p>A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.</p> <p>A diversity of diseases including but not limited to those specified for <i>Vitis</i> in § 319.37-5(b)(1).</p> <p><i>Puccinia macleanii</i> Dodge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).</p> <p><i>U. transversalis</i> (Thuern.) Wint. (rust).</p> <p><i>U. gladioli</i> P. Henn. (rust).</p> <p><i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.</p>

(b) The following listed articles from all foreign places except Canada are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in § 319.37-2(c) of this subpart:

(1) *Rhododendron* spp. (rhododendron and azalea) or other genera or species of similar slow growth habit, other than artificially dwarfed trees or shrubs:

(i) Exceeding 3 years of age if grown from seeds or cuttings; or

(ii) Exceeding 2 years of age after severance from the parent plant if produced by layers; or

(iii) Having more than 3 years' growth from the bud or graft if produced by budding or grafting.

(2) Any naturally dwarf or miniature form of tree or shrub exceeding 305 millimeters (approximately 12 inches) in length from the soil line.

(3) Herbaceous perennials (except epiphytes) imported in the form of root crowns or clumps exceeding 102 millimeters (approximately 4 inches) in diameter.

(4) Stem cuttings without leaves, without roots, without sprouts, and without branches (other than cactus cuttings and cuttings of epiphytes) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length; and stem cuttings of epiphytes with or without aerial roots (without leaves, without sprouts, and without branches) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length.

(5) Cactus cuttings (without roots or branches) exceeding 153 millimeters (approximately 6 inches) in diameter or exceeding 1.22 meters (approximately 4 feet) in length.

(6)(i) Plants (other than stem cuttings, cactus cuttings, artificially dwarfed plants such as bonsai, and palms and plants whose growth habits simulate palms) exceeding 460 millimeters (approximately 18 inches) in length from soil line (top of rooting zone for plants produced by air layering) to the farthest terminal growing point and whose growth habits simulate the woody habits of trees and

shrubs, including but not limited to cacti, cycads, yuccas, and dracaenas.

(ii) Palms and plants whose growth habits simulate palms, that exceed a total length (stem plus leaves) of 915 millimeters (approximately 36 inches) in length.

(7) Any tree or shrub of a type not listed above, other than an artificially dwarf tree or shrub, and:

(i) Exceeding 2 years of age if grown from seeds or cuttings; or

(ii) Exceeding 1 year of age after severance from the parent plant if produced by layers; or

(iii) Having more than 2 years' growth from the bud or graft if produced by budding or grafting.

(c) Any article listed as a prohibited article in paragraph (a) or (b) of this section may be imported or offered for entry into the United States if:

(1) Imported by the United States Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 56 FR 19790, Apr. 30, 1991; 57 FR 334, Jan. 6, 1992; 57 FR 43145, 43147, 43148, Sept. 18, 1992; 59 FR 9918, Mar. 2 1994; 59 FR 44610, Aug. 30, 1994; 60 FR 8924, Feb. 16, 1995; 62 FR 50238, Sept. 25, 1997; 63 FR 13485, Mar. 20, 1998]

**§ 319.37-3 Permits.**

(a) The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs:

(1) Articles subject to treatment and other requirements of § 319.37-6;

(2) Articles subject to the postentry quarantine conditions of § 319.37-7;

(3) Bulbs of *Allium sativum* spp. (garlic), *Crocasmia* spp. (montebretia), *Gladolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand;

(4) Articles of *Cocos nucifera* (coconut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada;

(5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada;

(6) Seeds of trees or shrubs from any country or locality except Canada;

(7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;

(8) Articles (except seeds) of *Castanea* spp. (chestnut) or *Castanopsis* spp. (chinquapin) destined to California or Oregon;

(9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wisconsin;

(10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Virginia, or Wisconsin;

(11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado,

Michigan, New York, Washington, or West Virginia;

(13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;

(14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada and destined to California, Idaho, Montana, Oregon, or Utah; and

(16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon.

(17) *Solanum tuberosum* true seed from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37-5(o)).

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236) at least 30 days prior to arrival of the article at the port of entry. The completed application shall include the following information:<sup>4</sup>

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles intended to be imported;

(3) Country(ies) or locality(ies) where grown;

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine Programs, a written permit indicating the applicable conditions for importation under this subpart shall be

<sup>4</sup>Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, local offices which are listed in telephone directories.

issued for the importation of articles described in the application if such articles under the conditions specified in the application appear to be eligible to be imported into the United States. Even though a written permit has been issued for the importation of an article, such article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) are necessary with respect to such article.<sup>5</sup>

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is

<sup>5</sup>Section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150ee (b) and (c)), any product or article, including any articles subject to this subpart, which is moving into or through the United States, and which he has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against prohibited and restricted articles which are not in compliance with the provisions of this subpart.

a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) are necessary with respect to such article.<sup>5</sup>

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983; 57 FR 43148, Sept. 18, 1992; 59 FR 67610, Dec. 30, 1994; 60 FR 8924, Feb. 16, 1995]

**§319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.**

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection or, in the case of greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section, a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in the Plant Protection and Quarantine

Treatment Manual<sup>6</sup> that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Protection Division of Agriculture Canada signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation if the following conditions are met:

(1) The Plant Protection Division of Agriculture Canada shall:

(i) Eliminate individual inspections and phytosanitary certification of each shipment of articles exported in accordance with this section;

(ii) Enter into written agreements with, and assign a unique identification number to, each greenhouse grower participating in the greenhouse program;

(iii) Inspect greenhouses and the plants being grown in them using inspection methods and schedules approved by Plant Protection and Quarantine to ensure that the criteria of this subsection are met;

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Protection Division, Agriculture Canada." The Plant Protection Division, Agriculture Canada shall also ensure that the label is placed on the outside of each container of articles exported under the agreement and that the grower's label is placed on an airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

(v) Ensure that only plants that are not excluded shipment by the criteria of this subsection are shipped.

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Protection Division of Agriculture Canada in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants, keep the records for at least one year after the plants are shipped to the United States, and make the records available for review and copying upon request by either the Plant Protection Division of Agriculture Canada or an authorized representative of the Secretary of Agriculture.

(ii) Apply to the outside of each carton of plants grown in accordance with this subsection, so as to be readily visible to inspectors and customs officials, and to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States, a label issued by Agriculture Canada including the identification number assigned to the grower by the Plant Protection Division of Agriculture Canada and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Protection Division, Agriculture Canada."

(iii) Apply labels in accordance with paragraph (c)(2)(ii) of this section solely to cartons of plants that meet requirements of this chapter for import of these plants from Canada into the United States; and

(iv) Use pest control practices approved by Plant Protection and Quarantine and the Plant Protection Division of Agriculture Canada to exclude pests from the greenhouses.

[57 FR 43148, Sept. 18, 1992]

**§ 319.37-5 Special foreign inspection and certification requirements.**

(a) Any restricted article (except seeds; unrooted cuttings; articles collected from the wild; and articles solely for food, analytical, or manufacturing purposes) from a country listed below, at the time of arrival at the

<sup>6</sup>The Plant Protection and Quarantine Treatment Manual is incorporated by reference in the Code of Federal Regulations. For further information on the content and availability of this manual, see 7 CFR 300.1, "Materials incorporated by reference."

port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown on land which has been sampled and microscopically inspected by the plant protection service of the country in which grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens:

Algeria, Argentina, Australia, Austria, Azores, Belgium, Bolivia, Bulgaria, Canada (only that portion comprising Newfoundland, and the Land District of South Saanich on Vancouver Island in British Columbia), Channel Islands, Chile, Colombia, Costa Rica, Crete, Cyprus, Czechoslovakia, Denmark (including Faeroe Islands), Ecuador, Egypt, Federal Republic of Germany (West), Finland, France, German Democratic Republic (East), Great Britain, Greece, Guernsey, Hungary, Iceland, India, Ireland, Italy, Japan, Jersey, Jordan, Lebanon, Luxembourg, Malta, Mexico, Morocco, The Netherlands, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, the Philippines, Poland, Portugal, South Africa, Spain (including Canary Islands), Sweden, Switzerland, Tunisia, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia.

(b) (1) Any of the following restricted articles (except seeds) at the time of arrival at the port of first arrival in the United States must be accompanied by a phytosanitary certificate of inspection which contains an additional declaration that the article was grown in a nursery in Belgium, Canada, Federal Republic of Germany, France, Great Britain, or The Netherlands and that the article was found by the plant protection service of the country in which the article was grown to be free of the following injurious plant diseases listed in paragraph (b)(3) of this section: For *Chaenomeles* spp. (flowering quince) and *Cydonia* spp. (quince), diseases (i), (ii), (iv), (xviii), (xix), (xx), and (xxi); for *Malus* spp. (apple, crabapple), diseases (i), (ii), (iii), (vi), (vii), (xxii), and (xxiii); for *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), diseases (i), (ix) through (xvii), and (xxii); and for *Pyrus* spp. (pear), diseases (i), (ii), (iv), (v), (xviii), (xix),

(xx), (xxi) and (xxii); and for *Vitis* spp. (grape) from Canada, diseases (xiv) through (xvii) and (xxiv) through (xlili). The determination by the plant protection service that the article is free of these diseases will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified diseases. An accurate additional declaration on the phytosanitary certificate of inspection by the plant protection service that a disease does not occur in the country in which the article was grown may be used in lieu of visual examination and indexing of the parent stock for that disease and inspection of the nursery.

(2) Species of *Prunus* not immune to plum pox virus (species other than *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*) and grown in Belgium, France, Germany, Great Britain, or The Netherlands shall be certified only from the government operated nurseries (research stations) where the certified plants were grown and the original parent stock is indexed for the appropriate national fruit tree certification program.

(3) List of diseases.

(i) *Monilinia fructigena* (Aderh. & Ruhl.) Honey (Brown rot of fruit).

(ii) *Guignardia piricola* (Nose) Yamamoto (Leaf, branch, and fruit disease).

(iii) Apple proliferation agent.

(iv) Pear blister canker virus.

(v) Pear bud drop virus.

(vi) *Diaporthe mali* Bres. (Leaf, branch & fruit fungus).

(vii) Apple green crinkle virus.

(viii) Apple chat fruit virus.

(ix) Plum pox (=Sharka) virus.

(x) Cherry leaf roll virus.

(xi) Cherry rusty mottle (European) agent.

(xii) Apricot chlorotic leaf roll agent.

(xiii) Plum bark split virus.

(xiv) Arabis mosaic virus and its strains.

(xv) Raspberry ringspot virus and its strains.

(xvi) Tomato blackring virus and its strains.

(xvii) Strawberry latent ringspot virus and its strains.

(xviii) Quince sooty ringspot agent.

(xix) Quince yellow blotch agent.

(xx) Quince stunt agent.

(xxi) *Gymnosporangium asiaticum* Miyabe ex. Yamada (Rust).

(xxii) *Valsa mali* Miyabe and Yamada ex. Miura (Branch canker fungus).

(xxiii) Apple ringspot virus.

(xxiv) The following nematode transmitted viruses of the polyhedral type: Artichoke Italian latent virus, Grapevine Bulgarian latent virus, Grapevine fanleaf virus and its strains, and Hungarian chrome mosaic virus.

(xxv) Grapevine asteroid mosaic agent.

(xxvi) Grapevine Bratislava mosaic virus.

(xxvii) Grapevine chasselas latent agent.

(xxviii) Grapevine corky bark "Legno riccio" agent.

(xxix) Grapevine leaf roll agent.

(xxx) Grapevine little leaf agent.

(xxxi) Grapevine stem pitting agent.

(xxxii) Grapevine vein mosaic agent.

(xxxiii) Grapevine vein necrosis agent.

(xxxiv) Flavescence-doree agent.

(xxxv) Black wood agent (bois-noir).

(xxxvi) Grapevine infectious necrosis bacterium.

(xxxvii) Grapevine yellows disease bacterium.

(xxxviii) *Xanthomonas ampelina* Panagopoulos.

(xxxix) *Peyronellaea glomerata* Ciferri.

(xl) *Pseudopeziza tracheiphila* Muller-Thurgau.

(xli) *Rhacodiella vitis* Sterenberg.

(xlii) *Rosellinia necatrix* Prill.

(xliii) *Septoria melanosa* (Violla and Ravav) Elenk.

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum) or *Dendranthema* spp. (chrysanthemum) from any foreign place except Europe, Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Republic of South Africa, Uruguay, Venezuela, and all countries and localities located in part or entirely between 90° and 180° East longitude shall at the time of arrival at the port of first arrival in United States be accom-

panied by a phytosanitary certificate of inspection containing an accurate additional declaration that such articles was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust disease (caused by the rust fungus, *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation.

(d) Any restricted article (except seeds) of *Dianthus* spp. (carnation, sweet-william) from Great Britain shall be grown under postentry quarantine conditions specified in §319.37-7(c) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was grown in a greenhouse nursery in Great Britain and found by the plant protection service of Great Britain to be free from injurious plant diseases caused by *Phialophora cinerescens* (Wr.) van Beyma (= *Verticillium cinerescens* Wr.), carnation etched ring virus, carnation "streak" virus, and carnation "fleck" virus, based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation, and based on indexing of the parent stock.

(e) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Canada, shall be grown under postentry quarantine conditions specified in §319.37-7 unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was found by the plant protection service of Canada to be free of *Rubus* stunt agent based on visual

examination and indexing of the parent stock.<sup>7</sup>

(f) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was found by the plant protection service of the country of origin to be free of *Rubus* stunt agent based on visual examination and indexing of the parent stock.

(g) Any seed of *Cocos nucifera* (coconut) at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such seed was found by the plant protection service of Costa Rica or of Jamaica to be of Malayan dwarf variety or Maypan variety (=F<sub>1</sub> hybrid, Malayan Dwarf x Panama Tall) (which are resistant to lethal yellowing disease) based on visual examination of the parent stock.

(h) Any restricted article of *Fragaria* spp. (strawberry) from Israel is prohibited as specified in §319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Fragaria* spp. contains an additional declaration that stipulates that the parent stock was found free of red stele disease pathogen as well as any other damaging strawberry pathogens, based on visual inspection and indexing.

(i) Any restricted article of *Syringa* spp. (lilac) from the Netherlands is prohibited as specified in §319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Syringa* spp. (lilac) contains an accurate additional declaration that stipulates that the parent stock was found free of plant diseases by inspection and indexing and that the *Syringa* spp. (lilac) to be imported were propagated either by root-

ing cuttings from indexed parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least three meters from the nearest non-indexed *Syringa* spp. (lilac).

(j)(1) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*) from Belgium, France, Federal Republic of Germany, The Netherlands, or Great Britain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(i) The seeds are from parent stock grown in a nursery in Belgium, France, Federal Republic of Germany, The Netherlands, or Great Britain that is free of plum pox (Sharka) virus; and

(ii) The seeds have been found by the plant protection service of the country in which grown to be free of plum pox (Sharka) virus based on the testing of parent stock by visual examination and indexing.

(2) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*), from all countries except those in Europe, Cyprus, Syria, and Turkey shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that plum pox (Sharka) virus does not occur in the country in which the seeds were grown.

(k) Any restricted article of *Feijoa* (feijoa, pineapple guava) from New Zealand shall undergo postentry quarantine in accordance with §319.37-7 unless the article, at the time of arrival at the port of first arrival in the United States, is accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that New Zealand is free of *Monilinia fructigena*.

(l) Any restricted article of *Gladiolus*, *Watsonia* or *Crocasmia* spp. from Luxembourg or Spain shall, at the time of

<sup>7</sup> Such testing is done under a Raspberry Plant Certification Program of Canada.

arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(1) The plants were grown in a disease free environment in a greenhouse;

(2) The plants were subjected to 12 hours of continuous misting per day with water at 15–20 degrees Celsius on 2 consecutive days; and

(3) The plants were inspected by a plant quarantine official of the country where grown 20 days after the completion of the misting and were found free of gladiolus rust.

(m) Any restricted article of *Acer palmatum* or *Acer japonicum* from the Netherlands is prohibited unless the article is accompanied, at the time of arrival at the port of first arrival in the United States, by a phytosanitary certificate of inspection, containing an accurate additional declaration that the article is of a nonvariegated variety of *A. palmatum* or *A. japonicum*.

(n) Any restricted article of *Howea* spp. (sentry palm) from Australia or New Zealand, is prohibited as specified in § 319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Howea* spp. contains both a declaration of origin and a declaration stipulating that the *Howea* is free of the lethal yellowing pathogen and the cadang-cadang pathogen, as well as any other damaging palm pathogens, based on visual inspection.

(o) Any *Solanum tuberosum* true seed imported from Chile shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection issued in Chile by the Servicio Agrícola y Ganadero (SAG), containing additional declarations that:

(1) The *Solanum* spp. true seed was produced by *Solanum* plants that were propagated from plantlets from the United States;

(2) The *Solanum* plants that produced the *Solanum tuberosum* true seed were grown in the Tenth (X) Region of Chile (that area of the country between 39° and 44° South latitude); and

(3) *Solanum tuberosum* tubers, plants, and true seed from each field in which

the *Solanum* plants that produced the *Solanum tuberosum* true seed were grown have been sampled by SAG once per growing season at a rate to detect 1 percent contamination with a 99 percent confidence level (500 tubers/500 plants/500 true seeds per 1 hectare/2.5 acres), and that the samples have been analyzed by SAG using an enzyme-linked immunosorbent assay (ELISA) test or nucleic acid spot hybridization (NASH) non-reagent test, with negative results, for Andean Potato Latent Virus, Arracacha Virus B, Potato Virus T, the Andean Potato Calico Strain of Tobacco Ringspot Virus, and Potato Yellowing Virus.

(p) In addition to meeting the requirements of this subpart, any trees with roots and any shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year, that are imported from Canada will be subject to the inspection and certification requirements for gypsy moth in § 319.77-4 of this part.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 53450, Aug. 12, 1980; 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983; 57 FR 43148, 43149, Sept. 18, 1992; 59 FR 44610, Aug. 30, 1994; 60 FR 4530, Jan. 24, 1995; 60 FR 8924, Feb. 16, 1995; 61 FR 51210, Oct. 1, 1996; 64 FR 45866, Aug. 23, 1999]

#### § 319.37-6 Specific treatment and other requirements.

(a) Seeds of *Hibiscus* spp. (hibiscus, rose mallow) and seeds of *Abelmoschus* spp. (okra), from any foreign country or locality, at the time of importation into the United States, shall be treated for possible infestation with *Pectinophora gossypiella* (Saunders) (pink bollworm) in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.<sup>8</sup>

(b) Seeds of *Lathyrus* spp. (sweet pea, peavine); *Lens* spp. (lentil); and *Vicia* spp. (fava bean, vetch) from countries and localities other than those in North America and Central America, at the time of importation into the

<sup>8</sup> See footnote 6 in § 319.37-4.

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United States, shall be treated for possible infestation with insects of the family Bruchidae in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

(c) Bulbs of *Allium sativum* (garlic) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, Republic of South Africa, Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, Federal Republic of Germany (West), or Yugoslavia at the time of importation into the United States shall be treated for possible infestation with *Brachycerus* spp. and *Dyspessa ulula* (Bkh.) in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

(d) Seeds of *Guizotia abyssinica* (niger seed) from any foreign place, at the time of arrival at the port of first arrival, shall be heat treated for possible infestation with *Cuscuta* spp. in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

(e) Seeds of all species of the plant family *Rutaceae* from Afghanistan, Andaman Islands, Argentina, Bangladesh, Brazil, Burma, Caroline Islands, Comoro Islands, Fiji Islands, Home Island in Cocos (Keeling) Islands, Hong Kong, India, Indonesia, Ivory Coast, Japan, Kampuchea, Korea, Madagascar, Malaysia, Mauritius, Mozambique, Nepal, Oman, Pakistan, Papua New Guinea, Paraguay, Peoples Republic of China, Philippines, Reunion Island, Rodriquez Islands, Ryukyu Islands, Saudi Arabia, Seychelles, Sri Lanka, Taiwan, Thailand, Thursday Island, United Arab Emirates, Uruguay, Vietnam, Yemen (Sanaa), and Zaire, at the time of arrival at the port of first arrival in the United States shall be treated for possible infection with citrus canker by being immersed in water at 125 °F (51.6 °C) or higher for 10 minutes, and then immersed for a period of at least 2 minutes in a solution containing 200 parts per million sodium hypochlorite at a pH of 6.0 to 7.5.

(f) Seeds of *Castanea* and *Quercus* from all countries except Canada and Mexico at the time of arrival at the port of first arrival in the United

States shall be treated for possible infestation with *Curculio elephas* (Cyllenhal), *C. nucum* L., *Cydia (Laspeyresia) splendana* Hubner, *Pammene fusciana* L. (*Hemimene juliana* (Curtis)) and other insect pests of chestnut and acorn in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 49504, July 25, 1980; 57 FR 43148, 43150, Sept. 18, 1992; 60 FR 62320, Dec. 6, 1995; 61 FR 51210, Oct. 1, 1996]

§319.37-7 Postentry quarantine.

(a) The following restricted articles, from the designated countries and localities, and any increase therefrom must be grown under postentry quarantine conditions specified in paragraphs (c) and (d) of this section, and may be imported or offered for importation into the United States only:

(1) If destined for a State that has completed a State postentry quarantine agreement in accordance with paragraph (c) of this section;

(2) If a postentry quarantine growing agreement has been completed and submitted to Plant Protection and Quarantine in accordance with paragraph (d) of this section. The agreement must be signed by the person (the importer) applying for a written permit for importation of the article in accordance with §319.37-3; and,

(3) If Plant Protection and Quarantine has determined that the completed postentry quarantine growing agreement fulfills the applicable requirements of this section and that services by State inspectors are available to monitor and enforce the postentry quarantine:

Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported
<i>Abelmoschus</i> spp. (okra).	All except Africa, Bangladesh, Brazil, Canada, India, Iraq, Papua New Guinea, Sri Lanka, and Trinidad and Tobago.
<i>Acacia</i> spp. (acacia) ....	All except Australia, Canada, and Oceania.
<i>Acer</i> spp. (maple) .....	All except Canada, Europe, and Japan.
<i>Actinidia</i> spp. (Chinese gooseberry, kiwi).	All except Australia, Canada, Japan, New Zealand, and Taiwan.

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<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>	<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>
<i>Aesculus</i> spp. (horsechestnut).	All except Canada, Czechoslovakia, Federal Republic of Germany, Romania, and the United Kingdom.	<i>Fragaria</i> spp. (strawberry).	All except Australia, Austria, Canada, Czechoslovakia, France, Great Britain, Italy, Japan, Lebanon, The Netherlands, New Zealand, Northern Ireland, Republic of Ireland, Switzerland, and Union of Soviet Socialist Republics.
<i>Althaea</i> spp. (althaea, hollyhock).	All except Africa, Bangladesh, Canada, India, and Sri Lanka.	<i>Fraxinus</i> spp (ash) .....	All except Canada and Europe.
<i>Berberis</i> spp. (barberry) destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.	Fruit and nut articles listed by common name in paragraph (b) of this section.	All except Canada.
<i>Blighia sapida</i> (akee) ...	All except Canada, Ivory Coast, and Nigeria.	<i>Gladiolus</i> spp. (gladiolus) (except bulbs) not meeting the condition for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
<i>Bromeliaceae</i> (bromeliads) destined to Hawaii.	All.	<i>Hibiscus</i> spp. (kenaf, hibiscus, rose mallow).	All except Africa, Brazil, Canada, and India.
<i>Cedrus</i> spp. (cedar) .....	All except Canada and Europe.	<i>Humulus</i> spp. (hops) ...	All.
<i>Chaenomeles</i> spp. (flowering quince) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.	<i>Hydrangea</i> spp. (hydrangea).	All except Canada and Japan.
<i>Chrysanthemum</i> spp. (chrysanthemum) meeting the conditions in § 319.37-5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	<i>Jasminum</i> spp. (jasmine).	All except Canada, Belgium, Federal Republic of Germany, Great Britain, India, and the Philippines.
<i>Crataegus monogyna</i> Jacq. (hawthorne, thorneapple, red haw).	Europe.	<i>Juniperus</i> spp. (juniper)	All except Canada and Europe.
<i>Crocasmia</i> spp. (montebretia) (except bulbs) not meeting the conditions for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.	<i>Larix</i> spp. (larch) .....	All except Canada, Japan, and Europe.
<i>Cydonia</i> spp. (quince) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.	<i>Ligustrum</i> spp. (privet)	All except Canada and Europe.
<i>Datura</i> spp. ....	All except Canada, Colombia and India.	<i>Mahoberberis</i> spp. destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.
<i>Dendranthema</i> spp. (chrysanthemum) meeting the conditions in § 319.37-5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	<i>Mahonia</i> spp. (mahonia) destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.
<i>Dianthus</i> spp. (carnation, sweet-william).	Great Britain, unless exempted from postentry quarantine conditions pursuant to § 319.37-5(d), and all other countries and localities except Canada.	<i>Malus</i> spp. (apple, crabapple) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
<i>Eucalyptus</i> spp. ....	All except Canada, Europe, Sri Lanka, and Uruguay.	<i>Mespilus germanica</i> (medlar).	Countries listed in § 319.37-5(b) except Canada.
<i>Euonymus</i> spp. (euonymus).	All except Canada, Japan, and Europe.	<i>Morus</i> spp. (mulberry)	All except Canada, India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.

<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>
Nut and fruit articles (see fruit and nut articles).	
<i>Passiflora</i> spp. (passion fruit, granadilla).	All except Canada.
<i>Philadelphus</i> spp. (mock orange).	All except Canada and Europe.
<i>Picea</i> spp. (spruce) .....	All except Canada, Europe, Japan, and Siberia.
<i>Pinus</i> spp. (pine) (2-or-3 leaved).	All except Canada, Europe, and Japan.
<i>Populus</i> spp. (aspen, cottonwood, poplar).	All except Canada and Europe.
<i>Prunus</i> spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
<i>Pseudolarix</i> spp. (golden larch).	All except Canada, Japan, and Europe.
<i>Pseudotsuga</i> spp. (Douglas fir).	All except Canada and Europe.
<i>Pyrus</i> spp. (pear) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
<i>Quercus</i> spp. (oak) .....	All except Canada and Japan.
<i>Ribes</i> spp. (currant, gooseberry).	All except Canada and Europe.
<i>Rosa</i> spp. (rose) .....	All except Australia, Bulgaria, Canada, Italy, and New Zealand.
<i>Rubus</i> spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry).	All unless exempted from postentry quarantine conditions pursuant to § 319.37-5(e).
<i>Salix</i> spp. (willow) .....	Europe except Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands.
<i>Sorbus</i> spp. (mountain ash).	All except Canada, Czechoslovakia, Denmark, and Federal Republic of Germany.
<i>Syringa</i> spp. (lilac) .....	The Netherlands, if the articles meet the conditions for importation in § 319.37-5(j), and all other places except Canada and Europe.
<i>Ulmus</i> spp. (elm) .....	All except Canada and Europe.
<i>Watsonia</i> spp. (bugle lily) (except bulbs) not meeting the conditions for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.

(b) *Fruit and nut articles* (common names are listed after scientific names).

- Achras*—(Synonym for *Manilkara*)
- Annona*—custard apple, cherimoya, sweetsop, sugarapple, soursop, bullock's heart, alligator apple, suncoya, ilama, guanabana, pond apple
- Anacardium*—cashew
- Artocarpus*—breadfruit, jackfruit
- Averrhoa*—carambola
- Carica*—papaya, pawpaw

- Carissa*—natal plum
- Ceratonia*—St. Johnsbread
- Chrysobalanus*—coco plum
- Chrysophyllum*—starapple
- Corylus*—filbert, hazel, hazelnut, cobnut
- Crataegus*—hawthorne
- Diospyros*—persimmon, kaki, mabola
- Durio*—durian
- Eriobotrya*—loquat, Japanese medlar, Japanese plum
- Euphoria*—longan
- Eugenia*—roseapple, Malayapple, Curacaoapple
- Feijoa*—feijoa, pineapple guava (except from New Zealand if accompanied by a phytosanitary certificate of inspection in accordance with § 319.37-5(k))
- Ficus*—fig
- Garcinia*—mangosteen, gourka
- Juglans*—walnut, butternut, heartnut, regranut, buartnut
- Lansium*—langsat
- Litchi*—lychee, leechee
- Macadamia*—macadamia nut, queensland nut
- Malpighia*—Barbados cherry
- Mammea*—mammeapple, mamey
- Mangifera*—mango
- Manilkara*—sapodilla
- Melicoccus*—honeyberry, mamoncilla, spanish lime, genip
- Nephelium*—rambutan, pulasan
- Olea*—olive
- Persea*—avocado, alligator pear
- Phoenix*—date
- Phyllanthus*—otaheite-gooseberry
- Pistacia*—pistachio
- Psidium*—guava, guayala
- Punica*—pomegranate, granada
- Pyronia*—quinpear
- Rhodomyrtus*—hill gooseberry, rose myrtle
- Spondias*—yellow mombin, red mombin, hog plum
- Syzygium*—Malayapple, rose apple, java plum
- Vaccinium*—blueberry, cranberry
- Ziziphus*—jujube

(c) *State Postentry quarantine agreement.* (1) Articles required to undergo postentry quarantine in accordance with this section may only be imported if destined for postentry quarantine growing in a State which has entered into a written agreement with the Animal and Plant Health Inspection Service, signed by the Administrator or his or her designee and by the State Plant Regulatory Official. In accordance with the laws of individual States, inspection and other postentry quarantine services provided by a State may be subject to charges imposed by the State.

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph:

[Reserved]

(2) In any such written agreement, the State shall agree to:

(i) Establish State regulations and requirements prior to the effective date of the agreement and enforce such regulations and requirements necessary to inspect sites and plants growing in postentry quarantine and to monitor and enforce compliance with postentry quarantine growing in accordance with this section;

(ii) Review pending permit applications for articles to be grown under postentry quarantine conditions in the State, upon request of Plant Protection and Quarantine, and report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the State would be able to provide inspection and monitoring services for the proposed postentry quarantine;

(iii) Provide the services of State inspectors to: inspect sites to be used for postentry quarantine; report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the site is of adequate size to contain the number of plants proposed for importation, including potential increase if increase is allowed; inspect plants for evidence of exotic pests at least once during the first year and once during the second year for plants required to be grown in postentry quarantine for 2 years, and at least once for plants required to be grown in quarantine for less than 2 years; and monitor and enforce compliance with the requirements of this section during the use of the sites for postentry quarantine;

(iv) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any evidence of plant pests that are now known to exist in the United States and that are found at a postentry quarantine site by State inspectors; recommend to Plant Protection and Quarantine safeguards or mitigation measures to control the pests; and supervise the application of safeguards or mitigation measures approved by Plant Protection and Quarantine; and

(v) Report to the Postentry Quarantine Unit of Plant Protection and

Quarantine any propagation or increase in the number of plants that occurs during postentry quarantine.

(3) In any such written agreement, the Administrator shall agree to:

(i) Seek State review of permit applications for postentry quarantine material in that State, and issue permits only after determining that State services are available to monitor the postentry quarantine;

(ii) Upon request of the State, provide training, technical advice, and pest identification services to State officials involved in providing postentry quarantine services in accordance with this section;

(iii) Notify State officials, in writing and within ten days of the arrival, when plant material destined for postentry quarantine in their State arrives in the United States, and notify State officials in writing when materials in postentry quarantine may be released from quarantine in their State.

(4) *Termination of State postentry quarantine agreement.* A State postentry quarantine agreement may be terminated by either the Administrator or the State Plant Regulatory Official by giving written notice of termination to the other party. The effective date of the termination will be 60 days after the date of actual receipt of notice, with regard to future importation to that State of articles requiring postentry quarantine in accordance with this section. When a postentry quarantine agreement is terminated by either the State Plant Regulatory Official or the Administrator, APHIS and the affected State shall continue to provide postentry quarantine services in accordance with the postentry quarantine agreement, until the time the plant material is eligible to be released from quarantine, for all postentry quarantine material already in the State, and for all postentry quarantine material that arrives in the State prior to the effective date of termination.

(d) *Postentry quarantine growing agreements.* Any restricted article required to be grown under postentry quarantine conditions, as well as any increase therefrom, shall be grown in accordance with a postentry quarantine

growing agreement signed by the person (the importer) applying for a written permit in accordance with § 319.37-3 for importation of the article and submitted to Plant Protection and Quarantine. On each postentry quarantine growing agreement, APHIS shall also obtain the signature of the State Plant Regulatory Official for the State in which regulated articles covered by the agreement will be grown. The postentry quarantine growing agreement shall specify the kind, number, and origin of plants to be imported, and shall certify to APHIS and to the State in which the articles are grown that the signer of the agreement will comply with the following conditions for the period of time specified below:

(1) To grow such article or increase therefrom only on specified premises owned, rented, or otherwise in possession of the importer, within a space of dimensions designated by an inspector, and to move, propagate, or allow propagation of the article or increase therefrom or parts thereof only with the written permission of an inspector and only to the extent prescribed by the inspector;

(2) To permit an inspector to have access to the specified premises for inspection of such article during regular business hours;

(3) To keep the article and any increase therefrom identified with a label showing the name of the article, port accession number, and date of importation;

(4) To keep the article separated from any domestic plant or plant product of the same genus by no less than 3 meters (approximately 10 feet); and from any other imported plant or plant product by the same distance;

(5) To allow or apply remedial measures (including destruction) determined by an inspector to be necessary to prevent the spread of an injurious plant disease, injurious insect pest, or other plant pest;

(6) To notify an inspector, orally or in writing, within 30 days of the time the importer or the person in charge of the growing site finds any abnormality of the article, or the article dies or is killed by the importer, the person in charge of the growing site, or any

other person; to retain the abnormal or dead article for at least 60 days following that date of notification; and to give the abnormal or dead article to an inspector upon request;

(7) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe, only in a screenhouse with screening of a minimum of 16 mesh per inch;

(8) To grow the article or increase therefrom, if an article of *Chrysanthemum* spp. (chrysanthemum) or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building; and

(9) To comply with the above conditions for a period of 6 months after importation for an article of *Chrysanthemum* spp. (chrysanthemum), for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william), and for a period of 2 years after importation for any other such articles.

(e) A completed postentry quarantine agreement shall accompany the application for a written permit for an article required to be grown under postentry quarantine conditions.<sup>9</sup>

(f) *Inspector-ordered disposal, movement, or safeguarding of restricted articles; costs and charges, civil and criminal liabilities.*

(1) *Growing at unauthorized sites.* If an inspector determines that any article subject to the postentry quarantine growing requirements of this section, or any increase therefrom, is being grown at an unauthorized site, the inspector may file an emergency action notification (PPQ form 523) with the owner of the article or the person who owns or is in possession of the site on which the article is being grown. The person named in the form 523 must, within the time specified in form 523, sign a postentry quarantine growing

<sup>9</sup>Postentry quarantine agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, or local offices of the Plant Protection and Quarantine Programs which are listed in telephone directories.

agreement, destroy, ship to a point outside the United States, move to an authorized postentry quarantine site, and/or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, as prescribed by an inspector to prevent the introduction of plant pests into the United States. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(2) *Growing at authorized sites.* If an inspector determines that any article, or any increase therefrom, grown at a site specified in an authorized postentry quarantine growing agreement is being grown contrary to the provisions of this section, including in numbers greater than the number approved by the postentry quarantine growing agreement, or in a manner that otherwise presents a risk of introducing plant pests into the United States, the inspector shall issue an emergency action notification (PPQ form 523) to the person who signed the postentry quarantine growing agreement. That person shall be responsible for carrying out all actions specified in the emergency action notification. The emergency action notification may extend the time for which the articles and the increase therefrom must be grown under the postentry quarantine conditions specified in the authorized postentry quarantine growing agreement, or may require that the person named in the notification must destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, within the time specified in the emergency action notification. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated

with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(3) *Costs and charges.* All costs pursuant to any action ordered by an inspector in accordance with this section shall be borne by the person who signed the postentry quarantine growing agreement covering the site where the articles were grown, or if no such agreement was signed, by the owner of the articles at the growing site.

(4) *Civil and criminal liabilities.* Any person who moves an article subject to postentry quarantine growing requirements from the site specified for that article in an authorized postentry quarantine growing agreement, or who otherwise handles such an article contrary to the requirements of this section, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 150gg and 163, or other applicable Federal statutes.

(g) *State.* As used in this section, "State" means each of the 50 States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983; 57 FR 43148, 43150, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 58 FR 41124, Aug. 2, 1993; 59 FR 67610, Dec. 30, 1994; 61 FR 51210, Oct. 1, 1996]

#### § 319.37-8 Growing media.

(a) Any restricted article at the time of importation or offer for importation into the United States shall be free of sand, soil, earth, and other growing media, except as provided in paragraph (b), (c), (d) or (e) of this section.

(b) A restricted article from Canada, other than from Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West

Saanich Road, may be imported in any growing medium.

(c) A restricted article growing solely in agar or in other transparent or translucent tissue culture medium may be imported established in such growing media.

(d) Epiphytic plants (including orchid plants) established solely on tree fern slabs, coconut husks, or coconut fiber may be imported on such growing media.

(e) A restricted article of any of the following groups of plants may be imported established in an approved growing medium listed in this paragraph, if the article meets the conditions of this paragraph, and is accompanied by a phytosanitary certificate issued by the plant protection service of the country in which the article was grown that declares that the article meets the conditions of this paragraph: *Alstroemeria*, *Ananas*,<sup>10</sup> *Anthurium*, *Begonia*, *Gloxinia* (= *Sinningia*), *Nidularium*,<sup>11</sup> *Peperomia*, Polypodiophyta (=Filicales) (ferns), *Rhododendron* from Europe, and *Saintpaulia*.

(1) Approved growing media are baked expanded clay pellets, cork, glass wool, organic and inorganic fibers, peat, perlite, polymer stabilized starch, plastic particles, phenol formaldehyde, polyethylene, polystyrene, polyurethane, rock wool, sphagnum moss, ureaformaldehyde, vermiculite, or volcanic rock, or any combination of these media. Growing media must not have been previously used.

(2) Articles imported under this paragraph must be grown in compliance with a written agreement for enforcement of this section signed by the plant protection service of the country where grown and Plant Protection and Quarantine, must be developed from mother stock that was inspected and found free from evidence of disease and pests by an APHIS inspector or foreign plant protection service inspector no more than 60 days prior to the time the article is established in the greenhouse (except for articles developed from

seeds germinated in the greenhouse), and must be:

(i) Grown in compliance with a written agreement between the grower and the plant protection service of the country where the article is grown, in which the grower agrees to comply with the provisions of this section and to allow inspectors, and representatives of the plant protection service of the country where the article is grown, access to the growing facility as necessary to monitor compliance with the provisions of this section;

(ii) Grown solely in a greenhouse in which sanitary procedures adequate to exclude plant pests and diseases are always employed, including cleaning and disinfection of floors, benches and tools, and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests. The greenhouse must be free from sand and soil and must have screening with openings of not more than 0.6 mm (0.2 mm for greenhouses growing *Rhododendron* spp.) on all vents and openings except entryways. All entryways must be equipped with automatic closing doors;

(iii) Rooted and grown in an active state of foliar growth for at least four consecutive months immediately prior to importation into the United States, in a greenhouse unit that is used solely for articles grown in compliance with this paragraph;

(iv) Grown from seeds germinated in the greenhouse unit; or descended from a mother plant that was grown for at least 9 months in the exporting country prior to importation into the United States of the descendent plants, *provided* that if the mother plant was imported into the exporting country from another country, it must be:

(A) Grown for at least 12 months in the exporting country prior to importation of the descendent plants into the United States, or

(B) Treated at the time of importation into the exporting country with a treatment prescribed for pests of that plant by the plant protection service of the exporting country and then grown for at least 9 months in the exporting country prior to importation of the descendent plants into the United States;

<sup>10</sup>These articles are bromeliads, and if imported into Hawaii, bromeliads are subject to postentry quarantine in accordance with § 319.37-7.

(v) Watered only with rainwater that has been boiled or pasteurized, with clean well water, or with potable water;

(vi) Rooted and grown in approved growing media listed in § 319.37-8(e)(1) on benches supported by legs and raised at least 46 cm above the floor;

(vii) Stored and packaged only in areas free of sand, soil, earth, and plant pests;

(viii) Inspected in the greenhouse and found free from evidence of plant pests and diseases by an APHIS inspector or an inspector of the plant protection service of the exporting country, no more than 30 days prior to the date of export to the United States;

(ix) For *Rhododendron* species only, the plants must be propagated from mother plants that have been visually inspected by an APHIS inspector or an inspector of the plant protection service of the exporting country and found free of evidence of diseases caused by the following pathogens: *Chrysomyxa ledi* var. *rhododendri*, *Erysiphe cruciferarum*, *Erysiphe rhododendri*, *Exobasidium vaccinum* and *vaccinum* var. *japonicum*, and *Phomopsis theae*; and

(x) For *Rhododendron* species only, the plants must be grown solely in a greenhouse equipped with automatic closing double doors of an airlock type, so that whenever one of the doors in an entryway is open the other is closed, and the plants must be introduced into the greenhouse as tissue cultures or as rootless stem cuttings from mother plants that:

(A) Have received a pesticide dip prescribed by the plant protection service of the exporting country for mites, scale insects, and whitefly; and

(B) Have been grown for at least the previous 6 months in a greenhouse that meets the requirements of § 319.37-8(e)(2)(ii).

(f) A restricted article of *Hyacinthus* spp. (*hyacinth*) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between Plant Protection and Quarantine and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If: (i) Inspected immediately prior to the growing period by the plant protection service of the country in which the article is to be grown and found to be free of injurious plant diseases, injurious insect pests, and other plant pests;

(ii) Grown throughout its growing period only in a coldroom (with temperatures not exceeding 9° C. (48° F.)) within an enclosed building;

(iii) Grown only in a coldroom unit solely used for articles grown under all the criteria specified in this paragraph (f);

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a coldroom free of sand, soil, or earth;

(vii) Grown only in a coldroom where strict sanitary procedures are always

practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests;

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(f); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(g) *Pest risk evaluation standards for plants established in growing media.* When evaluating a request to allow importation of additional taxa of plants established in growing media, the Animal and Plant Health Inspection Service will conduct the following analysis in determining the pest risks associated with each requested plant article and in determining whether or not to propose allowing importation into the United States of the requested plant article.

(1) *Collect commodity information.* (i) Determine the kind of growing medium, origin and taxon of the regulated article.

(ii) Collect information on the method of preparing the regulated article for importation.

(iii) Evaluate history of past plant pest interceptions or introductions (including data from plant protection services of foreign countries) associated with each regulated article.

(2) *Catalog quarantine pests.* For the regulated article specified in an application, determine what plant pests or potential plant pests are associated

with the type of plant from which the regulated article was derived, in the country and locality of origin. A plant pest that meets one of the following criteria is a quarantine pest and will be further evaluated in accordance with paragraph (g)(3) of this section:

(i) Non-indigenous plant pest not present in the United States;

(ii) Non-indigenous plant pest, present in the United States and capable of further dissemination in the United States;

(iii) Non-indigenous plant pest that is present in the United States and has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States;

(iv) Native species of the United States that has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States; or

(v) Non-indigenous or native plant pest that may be able to vector another plant pest that meets one of the criteria in (g)(2)(i) through (iv) of this section.

(3) *Conduct individual pest risk assessments.* Each of the quarantine pests identified by application of the criteria in paragraph (g)(2) of this section will be evaluated based on the following estimates:

(i) Estimate the probability the quarantine pest will be on, with, or in the regulated article at the time of importation;

(ii) Estimate the probability the quarantine pest will survive in transit on the regulated article and enter the United States undetected;

(iii) Estimate the probability of the quarantine pest colonizing once entered into the United States;

(iv) Estimate the probability of the quarantine pest spreading beyond the colonized area; and

(v) Estimate the actual and perceived economic, environmental and social damage that would occur if the quarantine pest is introduced, colonizes, and spreads.

(4) *Determine overall estimation of risk based on compilation of component estimates.* This step will evaluate whether the pest risk of importing a regulated article established in growing media, as developed through the estimates of paragraph (g)(3) of this section, is greater than the pest risk of importing the regulated article with bare roots as allowed by § 319.37-8(a).

(i) If the pest risk is determined to be the same or less, the regulated article established in growing media will be allowed importation under the same conditions as the same regulated article with bare roots.

(ii) If the pest risk is determined to be greater for the regulated article established in growing media, APHIS will evaluate available mitigation measures to determine whether they would allow safe importation of the regulated article. Mitigation measures currently in use as requirements of this subsection, and any other mitigation methods relevant to the regulated article and plant pests involved, will be compared with the individual pest risk assessments in order to determine whether requiring particular mitigation measures in connection with importation of the regulated article would reduce the pest risk to a level equal to or less than the risk associated with importing the regulated article with bare roots as allowed by § 319.37-8(a). If APHIS determines that use of particular mitigation measures could reduce the pest risk to this level, and determines that sufficient APHIS resources are available to implement or ensure implementation of the appropriate mitigation measures, APHIS will propose to allow importation into the United States of the requested regulated article if the appropriate mitigation measures are employed.

(Secs. 1, 5 and 9, 37 Stat. 315, 316, and 318, as amended; sec. 105, 71 Stat. 32 (7 U.S.C. 154, 159, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

[45 FR 31585, May 13, 1980, and 47 FR 3087, Jan. 22, 1982, as amended at 57 FR 43151, Sept. 18, 1992; 60 FR 3077, Jan. 13, 1995; 61 FR 51210, Oct. 1, 1996; 64 FR 66716, Nov. 30, 1999]

#### § 319.37-9 Approved packing material.

Any restricted article at the time of importation or offer for importation

into the United States shall not be packed in a packing material unless the plants were packed in the packing material immediately prior to shipment; such packing material is free from sand, soil, or earth (except for sand designated below); has not been used previously as packing material or otherwise; and is listed below:

Baked or expanded clay pellets.  
Buckwheat hulls.

Coral sand from Bermuda, if the article packed in such sand is accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of Bermuda that such sand was free from soil.

Excelsior.  
Exfoliated vermiculite.  
Ground cork.  
Ground peat.  
Ground rubber.  
Paper.  
Perlite.  
Polymer stabilized cellulose.  
Quarry gravel.  
Rock wool.  
Sawdust.  
Shavings—wood or cork.  
Sphagnum moss.

Vegetable fiber when free of pulp, including coconut fiber and *Osmunda* fiber, but excluding sugarcane fiber and cotton fiber.

Volcanic rock.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43151, Sept. 18, 1992; 60 FR 3078, Jan. 13, 1995]

#### § 319.37-10 Marking and identity.

(a) Any restricted article for importation other than by mail, at the time of importation or offer for importation into the United States shall plainly and correctly bear on the outer container (if in a container) or the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country and locality where grown,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number, and

(6) Number of written permit authorizing the importation if one was issued.

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(b) Any restricted article for importation by mail shall be plainly and correctly addressed and mailed to the Plant Protection and Quarantine Programs at a port of entry listed in § 319.37-14, shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

- (1) General nature and quantity of the contents,
- (2) Country and locality where grown,
- (3) Name and address of shipper, owner, or person shipping or forwarding the article, and
- (4) Number of written permit authorizing the importation, if one was issued.

(c) Any restricted article for importation (by mail or otherwise), at the time of importation or offer for importation into the United States shall be accompanied by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.37-11 Arrival notification.**

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify the Plant Protection and Quarantine Programs of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.37-12 Prohibited articles accompanying restricted articles.**

A restricted article for importation into the United States shall not be packed in the same container as an ar-

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ticle prohibited importation into the United States by this part or part 321.

**§ 319.37-13 Treatment and costs and charges for inspection and treatment.**

(a) The services of a Plant Protection and Quarantine inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.<sup>11</sup> No charge will be made to the importer for Government owned or controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the regulations in this subpart. The Plant Protection and Quarantine Programs will not be responsible for any costs or charges, other than those indicated in this section.

(b) Any treatment performed in the United States on a restricted article shall be performed by an inspector or under an inspector's supervision at a government-operated special inspection facility, except that an importer may have such treatment performed at a nongovernmental facility if the treatment is performed at nongovernment expense under the supervision of an inspector and in accordance with any applicable treatment requirements of this subpart and in accordance with any treatment required by an inspector as an emergency measure in order to prevent the dissemination of any injurious plant disease, injurious insect pest, or other plant pest, new to or not theretofore known to be widely prevalent or distributed within and throughout the United States. However, treatment may be performed at a nongovernmental facility only in cases of unavailability of government facilities and only if, in the judgment of an inspector, such article can be transported to such nongovernmental facility without the risk of introduction into the

<sup>11</sup>Provisions relating to costs for other services of an inspector are contained in part 354.

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United States of injurious plant diseases, injurious insect pests, or other plant pests.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43148, 43151, Sept. 18, 1992; 60 FR 3077, Jan. 13, 1995; 61 FR 51210, Oct. 1, 1996]

**§ 319.37-14 Ports of entry.**

(a) Any restricted article required to be imported under a written permit pursuant to § 319.37-3(a) (1) through (6) of this subpart, shall be imported or offered for importation only at a port of entry designated by an asterisk in paragraph (b) of this section; any other restricted article shall be imported or offered for importation at any port of entry listed in paragraph (b) of this section.

(b) Any restricted article from Canada not required to be imported under a written permit pursuant to § 319.37-3(a) (1) through (6) of this subpart may be imported at any port of entry listed in this paragraph, or at any Customs designated port of entry on the United States-Canada border (Customs designated ports of entry are listed in 19 CFR part 101).

LIST OF PORTS OF ENTRY

Ports with special inspection and treatment facilities (plant inspection stations) are indicated by an asterisk (\*).

ALABAMA

*Mobile*

Federal Building, room 147, 113 St. Joseph Street, P.O. Box 1413, Mobile, AL 36601.

ALASKA

*Anchorage*

Annex P.O. Box 6191, International Airport, Anchorage, AK 99502.

ARIZONA

*\*Nogales*

Federal Inspection Station, Nogales, AZ 85621.

*Phoenix*

Sky Harbor Airport, 3300 Sky Harbor Boulevard, Phoenix, AZ 85034.

*San Luis*

U.S. Border Station, P.O. Box 37, San Luis, AZ 85349.

*Tucson*

Tucson International Airport, Tucson, AZ 85706.

CALIFORNIA

*Calexico*

Federal Inspection Building, room 223, 200 First Street, P.O. Box 686, Calexico, CA 92231.

*\*Los Angeles*

9650 LaCienega Boulevard, Building D North, Inglewood, CA 90301.

*(Airport)*

World Way Center Post Office, International Arrivals Area, Satellite 2, P.O. Box 90429, Los Angeles International Airport, Los Angeles, CA 90009.

*\*San Diego*

U.S. Border Station, P.O. Box 43L, San Ysidro, CA 92073.

*\*San Francisco*

Plant Inspection Station, San Francisco International Airport, San Francisco, CA 94128.

San Francisco International Airport, P.O. Box 8026, Airport Station, San Francisco, CA 94128.

101 Agriculture Building, Embarcadero at Mission Street, P.O. Box 7673, San Francisco, CA 94120.

*\*San Pedro*

(See Los Angeles)

*Travis AFB*

P.O. Box 1448, Travis Air Force Base, Fairfield, CA 94535.

COLORADO

*Denver*

Suite 102, 7100 West 44th Avenue, Wheat Ridge, CO 80033.

CONNECTICUT

*Wallingford*

Federal Building, room 205, P.O. Box 631, Wallingford, CT 06492.

DELAWARE

*Dover AFB*

Building 500 (USDA), Dover Air Force Base, DE 19901.

*Wilmington*

Federal Building, room 1218A, 844 King Street, Box 03, Wilmington, DE 19801.

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DISTRICT OF COLUMBIA

*Dulles International Airport*

(See Virginia)

FLORIDA

*Cape Canaveral*

120 George King Boulevard, P.O. Box 158, Cape Canaveral, FL 32920.

*Jacksonville*

Federal Building, room 521, 400 West Bay Street, P.O. Box 35003, Jacksonville, FL 32202.

*Key West*

Federal Building, room 226, 301 Simonton Street, P.O. Box 1486, Key West, FL 33040.

*\*Miami*

Miami Inspection Station, 3500 NW. 62nd Avenue, P.O. Box 59-2136, Miami, FL 33159. FAA & NWS Building, Box 59-2647 AMF, Miami, FL 33159.

Amman Building, room 305, 611 Eisenhower Boulevard, P.O. Box 13033, Fort Lauderdale, FL 33316. (NOTE: Restricted articles required to be imported under a written permit pursuant to § 319.37-3(a)(1) through (6) of this subpart must be moved by ground transportation and under U.S. Customs bond to the Miami Inspection Station.)

*\*Orlando*

Orlando Plant Inspection Station, 9317 Tradeport Drive, Orlando, FL 32827.

*Pensacola*

Federal Building, room 105, 100 North Palafax Street, P.O. Box 12561, Pensacola, FL 32573.

*Tampa*

700 Twiggs Street, room 504, P.O. Box 266, Tampa, FL 33601.

*West Palm Beach*

158 Port Road, P.O. Box 10611, Riviera Beach, FL 33404.

*(Airport)*

Palm Beach International Airport, Port of Entry Building, West Palm Beach, FL 33406.

GEORGIA

*Atlanta*

Hapeville Branch Post Office, Basement, 650 Central Avenue, P.O. Box 82369, Hapeville, GA 30354.

*Savannah*

U.S. Court House & Federal Building, room B-9, 125-126 Bull Street, P.O. Box 9268, Savannah, GA 31402.

GUAM

*Agana*

P.O. Box 2950, Agana, GU 96910.

HAWAII

*Hilo*

General Lyman Field, Hilo, HI 96720.

*\*Honolulu (Airport)*

Honolulu International Airport, International Arrivals Building, Ewa end, Ground Level, P.O. Box 29757, Honolulu, HI 96820.

*Wailuku, Maui*

Federal Post Office Building, room 211, Wailuku, HI 96793.

ILLINOIS

*Chicago*

U.S. Custom House, room 800, 610 South Canal Street, Chicago, IL 60607.

*(Airport)*

O'Hare International Arrivals Building, P.O. Box 66192, Chicago, IL 60666.

LOUISIANA

*Baton Rouge*

750 Florida Boulevard, room 321, Federal Building, P.O. Box 2447, Baton Rouge, LA 70821.

*\*New Orleans*

New Orleans International Airport, P.O. Box 20037, Airport Mailing Facility, New Orleans, LA 70140.

F. Edward Hebert Building, P.O. Box 2220, New Orleans, LA 70176.

MAINE

*Bangor (Airport)*

International Arrivals Building, Bangor International Airport, Bangor, ME 04401.

*Portland*

U.S. Courthouse, 156 Federal Street, room 309, Portland, ME 04101.

MARYLAND

*Baltimore*

Appraisers Stores Building, room 506, 103 South Gay Street, Baltimore, MD 21202.

**Animal and Plant Health Inspection Service, USDA****§ 319.37-14***(Airport)*

Foreign Arrivals Building, Baltimore Washington International Airport, Baltimore, MD 21240.

*Beltsville*

Plant Germplasm Quarantine Center (for USDA shipments only), Building 320, Beltsville, Agricultural Research Center East, Beltsville, MD 20705.

## MASSACHUSETTS

*Boston*

Room 4, U.S. Custom House, Boston, MA 02109.

*(Airport)*

Logan International Airport, East Boston, MA 02128.

## MICHIGAN

*Detroit*

International Terminal, room 228, Metropolitan Airport, Detroit, MI 48242.

## MINNESOTA

*Duluth*

Board of Trade Building, room 420, 301 West First Street, Duluth, MN 55802.

*St. Paul*

Minneapolis-St. Paul International Airport, International Charter Terminal, P.O. Box 1690, St. Paul, MN 55111.

## MISSOURI

*Kansas City (Airport)*

Kansas City International Airport, P.O. Box 20085, Kansas City, MO 64195.

*St. Louis International Airport*

P.O. Box 858, St. Charles, MO 63301.

## NEW JERSEY

*\*Hoboken*

209 River Street, Hoboken, NJ 07030.

*McGuire AFB*

Building 1706, Passenger Terminal, Customs Area, P.O. Box 16073, McGuire Air Force Base, NJ 08641.

## NEW YORK

*Albany*

80 Wolf Road, Suite 503, Albany, NY 12205.

*Buffalo*

Federal Building, room 1113, 111 West Huron Street, Buffalo, NY 14202.

*New York*

26 Federal Plaza, room 1747, New York, NY 10007.

*\*Jamaica*

John F. Kennedy International Airport, Plant Inspection Station, Cargo Building 80, Jamaica, NY 11430.

International Arrivals Building, room 2315, John F. Kennedy International Airport.

*Rouses Point*

St. John's Highway Border Station, room 118, Route 9B, P.O. Box 278, Rouses Point, NY 12979.

## NORTH CAROLINA

*Morehead City*

Room 216, 113 Arendell, P.O. Box 272, Morehead City, NC 28557.

*Wilmington*

Rural Route 6, Box 53D, Wilmington, NC 28405.

## OHIO

*Cleveland*

Federal Building, room 1749, 1240 East 9th Street, Cleveland, OH 44199.

## OREGON

*Astoria*

Port Docks, P.O. Box 354, Astoria, OR 97103.

*Coos Bay*

U.S. Postal Services Building, 235 West Anderson Street, P.O. Box 454, Coos Bay, OR 97420.

*Portland*

Federal Building, room 657, 511 NW. Broadway, Portland, OR 97209.

## PENNSYLVANIA

*Philadelphia*

Custom House, room 1004, 2nd and Chestnut Streets, Philadelphia, PA 19106.

## PUERTO RICO

*Mayaguez*

P.O. Box 3269, Marina Station, Mayaguez, PR 00708.

*Ponce*

P.O. Box 68, Ponce Playa Station, Ponce, PR 00731.

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*Hato Rey*

Federal Office Building & U.S. Court House,  
room 206, Hato Rey, PR 00918.

*Roosevelt Roads*

Roosevelt Roads Naval Station, P.O. Box  
3008, Air Operations, FPO Miami, FL 34051.

*\*San Juan*

Isla Verde International Airport, Foreign Ar-  
rivals Wing, San Juan, PR 00904.

RHODE ISLAND

*Warwick*

48 Quaker Lane, West Warwick, RI 02893.

SOUTH CAROLINA

*Charleston*

Room 513 Federal Building, P.O. Box 941,  
Charleston, SC 29402.

TENNESSEE

*Memphis*

Room 801 Mid Memphis Tower, 1407 Union  
Avenue, Memphis, TN 38104.

TEXAS

*\*Brownsville*

Border Services Building, room 224 (Gateway  
Bridge), East Elizabeth and International  
Boulevard, P.O. Box 306, Brownsville, TX  
78520.

*Corpus Christi*

807 Petroleum Tower, 811 Carancahua Street,  
P.O. Box 245, Corpus Christi, TX 78403.

*Dallas-Fort Worth (Airport)*

Dallas-Fort Worth Airport, P.O. Box 61063,  
Dallas-Ft. Worth Airport, TX 75261.

*Del Rio*

U.S. Border Inspection Station, room 135,  
International Bridge, P.O. Box 1227, Del  
Rio, TX 78840.

*Eagle Pass*

U.S. Border Station, 160 Garrison Street,  
P.O. Box P, Eagle Pass, TX 78852.

*\*El Paso*

Cordova Border Station, room 172-A, 3600  
East Paisano, El Paso, TX 79905.

*Galveston*

Room 402, U.S. Post Office Building, 601  
Rosenberg Street, P.O. Box 266, Galveston,  
TX 77553.

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*Hidalgo*

U.S. Border Station, Bridge Street, P.O.  
Drawer R, Hidalgo, TX 78557.

*\*Houston*

(Airport) Houston Plant Inspection Station,  
3016 McKaughan, Houston, TX 77032.  
U.S. Appraisers Stores Building, room 210  
7300 Wingate Street, Houston, TX 77011.

*Laredo*

La Posada Motel, rooms L8-13, 1000 Zaragoza  
Street, P.O. Box 277, Laredo, TX 78040.  
Juarez-Lincoln International Bridge, 101  
Santa Ursela, Laredo, TX 78040.  
U.S. International Bridge No. 1, 100 Convent  
Avenue, Laredo, TX 78040.

*Port Arthur*

Federal Building, room 201, Fifth Street &  
Austin Avenue, P.O. Box 1227, Port Arthur,  
TX 77640.

*Presidio*

U.S. Border Station, International Bridge,  
P.O. Box 1001, Presidio, TX 79845.

*Progreso*

Custom House Building, Progreso Inter-  
national Bridge, Progreso, TX 78579.

*Roma*

International Bridge, P.O. Box 185, Roma,  
TX 78584.

*San Antonio*

International Satellite, room 15-S, 9700 Air-  
port Boulevard, San Antonio, TX 78216.

VIRGIN ISLANDS OF THE UNITED STATES

*St. Thomas*

Room 227, Federal Building, P.O. Box 8119,  
St. Thomas, Virgin Islands of the U.S.  
00801.

*(Airport)*

Harry S. Truman Airport, Main Terminal  
Building, St. Thomas, Virgin Islands of the  
U.S. 00801.

*St. Croix*

Drawer 1548, Kingshill, St. Croix, Virgin Is-  
lands of the U.S. 00850.

VIRGINIA

*Chantilly (Airport)*

Dulles International Airport, International  
Arrivals Area, P.O. Box 17134, Washington,  
DC 20041.

*Newport News*

P.O. Box 942, Newport News, VA 23607.

## Animal and Plant Health Inspection Service, USDA

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### *Norfolk*

Federal Building, room 311, 200 Granby Mall,  
Norfolk, VA 23510.

### WASHINGTON

### *Blaine*

Custom House, room 216, P.O. Drawer C,  
Blaine, WA 98230.

### *McChord AFB*

MAC Terminal, P.O. Box 4116, McChord Air  
Force Base, Tacoma, WA 98438.

### *\*Seattle*

Federal Office Building, room 9014, 909 First  
Avenue, Seattle, WA 98174.

### *(Airport)*

Seattle-Tacoma International Airport, Se-  
attle, WA 98158.

### WISCONSIN

### *Milwaukee*

International Arrivals Terminal, General  
Mitchell Field, 5300 South Howell Avenue,  
Milwaukee, WI 53207.

[45 FR 31585, May 13, 1980, as amended at 54  
FR 34133, Aug. 18, 1989; 57 FR 47978, Oct. 21,  
1992; 59 FR 21622, Apr. 26, 1994; 61 FR 51210,  
Oct. 1, 1996]

## Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles

SOURCE: 60 FR 27674, May 25, 1995, unless  
otherwise noted.

### § 319.40-1 Definitions.

**Administrator.** The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

**APHIS.** The Animal and Plant Health Inspection Service, United States Department of Agriculture.

**Bark chips.** Bark fragments broken or shredded from log or branch surfaces.

**Certificate.** A certificate of inspection relating to a regulated article, which is issued by an official authorized by the national government of the country in which the regulated article was produced or grown, which contains a description of the regulated article, which certifies that the regulated article has been inspected, is believed to be

free of plant pests, and is believed to be eligible for importation pursuant to the laws and regulations of the United States, and which may contain any specific additional declarations required under this subpart.

**Compliance agreement.** A written agreement between APHIS and a person engaged in processing, handling, or moving regulated articles, in which the person agrees to comply with requirements contained in the agreement.

**Departmental permit.** A document issued by the Administrator authorizing the importation of a regulated article for experimental, scientific, or educational purposes.

**Exporter statement.** A written declaration by the exporter, accompanying a shipment at the time of importation, declaring the nature of the shipment and that the shipment contains no solid wood packing material.

**Free from rot.** No more than two percent by weight of the regulated articles in a lot show visual evidence of fructification of fungi or growth of other microorganisms that cause decay and the breakdown of cell walls in the regulated articles.

**General permit.** A written authorization contained in § 319.40-3 for any person to import the articles named by the general permit, in accordance with the requirements specified by the general permit, without being issued a specific permit.

**Humus, compost, and litter.** Partially or wholly decayed plant matter.

**Import (imported, importation).** To bring or move into the territorial limits of the United States.

**Importer document.** A written declaration signed by the importer of regulated articles, which must accompany the regulated articles at the time of importation, in which the importer accurately declares information about the regulated articles required to be disclosed by § 319.40-2(b).

**Importer statement.** A written declaration by the importer, for a shipment containing solid wood packing material from the Peoples Republic of China including Hong Kong, affirming that the importer has on file at his or her office the certificate required under § 319.40-5(g)(2)(i).

*Inspector.* Any individual authorized by the Administrator to enforce this subpart.

*Log.* The bole of a tree; trimmed timber that has not been sawn further than to form cants.

*Loose wood packing material.* Excelsior (wood wool), sawdust, and wood shavings, produced as a result of sawing or shaving wood into small, slender, and curved pieces.

*Lot.* All the regulated articles on a single means of conveyance that are derived from the same species of tree and were subjected to the same treatments prior to importation, and that are consigned to the same person.

*Lumber.* Logs that have been sawn into boards, planks, or structural members such as beams.

*Permit.* A specific permit to import a regulated article issued in accordance with § 319.40-4, or a general permit promulgated in § 319.40-3.

*Plant pest.* Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts of parasitic plants, noxious weeds, viruses, or any organism similar to or allied with any of the foregoing, or any infectious substances, which can injure or cause disease or damage in any plants, parts of plants, or any products of plants.

*Port of first arrival.* The area (such as a seaport, airport, or land border station) where a person or a means of conveyance first arrives in the United States, and where inspection of regulated articles is carried out by inspectors.

*Primary processing.* Any of the following processes: cleaning (removal of soil, limbs, and foliage), debarking, rough sawing (bucking or squaring), rough shaping, spraying with fungicide or insecticide sprays, and fumigation.

*Regulated article.* The following articles, if they are unprocessed or have received only primary processing: logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips;

wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; and litter.

*Sealed container; sealable container.* A completely enclosed container designed for the storage or transportation of cargo, and constructed of metal or fiberglass, or other rigid material, providing an enclosure which prevents the entrance or exit of plant pests and is accessed through doors that can be closed and secured with a lock or seal. Sealed (sealable) containers are distinct and separable from the means of conveyance carrying them.

*Solid wood packing material.* Wood packing materials other than loose wood packing materials, used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

*Specific permit.* A written document issued by APHIS to the applicant in accordance with § 319.40-4 that authorizes importation of articles in accordance with this subpart and specifies or refers to the regulations applicable to the particular importation.

*Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

*Tropical hardwoods.* Hardwood timber species which grow only in tropical climates.

*United States.* All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

*Wood chips.* Wood fragments broken or shredded from any wood.

*Wood mulch.* Bark chips, wood chips, wood shavings, or sawdust intended for use as a protective or decorative ground cover.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998]

**§ 319.40-2 General prohibitions and restrictions; relation to other regulations.**

(a) *Permit required.* Except for regulated articles exempted from this requirement by paragraph (c) of this section or § 319.40-3, no regulated article may be imported unless a specific permit has been issued for importation of the regulated article in accordance with § 319.40-4, and unless the regulated article meets all other applicable requirements of this subpart and any requirements specified by APHIS in the specific permit.

(b) *Importer document; documentation of type, quantity, and origin of regulated articles.* Except for regulated articles exempted from this requirement by paragraph (c) of this section or § 319.40-3, no regulated article may be imported unless it is accompanied by an importer document stating the following information. A certificate that contains this information may be used in lieu of an importer document at the option of the importer:

(1) The genus and species of the tree from which the regulated article was derived;

(2) The country, and locality if known, where the tree from which the regulated article was derived was harvested;

(3) The quantity of the regulated article to be imported;

(4) The use for which the regulated article is imported; and

(5) Any treatments or handling of the regulated article required by this subpart that were performed prior to arrival at the port of first arrival.

(c) *Regulation of articles imported for propagation or human consumption.* The requirements of this subpart do not apply to regulated articles that are allowed importation in accordance with § 319.19, "Subpart—Citrus Canker and Other Citrus Diseases", or §§ 319.37 through 319.37-14, "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products"; or to regulated articles imported for human consumption that are allowed importation in accordance with §§ 319.56 through 319.56-8, "Subpart—Fruits and Vegetables."

(d) *Regulated articles imported for experimental, scientific or educational purposes.*

Any regulated article may be imported without further restriction under this subpart if:

(1) Imported by the United States Department of Agriculture for experimental, scientific, or educational purposes;

(2) Imported pursuant to a Departmental permit issued by APHIS for the regulated article prior to its importation and kept on file at the port of first arrival; and

(3) Imported under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the introduction into the United States of plant pests.

(e) *Designation of additional regulated articles.* An inspector may designate any article as a regulated article by giving written notice of the designation to the owner or person in possession or control of the article. APHIS will implement rulemaking to add articles designated as regulated articles to the definition of regulated article in § 319.40-1 if importation of the article appears to present a recurring significant risk of introducing plant pests. Inspectors may designate an article as a regulated article after determining that:

(1) The article was imported in the same container or hold as a regulated article;

(2) Other articles of the same type imported from the same country have been found to carry plant pests; or

(3) The article appears to be contaminated with regulated articles or soil.

(f) In addition to meeting the requirements of this subpart, logs and pulpwood with bark attached imported from Canada are subject to the inspection and certification requirements for gypsy moth in § 319.77-4 of this part.

[60 FR 27674, May 25, 1995, as amended at 63 FR 13485, Mar. 20, 1998; 64 FR 45866, Aug. 23, 1999]

**§ 319.40-3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.**

(a) *Canada and Mexico.* APHIS hereby issues a general permit to import articles authorized by this paragraph. Regulated articles from Canada and from

states in Mexico adjacent to the United States border, other than regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae, may be imported without restriction under this subpart, except that they must be accompanied by an importer document stating that the regulated articles are derived from trees harvested in, and have never been moved outside, Canada or states in Mexico adjacent to the United States border, and except that they are subject to the inspection and other requirements in § 319.40-9.

(b) *Solid wood packing materials—(1) Free of bark; used with non-regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packing materials that are completely free of bark and are in actual use at the time of importation as packing materials for articles which are not regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40-9; and

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials are totally free from bark, and apparently free from live plant pests.

(2) *Free of bark; used with regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packing materials that are completely free of bark and are in actual use at the time of importation as packing materials for regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40-9;

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials are totally free from bark, and apparently free from live plant pests; and

(iii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40-7, or meet all the importation and entry conditions required for the regulated article the solid wood packing material is used to move.

(3) *Not free of bark; used with regulated or nonregulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packing materials that are not completely free of bark and are in actual use as packing at the time of importation may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40-9;

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40-7.

(4) *Pallets moved as cargo.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph. Pallets that are completely free of bark and that are not in actual use as packing at the time of importation (i.e., pallets moved as cargo) may be imported without restriction under this subpart, except that:

(i) The pallets are subject to the inspection and other requirements in § 319.40-9; and

(ii) The pallets are accompanied by an importer document stating that the

pallets were previously eligible for importation in accordance with paragraph (b) of this section and have not had wood added to them since that use. Solid wood packing materials other than pallets that are imported as cargo must be imported in accordance with the requirements of this subpart for raw lumber.

(c) *Loose wood packing materials.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph. Loose wood packing materials (whether in use as packing or imported as cargo) that are dry may be imported subject to the inspection and other requirements in §319.40-9 and without further restriction under this subpart.

(d) *Bamboo timber.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph. Bamboo timber which is free of leaves and seeds and has been sawn or split lengthwise and dried may be imported subject to the inspection and other requirements in §319.40-9 and without further restriction under this subpart.

(e) *Regulated articles the permit process has determined to present no plant pest risk.* Regulated articles for which a specific permit has been issued in accordance with §319.40-4(b)(2)(i) may be imported without other restriction under this subpart, except that they are subject to the inspection and other requirements in §319.40-9.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998]

**§319.40-4 Application for a permit to import regulated articles; issuance and withdrawal of permits.**

(a) *Application procedure.* A written application for a permit<sup>1</sup> must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations Per-

<sup>1</sup>Application forms for permits are available without charge from the Administrator, c/o the Permit Unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD 20737, or local offices of Plant Protection and Quarantine, which are listed in telephone directories.

mit Unit, 4700 River Road Unit 136, Riverdale, MD 20737-1236. The completed application must include the following information:

(1) The specific type of regulated article to be imported, including the genus and species name of the tree from which the regulated article was derived;

(2) Country, and locality if known, where the tree from which the regulated article was derived was harvested;

(3) The quantity of the regulated article to be imported;

(4) A description of any processing, treatment or handling of the regulated article to be performed prior to importation, including the location where any processing or treatment was or will be performed and the names and dosage of any chemicals employed in treatments;

(5) A description of any processing, treatment, or handling of the regulated article intended to be performed following importation, including the location where any processing or treatment will be performed and the names and dosage of any chemicals employed in treatments;

(6) Whether the regulated article will or will not be imported in a sealed container or in a hold;

(7) The means of conveyance to be used to import the regulated article;

(8) The intended port of first arrival in the United States of the regulated article, and any subsequent ports in the United States at which regulated articles may be unloaded;

(9) The destination and general intended use of the regulated article;

(10) The name and address of the applicant and, if the applicant's address is not within the United States, the name and address of an agent in the United States whom the applicant names for acceptance of service of process; and

(11) A statement certifying the applicant as the importer of record.

(b) *Review of application and issuance of permit.* After receipt and review of the application, APHIS shall determine whether it appears that the regulated article at the time of importation will meet either the specific importation

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requirements in § 319.40-5 or the universal importation requirements in § 319.40-6.

(1) If it appears that the regulated article proposed for importation will meet the requirements of either § 319.40-5 or § 319.40-6, a permit stating the applicable conditions for importation under this subpart shall be issued for the importation of the regulated article identified in the application.

(2) If it appears that the regulated article proposed for importation will not meet the requirements of either § 319.40-5 or § 319.40-6 because these sections do not address the particular regulated article identified in the application, APHIS shall review the application by applying the plant pest risk assessment standards specified in § 319.40-11.

(i) If this review reveals that importation of the regulated article under a permit and subject to the inspection and other requirements in § 319.40-9, but without any further conditions, will not result in the introduction of plant pests into the United States, a permit for importation of the regulated article shall be issued. The permit may only be issued in unique and unforeseen circumstances when the importation of the regulated article is not expected to recur.

(ii) If this review reveals that the regulated article may be imported under conditions that would reduce the plant pest risk to an insignificant level, APHIS may implement rule-making to add the additional conditions to this subpart, and after the regulations are effective, may issue a permit for importation of the regulated article.

(3) No permit will be issued to an applicant who has had a permit withdrawn under paragraph (d) of this section during the 12 months prior to receipt of the permit application by APHIS, unless the withdrawn permit has been reinstated upon appeal.

(c) *Permit does not guarantee eligibility for import.* Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of first arrival determines that no emergency

measures pursuant to the Federal Plant Pest Act or other measures pursuant to the Plant Quarantine Act are necessary with respect to the regulated article.<sup>2</sup>

(d) *Denial and withdrawal of permits.* Any permit which has been issued may be withdrawn by an inspector or the Administrator if he or she determines that the person to whom the permit was issued has violated any requirement of this subpart. If the withdrawal is oral, the decision to withdraw the permit and the reasons for the withdrawal of the permit shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been denied or withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully denied or withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person from whom the permit is withdrawn requests a hearing, a hearing shall be held to resolve the conflict. Rules of

<sup>2</sup>Section 105(a) of the Federal Plant Pest Act (7 U.S.C. 150dd(a)) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he deems appropriate, subject to section 105(d) of the Federal Plant Pest Act (7 U.S.C. 150dd(d)), any product or article, including any article subject to this subpart, which is moving into or through the United States, and which he has reason to believe is infested with any such plant pest at the time of the movement, or which has moved into the United States, and which he has reason to believe was infested with any such plant pest at the time of the movement. Section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff) also authorize measures against regulated articles which are not in compliance with this subpart.

practice concerning the hearing shall be adopted by the Administrator.

**§ 319.40-5 Importation and entry requirements for specified articles.**

(a) *Bamboo timber.* Bamboo timber consisting of whole culms or canes may be imported into Guam or the Northern Mariana Islands subject to inspection and other requirements of § 319.40-9. Bamboo timber consisting of whole culms or canes that are completely dry as evidenced by lack of moisture in node tissue may be imported into any part of the United States subject to inspection and other requirements of § 319.40-9.

(b) *Monterey pine logs and lumber from Chile and New Zealand; Douglas-fir logs and lumber from New Zealand—(1) Logs—*

(i) *Requirements prior to importation.* Monterey or Radiata pine (*Pinus radiata*) logs from Chile or New Zealand and Douglas-fir (*Pseudotsuga menziesii*) logs from New Zealand that are accompanied by a certificate stating that the logs meet the requirements of paragraph (b)(1)(i) (A) through (D) of this section, and that are consigned to a facility in the United States that operates in accordance with § 319.40-8, may be imported in accordance with paragraphs (b)(1)(i)(A) through (b)(1)(iii) of this section.

(A) The logs must be from live healthy trees which are apparently free of plant pests, plant pest damage, and decay organisms.

(B) The logs must be debarked in accordance with § 319.40-7(b) prior to fumigation.

(C) The logs and any solid wood packing materials to be used with the logs during shipment to the United States must be fumigated in accordance with § 319.40-7(f)(1), within 45 days following the date the trees are felled and prior to arrival of the logs in the United States, in the holds or in sealable containers. Fumigation must be conducted in the same sealable container or hold in which the logs and solid wood packing materials are exported to the United States.

(D) During shipment to the United States, no other regulated article is permitted on the means of conveyance with the logs, unless the logs and the other regulated articles are in separate

holds or separate sealed containers, or, if the logs and other regulated articles are mixed in a hold or sealed container, the other regulated articles either have been heat treated with moisture reduction in accordance with § 319.40-7(d), or have been fumigated in the hold or sealable container in accordance with paragraph (b)(1)(i)(C) of this section.

(ii) *Requirements upon arrival in the United States.* The following requirements apply upon arrival of the logs in the United States.

(A) The logs must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the logs are completely processed at a facility in the United States that operates under a compliance agreement in accordance with § 319.40-8.

(B) The logs must be moved from the port of first arrival to the facility that operates under a compliance agreement in accordance with § 319.40-8 by as direct a route as reasonably possible.

(iii) *Requirements at the processing facility.* The logs must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that includes the following requirements:

(A) Logs or any products generated from logs, including lumber, must be heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(B) The logs, including sawdust, wood chips, or other products generated from the logs in the United States, must be processed in accordance with paragraph (b)(1)(iii) of this section within 60 days from the time the logs are released from the port of first arrival.

(C) Sawdust, wood chips, and waste generated by sawing or processing the logs must be disposed of by burning, heat treatment in accordance with § 319.40-7(c), heat treatment with moisture reduction in accordance with § 319.40-7(d), or other processing that will destroy any plant pests associated with the sawdust, wood chips, and waste. Composting and use of the sawdust, wood chips, and waste as mulch are prohibited unless composting and use as mulch are preceded by fumigation in accordance with § 319.40-7(f)(3),

heat treatment in accordance with § 319.40-7(c), or heat treatment with moisture reduction in accordance with § 319.40-7(d). Wood chips, sawdust, and waste may be moved in enclosed trucks for processing at another facility operating under a compliance agreement in accordance with § 319.40-8.

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from Chile or New Zealand derived from Monterey or Radiata pine (*Pinus radiata*) logs and raw lumber from New Zealand derived from Douglas-fir (*Pseudotsuga menziesii*) logs may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers; *Except for* mixed shipments of logs and raw lumber fumigated in accordance with § 319.40-7(f)(2) and moved in accordance with paragraph (b)(1)(i)(D) of this section. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that requires the raw lumber to be heat treated in accordance with § 319.40-7(c) or heat treated with moisture reduction in accordance with § 319.40-7(d) before any cutting, planing, or sawing of the raw lumber, and within 30 days from the time the lumber is released from the port of first arrival.

(c) *Tropical hardwoods—(1) Debarked.* Tropical hardwood logs and lumber that have been debarked in accordance with § 319.40-7(b) may be imported subject to the inspection and other requirements of § 319.40-9.

(2) *Not debarked.* Tropical hardwood logs that have not been debarked may be imported if fumigated in accordance with § 319.40-7(f)(1) prior to arrival in the United States.

(3) *Not debarked; small lots.* Tropical hardwood logs that have not been debarked may be imported into the United States, other than into Hawaii,

Puerto Rico, or the Virgin Islands of the United States, if imported in a lot of 15 or fewer logs and subject to the inspection and other requirements of § 319.40-9.

(d) *Temperate hardwoods.* Temperate hardwood logs and lumber (with or without bark) from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported if fumigated in accordance with § 319.40-7(f) prior to arrival in the United States and subject to the inspection and other requirements of § 319.40-9.

(e) *Regulated articles associated with exclusively tropical climate pests.* Regulated articles that have been identified by a plant pest risk assessment as associated solely with plant pests that can successfully become established only in tropical or subtropical climates may be imported if:

(1) The regulated article is imported only to a destination in the continental United States; and,

(2) the regulated article is not imported into any tropical or subtropical areas of the United States specified in the permit.

(f) Cross-ties (railroad ties) from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported if completely free of bark and accompanied by an importer document stating that the cross-ties will be pressure treated within 30 days following the date of importation.

(g) *Solid wood packing material and merchandise from the Peoples Republic of China including Hong Kong.* This paragraph does not apply to shipments transiting the Peoples Republic of China including Hong Kong from other countries en route to the United States, unless merchandise or solid wood packing material is added to such shipments while in the Peoples Republic of China including Hong Kong. Otherwise, merchandise exported from the Peoples Republic of China including Hong Kong that is accompanied by solid wood packing material may only be entered into the United States in accordance with this paragraph (g) and paragraph (i) of this section. This restriction applies to both merchandise that originated in the Peoples Republic

of China including Hong Kong and merchandise that entered the Peoples Republic of China including Hong Kong for further processing or packaging, regardless of whether the merchandise moves directly from the Peoples Republic of China including Hong Kong to the United States or transits other countries en route to the United States.

(1) Prior to exportation from the Peoples Republic of China including Hong Kong, any solid wood packing material must be heat treated, fumigated and aerated, or treated with preservatives, using a treatment schedule contained in §319.40-7 or in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter. During the entire interval between treatment and export the solid wood packing material must be stored, handled, or safeguarded in a manner which excludes any infestation of the solid wood packing material by plant pests.

(2) Any merchandise accompanied by solid wood packing material exported from the Peoples Republic of China including Hong Kong may only be entered if the importer has on file at its office, and retains there for a period of one year following the date of importation, the following documents:

(i) A certificate signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the government of the Hong Kong Special Administrative Region, stating that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in §319.40-7 or in the Plant Protection and Quarantine Treatment Manual, and

(ii) An importer statement (a written statement by the importer affirming that the importer has on file at his or her office the certificate required under paragraph (g)(2)(i) of this section).

(3) In addition to the document requirements of paragraph (g)(2) of this section, a copy of the certificate must accompany all shipments that do not enter using the United States Customs

Service's electronic entry filing and Automated Broker Interface.

(4) Upon the request of an APHIS inspector or a United States Customs Service officer, the importer must produce a copy of the certificate and importer statement issued for any shipment.

(5) At their option, in order to expedite release of a shipment, an importer may provide a certificate to the APHIS inspector at the port of first arrival prior to the arrival of the shipment. Exporters may also at their option, in order to expedite release of their shipment at the port of first arrival, arrange to have each article of solid wood packing material that has been treated marked at the treatment facility with a stamp or weatherproof label that reads CHINA TREATED. This type of marking, however, is not a substitute for the required certificate.

(6) If an APHIS inspector determines that a shipment imported from the Peoples Republic of China including Hong Kong contains plant pests, or contains solid wood packing material that was not heat treated, fumigated and aerated, or treated with preservatives, the APHIS inspector may refuse entry of the entire shipment (merchandise and solid wood packing material). If an importer does not produce upon request by an APHIS inspector the certificate required for a shipment imported from the Peoples Republic of China including Hong Kong containing solid wood packing material, the APHIS inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material) until the certificate is produced. For any shipment refused entry, if the APHIS inspector determines that the merchandise may be separated from the solid wood packing material and that the solid wood packing material may be destroyed or reexported without risk of spreading plant pests, the inspector may allow the importer to separate the merchandise from the solid wood packing material at a location and within a time period specified by the inspector to prevent the dissemination of plant pests, and destroy or reexport the solid wood packing material under supervision of

an inspector. The means used to destroy solid wood packing material under this section must be incineration, or chipping followed by incineration. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities, in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(h) *Cargo from the Peoples Republic of China including Hong Kong that does not contain solid wood packing material.* Merchandise exported from the Peoples Republic of China including Hong Kong that is not accompanied by any solid wood packing material must have attached to the commercial invoice, the bill of lading, or the airway bill, an exporter statement stating that the shipment contains no solid wood packing material. As an alternative to attaching the exporter statement to the paperwork presented at entry, the importer may provide the exporter statement to the APHIS inspector at the port of entry prior to arrival of the shipment. Any shipment is subject to inspection for solid wood packing material, and if such inspection is ordered by an inspector, the shipment will not be granted entry into the United States prior to completion of the inspection. If the inspection reveals solid wood packing material, the inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material). Any shipment refused entry will be handled in accordance with the procedures in paragraph (g)(6) of this section. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(i) *Special provisions for air overnight couriers and air express delivery companies.* Overnight couriers and express delivery companies must present to an

APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more certificates for each arriving aircraft that carries packages employing solid wood packing material. The company may present one certificate in cases where the company has arranged treatment of all solid wood packing material on the flight, and may present multiple certificates in cases where packages with solid wood packing material were accepted for delivery by the company from multiple customers, each of whom arranged for treatment and certification of their respective packages. The certificates must be signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the Hong Kong Special Administrative Region, and must state that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual. If the aircraft contains no packages that employ solid wood packing material, or contains both packages that do and do not employ solid wood packing material, the overnight courier or express delivery company must also present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more exporter statements stating that the packages on the aircraft not covered by a certificate contain no solid wood packing material.

(j) *Customs entry or entry summary filing requirements.* By instruction, the United States Customs Service will inform importers of any information that may be required on entry or entry summary documentation under the Automated Broker Interface or other entry filing systems, electronic or otherwise, with regard to recording the existence of certificates, importer statements affirming that the importer has on file at his or her office any certificate required, and exporter statements that there is no solid wood packing material in a shipment.

(k) *Liability under the Customs import bond and international carrier bond.* Any

failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the international carrier bond.

[60 FR 27674, May 25, 1995, as amended at 63 FR 69542, Dec. 17, 1998; 64 FR 59604, Nov. 3, 1999]

**§ 319.40-6 Universal importation options.**

(a) *Logs.* Logs may be imported if prior to importation the logs have been debarked in accordance with § 319.40-7(b) and heat treated in accordance with § 319.40-7(c). During the entire interval between treatment and export, the logs must be stored and handled in a manner which excludes any access to the logs by plant pests.

(b) *Lumber—(1) Heat treated or heat treated with moisture reduction.* Lumber that prior to importation has been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d), may be imported in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the lumber, unless the lumber and the other regulated articles are in separate holds or separate sealed containers, or, if the lumber and other regulated articles are mixed in a hold or sealed container, all the regulated articles have been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d). Lumber on the vessel's deck must be in a sealed container, unless it has been heat treated with moisture reduction in accordance with § 319.40-7(d).

(ii) If lumber has been heat treated in accordance with § 319.40-7(c), that fact must be stated on the importer document, or by a permanent marking on each piece of lumber in the form of the

letters "HT" or the words "Heat Treated." If lumber has been heat treated with moisture reduction in accordance with § 319.40-7(d), that fact must be stated on the importer document, or by a permanent marking, on each piece of lumber or on the cover of bundles of lumber, in the form of the letters "KD" or the words "Kiln Dried."

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that requires the raw lumber to be heat treated in accordance with § 319.40-7(c) or heat treated with moisture reduction in accordance with § 319.40-7(d), within 30 days from the time the lumber is released from the port of first arrival. Heat treatment must be completed before any cutting, planing, or sawing of the raw lumber.

(c) *Wood chips and bark chips.* Wood chips and bark chips from any place except places in Asia that are wholly east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(1) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(i) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(ii) Fumigated with methyl bromide in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

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(2) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; *Except that*; If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel, and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(3) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(4) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8. The wood chips or bark chips must be burned, heat treated in accordance with § 319.40-7(c), heat treated with moisture reduction in accordance with § 319.40-7(d), or otherwise processed in a manner that will destroy any plant pests associated with the wood chips or bark chips, within 30 days of arrival at the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(d) *Wood mulch, humus, compost, and litter.* Wood mulch, humus, compost, and litter may be imported if accompanied by an importer document stating that the wood mulch, humus, compost, or litter was fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(e) *Cork and bark.* Cork and cork bark, cinnamon bark, and other bark to be used for food, manufacture of medicine, or chemical extraction may be imported if free from rot at the time of importation and subject to the inspection and other requirements of § 319.40-9.

[60 FR 27679, May 25, 1995, 60 FR 30157, June 7, 1995]

§ 319.40-7 **Treatments and safeguards.**

(a) *Certification of treatments or safeguards.* If APHIS determines that a document required for the importation of regulated articles is inaccurate, the regulated articles which are the subject of the certificate or other document shall be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of regulated articles in accordance with this subpart from a country in which an inaccurate certificate is issued, and APHIS may determine not to allow the importation of any or all regulated articles from any such country, until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

(b) *Debarking.* Except for raw lumber, no more than 2 percent of the surface of all regulated articles in a lot may retain bark, with no single regulated article retaining bark on more than 5 percent of its surface. For raw lumber, debarking must remove 100 percent of the bark.

(c) *Heat treatment.* Heat treatment must be performed only at a facility where APHIS or an inspector authorized by the Administrator and the national government of the country in which the facility is located has inspected the facility and determined that its operation complies with the standards of this paragraph. Heat treatment procedures may employ steam, hot water, kilns, exposure to microwave energy, or any other method (e.g., the hot water and steam techniques used in veneer production) that raises the temperature of the center of each treated regulated article to at

least 71.1 °C and maintains the regulated article at that center temperature for at least 75 minutes. For regulated articles heat treated prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(d) *Heat treatment with moisture reduction.* (1) Heat treatment with moisture reduction may employ:

(i) Kiln drying conducted in accordance with the schedules prescribed for the regulated article in the Dry Kiln Operator's Manual, Agriculture Handbook 188, which is incorporated by reference at § 300.1 of this chapter; or,

(ii) Dry heat, exposure to microwave energy, or any other method that raises the temperature of the center of each treated regulated article to at least 71.1 °C, maintains the regulated articles at that center temperature for at least 75 minutes, and reduces the moisture content of the regulated article to 20 percent or less as measured by an electrical conductivity meter.

(2) For regulated articles heat treated with moisture reduction prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(e) *Surface pesticide treatments.* All United States Environmental Protection Agency registered surface pesticide treatments are authorized for regulated articles imported in accordance with this subpart. Surface pesticide treatments must be conducted in accordance with label directions approved by the United States Environmental Protection Agency. When used on heat treated logs, a surface pesticide treatment must be first applied within 48 hours following heat treatment. The surface pesticide treatment must be repeated at least every 30 days during storage of the regulated article, with the final treatment occurring no more than 30 days prior to departure of the means of conveyance that carries the regulated articles to the United States.

(f) *Methyl bromide fumigation.* The following minimum standards for methyl bromide fumigation treatment are authorized for the regulated articles listed in paragraphs (f)(1) through (f)(3) of this section. Any method of fumigation that meets or exceeds the specified temperature/time/concentration products is acceptable. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the Treatment Manual and label instructions approved by the U.S. Environmental Protection Agency.

(1) *Logs—(i) T-312 schedule.* The entire log and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-312 contained in the Treatment Manual. In lieu of the schedule T-312 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 240 g/m<sup>3</sup> with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration.

(ii) *T-404 schedule.* The entire log and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m<sup>3</sup> with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(2) *Lumber.* The lumber and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m<sup>3</sup> with exposure and concentration levels adequate to provide a concentration-time

product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(3) *Regulated articles other than logs or lumber.* (i) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 21 °C or above throughout fumigation, the fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 48 g/m<sup>3</sup> with exposure and concentration levels adequate to provide a concentration-time product of at least 760 gram-hours calculated on the initial methyl bromide concentration.

(ii) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 4.5-20.5 °C throughout fumigation, the fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m<sup>3</sup> with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(g) *Preservatives.* All preservative treatments that use a preservative product that is registered by the United States Environmental Protection Agency are authorized for treatment of regulated articles imported in accordance with this subpart. Preservative treatments must be performed in accordance with label directions approved by the United States Environmental Protection Agency.

[60 FR 27674, May 25, 1999, as amended at 64 FR 59604, Nov. 3, 1999]

**§ 319.40-8 Processing at facilities operating under compliance agreements.**

(a) Any person who operates a facility in which imported regulated articles are processed may enter into a compliance agreement to facilitate the importation of regulated articles under this subpart. The compliance agreement shall specify the requirements necessary to prevent spread of plant

pests from the facility, requirements to ensure the processing method effectively destroys plant pests, and the requirements for the application of chemical materials in accordance with the Treatment Manual. The compliance agreement shall also state that inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and of this subpart. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person whose compliance agreement has been canceled requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

**§ 319.40-9 Inspection and other requirements at port of first arrival.**

(a) *Procedures for all regulated articles.* (1) All imported regulated articles shall be inspected at the port of first arrival. If the inspector finds signs of plant pests on or in the regulated article, or finds that the regulated article may have been associated with other articles infested with plant pests, the regulated article shall be cleaned or

treated as required by an inspector, and the regulated article and any products of the regulated article shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(2) Regulated articles shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(3) If an inspector finds that an imported regulated article is so infested with a plant pest that, in the judgment of the inspector, the regulated article cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(4) No person shall move any imported regulated article from the port of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the regulated article:

(i) Is in compliance with all applicable regulations and has been inspected and found to be apparently free of plant pests;<sup>3</sup> or,

(ii) Has been inspected and the inspector requires reinspection, cleaning, or treatment of the regulated article at a place other than the port of first arrival.

(b) *Notice of arrival; visual examination of regulated articles at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of regulated articles imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in any specific permit issued by APHIS<sup>4</sup>. This

<sup>3</sup>Certain regulated articles may also be subject to §§319.56 through 319.56-8, "Subpart—Fruits and Vegetables," or to Noxious Weed Act regulations under part 360 of this chapter, or to Endangered Species Act regulations under parts 355 and 356 of this chapter and 50 CFR parts 17 and 23.

<sup>4</sup>A list of APHIS Officers in Charge may be obtained from the Administrator, c/o Port

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notice may be in writing or by telephone. The notice must include the number of any specific permit issued for the regulated articles; the name, if any, of the means of conveyance carrying the regulated articles; the type and quantity of the regulated articles; the expected date of arrival; the country of origin of the regulated articles; the name and the number, if any, of the dock or area where the regulated articles are to be unloaded; and the name of the importer or broker at the port of arrival.

(2) Imported regulated articles which have been debarked in accordance with §319.40-7(b) and can be safely and practically inspected will be visually examined for plant pests by an inspector at the port of first arrival. If plant pests are found on or in the regulated articles or if the regulated article cannot be safely and practically inspected, the regulated articles must be treated in accordance with the Treatment Manual.

(c) *Marking and identity of regulated articles.* Any regulated article, at the time of importation shall bear on the outer container (if in a container), on the regulated article (if not in a container), or on a document accompanying the regulated article the following information:

(1) General nature and quantity of the regulated articles;

(2) Country and locality, if known, where the tree from which the regulated article was derived was harvested;

(3) Name and address of the person importing the regulated article;

(4) Name and address of consignee of the regulated article;

(5) Identifying shipper's mark and number; and

(6) Number of the permit (if one was issued) authorizing the importation of the regulated article into the United States.

(d) *Sampling for plant pests at port of first arrival.* Any imported regulated article may be sampled for plant pests at the port of first arrival. If an inspector finds it necessary to order treatment of

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a regulated article at the port of first arrival, any sampling will be done prior to treatment.

**§ 319.40-10 Costs and charges.**

The services of an inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.<sup>5</sup> The inspector may require the importer to furnish any labor, chemicals, packing materials, or other supplies required in handling regulated articles under this subpart. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50111, Sept. 18, 1998]

**§ 319.40-11 Plant pest risk assessment standards.**

When evaluating a request to import a regulated article not allowed importation under this subpart, or a request to import a regulated article under conditions other than those prescribed by this subpart, APHIS will conduct the following analysis to determine the plant pest risks associated with each requested importation in order to determine whether or not to issue a permit under this subpart or to propose regulations establishing conditions for the importation into the United States of the regulated article.

(a) *Collecting commodity information.*

(1) APHIS will evaluate the application for information describing the regulated article and the origin, processing, treatment, and handling of the regulated article; and

(2) APHIS will evaluate history of past plant pest interceptions or introductions (including data from foreign countries) associated with the regulated article.

(b) *Cataloging quarantine pests.* For the regulated article specified in an application, APHIS will determine what plant pests or potential plant pests are

<sup>5</sup>Provisions relating to costs for other services of an inspector, including services related to extra inspection and separation of cargo from packing material for shipments that arrive without a complete certificate or exporter statement as required, are contained in part 354 of this chapter.

associated with the type of tree from which the regulated article was derived, in the country and locality from which the regulated article is to be exported. A plant pest that meets one of the following criteria is a quarantine pest and will be further evaluated in accordance with paragraph (c) of this section:

(1) Non-indigenous plant pest not present in the United States;

(2) Non-indigenous plant pest, present in the United States and capable of further dissemination in the United States;

(3) Non-indigenous plant pest that is present in the United States and has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States;

(4) Native species of the United States that has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States; or

(5) Non-indigenous or native plant pest that may be able to vector another plant pest that meets one of the criteria in paragraphs (b)(1) through (4) of this section.

(c) *Determining which quarantine pests to assess.* (1) APHIS will divide quarantine pests identified in paragraph (b) of this section into groups depending upon where the plant pest is most likely to be found. The plant pests would be grouped as follows:

(i) Plant pests found on the bark;

(ii) Plant pests found under the bark; and

(iii) Plant pests found in the wood.

(2) APHIS will subdivide each of the groups in paragraph (c)(1) of this section into associated taxa.

(3) APHIS will rank the plant pests in each group in paragraph (c)(2) of this section according to plant pest risk, based on the available biological information and demonstrated plant pest importance.

(4) APHIS will identify any plant pests ranked in paragraph (c)(3) of this

section for which plant pest risk assessments have previously been performed in accordance with this section. APHIS will conduct individual plant pest risk assessments for the remaining plant pests, starting with the highest ranked plant pest(s) in each group.

(5) The number of plant pests in each group to be evaluated through individual plant pest risk assessment will be based on biological similarities of members of the group as they relate to measures taken in connection with the importation of the regulated article to mitigate the plant pest risk associated with the regulated article. For example, if the plant pest risk assessment for the highest ranked plant pest indicates a need for a mitigation measure that would result in the same reduction of risk for other plant pests ranked in the group, the other members need not be subjected to individual plant pest risk assessment.

(d) *Conducting individual plant pest risk assessments.* APHIS will evaluate each of the plant pests identified in paragraph (c)(4) of this section by:

(1) Estimation of the probability of the plant pest being on, with, or in the regulated article at the time of importation;

(2) Estimation of the probability of the plant pest surviving in transit on the regulated article and entering the United States undetected;

(3) Estimation of the probability of the plant pest colonizing once it has entered into the United States;

(4) Estimation of the probability of the plant pest spreading beyond any colonized area; and

(5) Estimation of the damage to plants that could be expected upon introduction and dissemination within the United States of the plant pest.

(e) *Estimating unmitigated overall plant pest risk.* APHIS will develop an estimation of the overall plant pest risk associated with importing the regulated article based on compilation of individual plant pest risk assessments performed in accordance with paragraph (d) of this section.

(f) *Evaluating available requirements to determine whether they would allow safe importation of the regulated article.* The requirements of this subpart, and any other requirements relevant to the reg-

ulated article and plant pests involved, will be compared with the individual plant pest risk assessments in order to determine whether particular conditions on the importation of the regulated article would reduce the plant pest risk to an insignificant level. If APHIS determines that the imposition of particular conditions on the importation of the regulated article could reduce the plant pest risk to an insignificant level, and determines that sufficient APHIS resources are available to implement or ensure implementation of the conditions, APHIS will implement rulemaking to allow importation of the requested regulated article under the conditions identified by the plant pest risk assessment process.

### Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

#### QUARANTINE

#### § 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (*Ostrinia nubilalis* Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) The Secretary of Agriculture, under the authority conferred by the act of Congress approved August 20, 1912, known as the Plant Quarantine Act (37 Stat. 315; 7 U.S.C. 151-167), determined that it was necessary, in order to prevent the further introduction of the dangerous plant pests mentioned above, to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States from all foreign countries and localities of the stalk and all other parts, whether used for packing or other purposes, in the raw or unmanufactured state, of Indian

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corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum sudanensis*), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

(c) Hereafter, and until further notice, by virtue of said act of Congress approved August 20, 1912, the importation into the United States of the stalk and all other parts of the plants enumerated above from all foreign countries and localities except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

**§319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.**

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part 319, disposition may be made in accordance with §330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in §319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section and without other restriction under this subpart, but such importations are subject to the requirements of §319.37-4(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of §319.56-2.

**§319.41b Administrative instructions prescribing conditions for entry of broomstraw without treatment.**

Broomstraw, sometimes referred to as "combed stalkless", when consisting of individual straws entirely free from stems, stalks, stubs of stalks, and leaves, may be imported from all countries without seasonal limitation through ports of entry designated in the permit, provided it is bundled and baled to prevent breakage and scattering and to facilitate inspection, in the following manner:

(a) The broomstraw shall be assembled into bundles with the base of the

individual straws at the same end, no alternating of layers being permitted.

(b) Each bundle shall be securely tied to prevent breakage.

(c) Individual bundles shall be compacted, grouped into bales, and so arranged that the butt of each bundle is exposed on the outside of the bale.

(d) Each bale shall be securely bound to prevent shifting or loosening of the bundles in transit.

(e) Broomstraw found upon inspection at the port of entry to contain stems, stalks, stubs of stalks, or leaves shall be sterilized under the supervision of an inspector. Broomstraw contaminated in the aforesaid manner, from countries other than those on the North or South American Continents or the West Indies, shall be considered as broomcorn and shall be subject to compliance with § 319.41-3(b).

[25 FR 12809, Dec. 14, 1960]

#### RULES AND REGULATIONS

##### § 319.41-1 Plant products permitted entry.<sup>1</sup>

Except as restricted from certain countries and localities by special quarantines and other orders now in force,<sup>2</sup> and by such as may hereafter be

<sup>1</sup>Except as provided in § 319.41-6 the regulations in this subpart do not authorize importations through the mails.

<sup>2</sup>The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Except as provided for in paragraph (c) for corn seed from New Zealand, seed and all other portions in the raw or unmanufactured state of Indian corn or maize (*Zea mays* L.), and the closely related plants, including all species of Teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca*, *Chionachne*, *Sclerachne*, and *Trilobachne*, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

(c) Seed of Indian corn or maize (*Zea mays* L.) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction. (§ 319.24.)

promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41-5:

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,<sup>3</sup> and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

(c) Seed of Indian corn or maize (*Zea mays* L.) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993]

##### § 319.41-2 Application for permits.

(a) Persons contemplating the importation of any of the articles specified in § 319.41-1(b), shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of arrival, and the name and address of the importer in the United States to whom the permit should be sent. Unless otherwise stated in the permit, all permits will be valid from date of issuance until revoked.

<sup>3</sup>A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

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(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the risk and expense of the importer for a period not exceeding 20 days pending the receipt of the permit.

(c) Applications may be made by telegraph, in which case the information required above must be given.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

### § 319.41-3 Issuance of permits.

(a) On approval by the Deputy Administrator of the Plant Protection and Quarantine Programs of the application mentioned in § 319.41-2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, New York, and Norfolk, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b)(2), permits will be issued for ports where the Plant Protection and Quarantine Programs maintains an inspection service and for such other

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ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41-1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

[24 FR 10788, Dec. 29, 1959, as amended at 33 FR 11811, Aug. 21, 1968; 36 FR 24917, Dec. 24, 1971]

### § 319.41-4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the U.S. Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

### § 319.41-5 Condition of entry.

(a) The entry of the articles covered by § 319.41-1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Protection and Quarantine Programs, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or other

necessary treatment as the inspector may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of \$5,000, or in an amount equal to the invoice value, if such value be less than \$5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

(c) Should a shipment requiring sterilization or other treatment under the provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in § 319.41-1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such

treatment of the included stems as in the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in § 319.41-1 (b)(2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment or may refuse entry.

**§ 319.41-5a Administrative instructions; method used for the disinfection of imported broomcorn and broomcorn brooms.**

Broomcorn and articles made of broomcorn which are required to be treated, under the provisions of § 319.41-5, will be treated by one of the following methods:

(a) *Vacuum fumigation.* (1) The temperature of the stalks and of the fumigation chamber during the fumigation shall be not less than 60° F.

(2) The dosage for the fumigation shall be 3 pounds of liquid hydrocyanic acid or its equivalent per 1,000 cubic feet of space.

(3) The air pressure in the fumigation chamber shall be reduced to the equivalent of 2 inches of mercury (a 28-inch vacuum at sea level), after which the hydrocyanic acid shall be introduced and the low pressure held for the duration of the fumigation.

(4) The exposure shall be not less than 3 hours.

(b) *Steam sterilization.* (1) The air pressure in the treating chamber shall be reduced to the equivalent of 5 inches of mercury (a 25-inch vacuum at sea level).

(2) Steam shall then be introduced until a positive pressure of 10 pounds is obtained.

(3) The exposure to the 10-pound positive pressure of steam shall continue for a period sufficient to assure a constant temperature in all parts of the treating chamber, after which the steam may be shut off and the treating chamber exhausted of the uncondensed steam.

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(c) *Other treatments.* Any other treatments approved by the Deputy Administrator of the Plant Protection and Quarantine Programs in specific cases.

[24 FR 10788, Dec. 29, 1959, as amended at 34 FR 15559, Oct. 7, 1969; 36 FR 24917, Dec. 24, 1971]

**§319.41-6 Importations by mail.**

In addition to entries by freight or express provided for in §319.41-5, importations are permitted by mail of (a) mature corn on the cob from the countries specified in §319.41-1(b)(2), (b) clean shelled corn and clean seed of the other plants covered by §319.41: *Provided*, That a permit has been issued for the importation: *Provided further*, That each shipment is accompanied from the foreign mailing point by a special mailing tag, which will direct the package to a Plant Protection and Quarantine Programs inspection station for inspection in accordance with §319.41-5 before release to the mails for delivery to the importer. These special mailing tags will be furnished on request to the importer for transmission to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**Subpart—Rice**

**QUARANTINE**

**§319.55 Notice of quarantine.**

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, (1) that injurious fungous diseases of rice, including downy mildew (*Sclerospora macrospora*), leaf smut (*Entyloma oryzae*), blight (*Oospora oryzae*), and glume blotch (*Melanomma glumarum*), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of seed or paddy

rice, rice straw, and rice hulls, and (2) that the unrestricted importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) Under authority conferred by the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U.S.C. 151-167), as amended, the Secretary of Agriculture does hereby declare that it is necessary, in order to prevent the introduction into the United States of the insect pests and plant diseases referred to, to forbid the importation into the United States of seed or paddy rice from all foreign countries and localities except the Republic of Mexico, and to restrict the importation of seed or paddy rice from the Republic of Mexico, and of rice straw and rice hulls from all foreign countries and localities.

(c) On and after November 23, 1933, by virtue of the said act of Congress, the importation of seed or paddy rice into the United States from all foreign countries and localities except the Republic of Mexico is prohibited, and the importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities is forbidden except in accordance with the rules and regulations supplemental hereto: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the

permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

**§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.**

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port of entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55-6 and 319.55-7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infested, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

RULES AND REGULATIONS

**§ 319.55-1 Definitions.**

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Protection and Quarantine Programs of the United States Department of Agriculture.

**§ 319.55-2 Application for permit.**

(a) Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any coun-

try, may be made to the Plant Protection and Quarantine Programs, indicating in the application the locality where the desired material has been grown, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent, if other than the applicant.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days, pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be furnished.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.55-3 Ports of entry.**

(a) For importations of seed or paddy rice from the Republic of Mexico, permits will be issued for entry through Mexican border ports and such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(b) For importations of rice straw and rice hulls from all foreign countries, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(c) Pending development of adequate treating facilities in Guam, seed or paddy rice, rice straw, and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(d) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector

to an approved port where facilities for treatment are available, or it shall be refused entry.

**§ 319.55-4 Issuance of permits.**

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

**§ 319.55-5 Notice of arrival by permittee.**

Immediately upon the arrival of a shipment at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel and the designation of the dock where the shipment is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.55-6 Inspection and disinfection at port of arrival.**

(a) *Paddy rice.* All importations of seed or paddy rice from Mexico shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of arrival, as shall be required by the inspector, and to the delivery to the collector of customs by the inspector of a written notice that the seed or paddy rice has been inspected and found to be apparently free from plant diseases and insect pests or that the required treatment has been given. Should any shipment of such seed or paddy rice be found to be so infested with insect pests or infected with plant

diseases that, in the judgment of the inspector, it cannot be cleaned by disinfection or other treatment, the entire shipment may be refused entry.

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and to treatment at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Protection and Quarantine Programs and, as a further condition of entry, in order to permit effective treatment, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(c) *General.* (1) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(2) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

**§ 319.55-7 Importations by mail.**

Sections 319.55-2 to 319.55-6, inclusive, provide for importations otherwise than through the mails. Importations of seed or paddy rice from Mexico, and of rice straw and rice hulls from all foreign countries and localities, may be made by mail, *Provided*

(a) That a permit has been issued for the importation in accordance with §§ 319.55-2, 319.55-4, and (b) That each shipment is accompanied from the foreign mailing point by a special mailing tag directing the package to a Plant Protection and Quarantine Programs inspection station for inspection and, if necessary, for treatment, before being released to the mails for delivery to the importer, unless entry is refused in accordance with the provisions of § 319.55-6. The special mailing tags will be furnished on request to the importer for transmission in advance to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**Subpart—Fruits and Vegetables**

## QUARANTINE

**§ 319.56 Notice of quarantine.**

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given:

(1) That there exist in Europe, Asia, Africa, Mexico, Central America, and South America, and other foreign countries and localities, certain injurious insects, including fruit and melon flies (Tephritidae), new to and not heretofore widely distributed within and throughout the United States, which affect and may be carried by fruits and vegetables commercially imported into the United States or brought to the ports of the United States as ships' stores or casually by passengers or others, and

(2) That the unrestricted importation of fruits and vegetables from the countries and localities enumerated may result in the entry into the United States of injurious insects, including fruit and melon flies (Tephritidae).

(b) The Secretary of Agriculture, under authority conferred by the act of Congress approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151-167), does hereby declare that it is necessary, in order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies (Tephritidae), to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States of fruits and vegetables from the foreign countries and localities named and from any other foreign country or locality, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables.

(c) On and after November 1, 1923, and until further notice, the importation from all foreign countries and localities into the United States of fruits and vegetables, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables, except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided*, That whenever the Deputy Administrator for the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and

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vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

**§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.**

(a) The following fruits and vegetables may be imported into Guam without treatment except as it may be required under § 319.56-6 and they shall otherwise be subject to all the requirements of this subpart as modified by this section:

(1) All fruits and vegetables from the Marianas Islands.

(2) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(3) All fruits and vegetables from the Caroline Islands, except citrus fruits, and except taro from the Palau and Yap districts (the excepted products are not approved for entry into Guam under § 319.56 without treatment).

(4) Allium, artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons, from Japan and Korea.

(5) Leafy vegetables, celery, and potatoes, from the Philippine Islands.

(6) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops), from Australia.

(7) Arrowroot, asparagus, bean sprouts, broccoli, cabbage, carrots (without tops), cassava, cauliflower, celery, chives, cow-cabbage, dasheen, garlic, gingerroot, horseradish, kale, kudzu, leek, lettuce, onions, Portuguese cabbage, turnip, udo, water chestnut, watercress, waterlilyroot, and yam bean root, from Taiwan (Formosa).

(8) Lettuce from Netherlands New Guinea.

(9) Carrots, celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits, from New Zealand.

(10) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(11) Green corn on the cob.

(12) All other fruits and vegetables administratively approved for entry into any other part or port of the United States, except those for which a treatment is specified as a condition of entry and except any which are now, or may subsequently be, specifically designated in this subpart as not approved.

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill the requirements of §§ 319.56-3 and 319.56-4. He may waive the documentation required in § 319.56-5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(c) The provisions of §§ 319.56-2a and 319.56-2b shall not apply to chestnuts and acorns imported into Guam and they shall be enterable without further permit, other than the authorization contained in this paragraph, and without other restriction under this subpart, in accordance with the second paragraph of § 319.56-2. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(d) Coconuts with husks are not approved for entry into Guam from the Trust Territory under § 319.56.

(e) Application of the provisions of §§ 319.56-2d and 319.56-2f to 319.56-2m, inclusive, is impracticable in the case of traffic into Guam and therefore such application is withdrawn. The fruits and vegetables which are the subject of said provisions are not enterable into

Guam except as they are now, or may later be, listed in paragraph (a) of this section. Yams are included in the listings in paragraphs (a) (1) and (2) of this section.

(f) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting the requirement of the first paragraph of § 319.56-2.

[24 FR 10788, Dec. 29, 1959, as amended at 29 FR 2329, Feb. 11, 1964; 29 FR 6614, May 21, 1964; 31 FR 5607, Apr. 9, 1966; 34 FR 14638, Sept. 20, 1969; 35 FR 9105, June 12, 1970; 35 FR 16678, Oct. 28, 1970; 58 FR 43497, Aug. 17, 1993]

#### RULES AND REGULATIONS

##### § 319.56-1 Definitions.

*Above ground parts.* Any plant parts, such as stems, leaves, fruit, or inflorescence, that grow solely above the soil surface.

*Commercial shipment.* A shipment containing fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

*Cucurbits.* *Benincasa hispida* (wax gourd), *Citrullus lanatus* (watermelon), *Cucumis* spp. (including, but not limited to cucumber, kiwano, cantaloupe, honeydew, muskmelon, and Indian gherkin), *Cucurbita* spp. (including, but not limited to squash, zucchini, crenshaws, pumpkin, and marrow), *Lagenaria* spp. (including, but not limited to the white-flowered gourds), *Luffa* spp. (including, but not limited to luffa and angled luffa), *Momordica balsamina* (balsam-apple), *Momordica charantia* (bitter melon), and *Sechium edule* (chayote).

*Deputy Administrator.* The Deputy Administrator, Plant Protection and Quarantine, or any person to whom the Deputy Administrator has delegated his or her authority.

*Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

*Inspector.* An inspector of the Plant Protection and Quarantine Programs, U.S. Department of Agriculture.

*Plants or portions of plants.* Leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

*Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 57 FR 54489, Nov. 19, 1992]

##### § 319.56-2 Restrictions on entry of fruits and vegetables.

(a) All importations of fruits and vegetables must be free from plants or portions of plants, as defined in § 319.56-1.

(b) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided*, That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; *provided*, that the potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with § 319.37-2 of this part.

(d) Fruits and vegetables grown in the British Virgin Islands may be imported into the Virgin Islands of the United States without further permit other than the authorization contained in this paragraph but subject to the requirements of the first paragraph of this section, and of §§ 319.56-5, 319.56-6 and 319.56-7, except that such fruits and vegetables are exempted from the notice of arrival requirements of § 319.56-5 when an inspector shall find that equivalent information is obtainable from the U.S. Collector of Customs.

(e) Any other fruit or vegetable, except those restricted to certain countries and districts by special quarantine<sup>1</sup> and other orders now in force and by any restrictive order as may hereafter be promulgated, may be imported from any country under a permit issued in accordance with this subpart and upon compliance with the regulations in this subpart, at the ports as shall be authorized in the permit, if the U.S. Department of Agriculture, after reviewing evidence presented to it, is satisfied that the fruit or vegetable either:

(1) Is not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae);

(2) Has been treated or is to be treated for all injurious insects that attack it in the country of origin, in accordance with conditions and procedures that may be prescribed by the Administrator;

(3) Is imported from a definite area or district in the country of origin that is free from all injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and its importation is in compliance with the criteria of paragraph (f) of this section; or

(4) Is imported from a definite area or district of the country of origin that is free from certain injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and the criteria of paragraph (f) of this section are met with regard to those certain insects, provided that all

other injurious insects that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Administrator.

(f) Before the Administrator may authorize importation of a fruit or vegetable under § 319.56-2(e) (3) or (4), he or she must determine that the following criteria have been met:

(1) Within the past 12 months, the plant protection service of the country of origin has established the absence of infestations of injurious insects known to attack fruits or vegetables in the definite area or district based on surveys performed in accordance with requirements approved by the Administrator as adequate to detect these infestations;

(2) The country of origin has adopted and is enforcing requirements to prevent the introduction of injurious insects known to attack fruits and vegetables into the definite area or district of the country of origin that are deemed by the Administrator to be at least equivalent to those requirements imposed under this chapter to prevent the introduction into the United States and interstate spread of injurious insects; and

(3) The plant protection service of the country of origin has submitted to the Administrator written detailed procedures for the conduct of surveys and the enforcement of requirements under this paragraph to prevent the introduction of injurious insects.

When used to authorize importation under § 319.56-2(e)(3), the criteria must be applied to all injurious insects that attack the fruit or vegetable; when used to authorize importation under § 319.56-2(e)(4), the criteria must be applied to those particular injurious insects from which the area or district is to be considered free.

(g) Each box of fruit or vegetables imported into the United States in accordance with § 319.56-2(e) (3) or (4) and § 319.56-2(f) must be clearly labelled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

<sup>1</sup>The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

(2) The name of the municipality and state in which it was produced, and

(3) The type and amount of fruit it contains.

(h) The Administrator has determined that the following municipalities in Mexico meet the criteria of paragraphs (e) and (f) of this section with regard to the plant pests *Ceratitis capitata*, *Anastrepha ludens*, *A. serpentina*, *A. obliqua*, and *A. fraterculus*: Comondu, Loreto, and Mulege in the State of Baja California Sur; Bachiniva, Casas Grandes, Cuahutemoc, Guerrero, Namiquipa, and Nuevo Casas Grandes in the State of Chihuahua; and Altar, Atil, Bacum, Benito Juarez, Caborca, Cajeme, Carbo, Empalme, Etchojoa, Guaymas, Hermosillo, Huatabampo, Navajoa, Pitiquito, Plutarco Elias Calles, Puerto Penasco, San Luis Rio Colorado, San Miguel, and San Rio Muerto in the State of Sonora. Apples, apricots, grapefruit, oranges, peaches, persimmons, pomegranates, and tangerines may be imported from these areas without treatment for the pests named in this paragraph.

(i) Pending development of adequate treating facilities in Guam, fruits and vegetables that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(j) The Administrator has determined that all Provinces in Chile meet the criteria of §319.56-2 (e) and (f) with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitis capitata*) (Wiedemann). Fruits and vegetables from Chile otherwise eligible for importation under this subpart may be imported from these areas without treatment for Medfly.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 53 FR 10057, Mar. 29, 1988; 53 FR 27956, July 26, 1988; 54 FR 12873, Mar. 29, 1989; 56 FR 1731, Jan. 17, 1991; 56 FR 10790, Mar. 14, 1991; 57 FR 10976, Apr. 1, 1992; 58 FR 43497, Aug. 17, 1993; 58 FR 69179, Dec. 30, 1993; 59 FR 9382, Feb. 28, 1994; 62 FR 50235, 50238, Sept. 25, 1997; 64 FR 2994, Jan. 20, 1999]

**§ 319.56-2a Permits required for entry of chestnuts and acorns and certain coconuts.**

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to §319.56-2.

**§ 319.56-2b Administrative instructions; conditions governing the entry of acorns and chestnuts.**

(a) *Countries other than Canada and Mexico.* Except for importations of acorns and chestnuts grown in and shipped from Canada and Mexico, acorns and chestnuts are permitted entry into the United States under permit, for purposes other than propagation, under the provisions of §319.56 as follows:

(1) *Condition of entry.* Notwithstanding §319.56-2(e) (1) and (2), all shipments of acorns and chestnuts are required to be treated as a condition of entry. Fumigation with methyl bromide in accordance with procedures described in this section is effective against the chestnut and acorn weevils, *Curculio elephas* (Cyllenhal) and *C. nucum* Linnaeus; the nut fruit tortrix, et al., *Laspeyresia splendana* (Hubner), *Laspeyresia* spp., and *Hemimene juliana* (Curtis); and other insect pests of chestnuts and acorns. Accordingly, this treatment is approved as a condition of entry in connection with the issuance of permits under §319.56-4 for the importation of chestnuts and acorns from any country except Canada and Mexico.

(2) *Ports of entry.* Acorns and chestnuts to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(3) *Approved fumigation.* The approved treatment shall consist of fumigation with methyl bromide. The acorns and

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chestnuts may be fumigated in vacuum or normal atmospheric chambers, van containers, or tarpaulins that have been approved for that purpose by the Plant Protection and Quarantine Programs. When the fumigation is carried out under tarpaulins or in van containers, it must be accomplished in a manner satisfactory to the inspector by insuring adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) In chamber at normal atmospheric pressure (NAP):

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96 .....	4	3
80-89 .....	4	4
70-79 .....	5	4
60-69 .....	5	5
50-59 .....	6	5
40-49 .....	6	6

(ii) In chamber at 26" vacuum:

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
80-96 .....	3	2
70-79 .....	4	2
60-69 .....	4	3
50-59 .....	4	4
40-49 .....	4	5

(iii) In van containers or under tarpaulins: Fumiscope readings are required to assure minimum gas concentration as specified in this paragraph (a)(3)(iii) of this section at the end of the first one-half hour and at the completion of the exposure period.

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96 .....	4	3
(minimum concentration first ½ hour—58 oz.) (minimum concentration at completion—34 oz.)		
80-89 .....	4	4

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
(minimum concentration first ½ hour—58 oz.) (minimum concentration at completion—32 oz.)		
70-79 .....	5	4
(minimum concentration first ½ hour—72 oz.) (minimum concentration at completion—42 oz.)		
60-69 .....	5	5
(minimum concentration first ½ hour—72 oz.) (minimum concentration at completion—40 oz.)		
50-59 .....	6	5
(minimum concentration first ½ hour—85 oz.) (minimum concentration at completion—50 oz.)		
40-49 .....	6	6
(minimum concentration first ½ hour—85 oz.) (minimum concentration at completion—48 oz.)		

The fumigation temperatures used in these treatment schedules shall be that of the nut kernels. Acorns and chestnuts fumigated in van containers or under tarpaulins must be stacked in the container to provide for circulation of the fumigant under the load. Refrigerated van containers fitted with floor grooves meet this requirement. Van containers not fitted with floor grooves and tarpaulins should have provision for air circulation under the load by use of dunnage or pallets. Minimum concentrations of fumigant during the exposure period shall be maintained as specified in the treatment schedules. Because of the presence of various gases emitted by the nuts, special filtering procedures will be necessary for determination of the actual fumigant concentrations. At the end of the treatment exposure period the nuts shall be aerated for a minimum of one-half hour.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the Plant Protection and

Quarantine Programs. The inspector shall require such safeguards in each specific case for unloading and handling of the nuts at the port of entry, transportation of the nuts from the place of unloading to the treatment facilities, and their handling during fumigation and aeration as required by paragraph (a)(3) of this section, as he deems necessary to prevent the spread of plant pests and assure compliance with the provisions of this subpart. If any part of the treatment is conducted in the country of origin, the person or organization requesting the service must enter into a formal agreement with the Plant Protection and Quarantine Programs to secure the services of an inspector.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the commodity or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(3) of this section is judged from experimental tests to be safe for use with acorns and chestnuts. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required under paragraph (a)(4) of this section.

(b) *Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes other than propagation are enterable without permit or further restriction under this subpart.

(c) *Nuts for propagation.* Acorns and chestnuts from any country may be imported for purposes of propagation only in accordance with §319.37.

[37 FR 19799, Sept. 22, 1972]

**§319.56-2c Administrative instructions authorizing the importation of frozen fruits and vegetables.**

(a) The type of treatment designated in this subpart as freezing shall be one of those treatments commonly known as quick freezing, sharp freezing, or frozen pack. In general this involves an initial quick freezing at subzero temperatures with subsequent storage and

transportation handling at not higher than 20° F. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs, under authority contained in §319.56-2, hereby prescribes freezing as a satisfactory treatment for all fruits and vegetables enterable under permit under §319.56. Such frozen fruits and vegetables may be imported from any country under permit, on compliance with §§319.56-1 through 319.56-7 (exclusive of non-related administrative instructions), at such ports as shall be authorized in the permits.

(c) Such fruits and vegetables may not be removed from the vessel or vehicle transporting them until it has been determined by an inspector of the Plant Protection and Quarantine Programs that they are in a satisfactory frozen state on arrival in this country.

(d) If the temperature of the fruits or vegetables in any part of such an importation is found to be above 20° F. at the time of inspection upon arrival, the entire shipment shall remain on board the vessel or vehicle under such safeguards as may be prescribed by the inspector of the Plant Protection and Quarantine Programs until the temperature of the shipment is below 20° F., or the shipment is transported outside the United States or its territorial waters, or is otherwise disposed of to the satisfaction of the inspector.

(e) The importation from foreign countries of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(f) Freezing of fruits and vegetables as authorized in the instructions in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for entry in accordance with the instructions in this section.

**§ 319.56-2d Administrative instructions for cold treatments of certain imported fruits.**

(a) *Treatments authorized.* Fresh fruits imported in accordance with this subpart and required under this subpart to receive cold treatment as a condition of entry must be cold treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. The cold treatments listed in the PPQ Treatment Manual are authorized for any fruit required to be cold treated under this subpart.

(b) *Place and manner of treatments—(1) Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit must be both precooled and refrigerated after arrival only in cold storage warehouses approved by the Deputy Administrator and located at the following ports: Atlantic ports north of, and including, Baltimore, MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; the maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Baltimore-Washington International and Dulles International airports, Washington, DC. Fruit which is to be refrigerated in transit shall be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel. Refrigeration shall be completed in the compartment or room in which it is begun.

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section. The precooling may be conducted in accordance with either paragraph (b)(2) (i) or (ii) of this section:

(i) Fruit may be precooled at a dockside refrigeration plant prior to loading aboard the carrying vessel. Such fruit shall be precooled to a temperature at which it can be transferred to the refrigerated compartments on such ves-

sel without a rise above the maximum temperature prescribed in or under paragraph (a) of this section. A responsible official of the Department of Agriculture of the country of origin shall sample fruit temperatures in all sections of the lot of fruit until he is satisfied that complete precooling has been accomplished in accordance with this section and shall issue a certificate to that effect. As the loading proceeds the certifying official shall take frequent temperature readings of individual boxes of fruit. A record of such temperature readings shall accompany the certificate.

(ii) Fruit may be precooled aboard the carrying vessel. Such fruit shall be precooled in the same refrigerated compartments in which it is to be refrigerated. The boxes of the fruit shall be spaced by horizontal wooden strips, so that each has at least 1 inch of clearance above and below to allow free circulation of the cooling air. At least 2 inches of clearance shall be allowed between stacks of the fruit. Carriers desiring consideration of alternate spacing arrangements may apply to the Plant Protection and Quarantine Programs.

(3) *Refrigeration in transit.* (i) Refrigeration in transit shall consist of holding the fruit temperature at or below the maximum temperature level for the number of days prescribed in or under paragraph (a) of this section. A continuous, automatic temperature record under lock shall be maintained from at least four locations to be designated in each refrigerated compartment by an inspector of the Plant Protection and Quarantine Programs. In large refrigerated compartments additional temperature elements may be required. Charts from the temperature recording apparatus shall be made readily available to an inspector of such Plant Protection and Quarantine Programs at the port of arrival.

(ii) Refrigeration shall begin when the loading of precooled fruit has been completed or when precooling aboard the vessel has been completed. Refrigeration shall continue until the vessel arrives at the port of destination and the fruit is released for unloading by an inspector of the Plant Protection and Quarantine Programs, even though

this may prolong the refrigeration beyond the required period. At least once during every 24-hour period, the responsible ship's officer shall sign the temperature chart, noting thereon the date and time.

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the required cold treatment, such safeguards against the spread of fruitfly infestation as the inspector may prescribe shall be immediately applied.

(5) *Cold treatment after arrival—(i) Delivery.* Fruit to be both precooled and refrigerated after arrival in the United States shall be delivered under the supervision of an inspector of the Plant Protection and Quarantine Programs to the approved cold storage warehouse where such treatment is to be conducted.

(ii) *Precooling and refrigeration.* The fruit must arrive at a temperature sufficiently low to prevent insect activity and shall be promptly precooled and refrigerated. An automatic, continuous temperature record is required of each refrigeration, like that prescribed in paragraph (b)(3) of this section for refrigeration in transit. The number of records required will be designated by the inspector for each refrigeration, depending upon the circumstances of each operation.

(iii) *Customs.* Shipments offered for entry before cold treatment may be allowed to leave customs custody under redelivery bond for cold treatment. Final release of the shipment by the U.S. Collector of Customs, or, in the case of Guam, by the Customs officer of the Government of Guam, will be effected after the inspector has notified the said Customs official that the required cold treatment has been given.

(iv) *Special requirements for the maritime port of Wilmington, NC.* Shipments of fruit arriving at the maritime port of Wilmington, NC, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit must arrive in fruit

fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit must be cold-treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(D) The cold treatment facility must remain locked during non-working hours.

(v) *Special requirements for the maritime port of Seattle, WA.* Shipments of fruit arriving at the maritime port of Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit must arrive in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit must be cold-treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(D) The cold treatment facility must remain locked during non-working hours.

(E) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(F) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(vi) *Special requirements for the airports of Atlanta, GA, and Seattle, WA.* Shipments of fruit arriving at the airports of Atlanta, GA, and Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk and containerized shipments of fruit must arrive in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit arriving for cold treatment must be cold treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the aircraft on which they arrived at the airport and the cold treatment facility. The movement of shipments from aircraft to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

(D) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(E) The cold treatment facility must remain locked during non-working hours.

(F) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(G) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(vii) *Special requirements for the port of Gulfport, MS.* Shipments of fruit arriving at the port of Gulfport, MS, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) All fruit entering the port for cold treatment must move in maritime containers. No bulk shipments (those shipments which are stowed and unloaded by the case or bin) are permitted at the port of Gulfport, MS.

(B) Within the container, the fruit intended for cold treatment must be enclosed in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(C) All shipments of fruit arriving at the port for cold treatment must be cold treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(D) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the vessel on which they arrived at the port and the cold treatment facility. The movement of shipments from vessel to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

(E) Advance reservations for cold treatment space at the port must be made prior to the departure of a shipment from its port of origin.

(F) Devanning, the unloading of fruit from containers into the cold treatment facility, must adhere to the following requirements:

(1) All containers must be unloaded within the cold treatment facility; and

(2) Untreated fruit may not be exposed to the outdoors under any circumstances.

(G) The cold treatment facility must remain locked during non-working hours.

(H) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(I) During cold treatment, a backup system must be available to cold treat the shipments of fruit should the primary system malfunction. The facility must also have one or more reefers (cold holding rooms) and methods of

identifying lots of treated and untreated fruits.

(J) The cold treatment facility must have the ability to conduct methyl bromide fumigations on-site.

(K) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(6) *Containers and season of arrival.* Containers should be uniform and suitably constructed to maintain firm stacking in the compartment throughout the voyage. Shipments may be made during any season of the year. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately destroyed in a manner satisfactory to the inspector.

(7) *Procedures in country of origin.* (i) By arrangement between the Deputy Administrator of the Plant Protection and Quarantine Programs and the equivalent official in the country of origin, certifying officials will be designated by the country of origin. Their signatures shall be filed with the Plant Protection and Quarantine Programs.

(ii) Each container of fruit intended for intransit refrigeration shall be stamped or marked as it is loaded on the carrying vessel so that it can be readily identified as such. Fruit being shipped under permit to be completely cold treated at the Port of New York or other subsequently designated northern ports shall not be so marked.

(iii) Fruit precooled at a dockside refrigeration plant shall be transferred to the refrigerated compartments on the carrying vessel without a rise in temperature above the maximum for the desired refrigeration. When this transfer has been accomplished, the certifying official shall issue a certificate of precooling.

(iv) Fruit to be precooled on the carrying vessel in the refrigerated compartments shall be loaded under supervision of the certifying official to assure that all packages have the proper clearance on all sides.

(v) Fruit in transit for cold treatment after arrival shall be loaded in a separate compartment and segregated from any fruit that is being refrigerated in transit.

(vi) Fruit not intended for any phase of cold treatment shall not be loaded in the same refrigerated compartment with fruit to be given such cold treatment.

(vii) The certifying official shall calibrate the elements of the temperature recording instruments not more than 3 days prior to the loading of fruit, by immersing them in a 32° F. mixture of crushed ice and fresh water, and recording their deviation from 32° F. He shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

(viii) The certifying official shall record the following data, noting the date and time, on the temperature chart: (a) Commencement of loading of each compartment, (b) insertion of the sensing elements into the fruit, and (c) completion of loading of each compartment.

(ix) The certificate of precooling, when required, shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airtailed to the inspector of the Plant Protection and Quarantine Programs in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20520. A record showing calibration of the elements of the temperature recording instruments, as required in paragraph (b)(7)(vii) of this section shall be attached to each certificate, along with any record of the fruit temperature readings required in paragraph (b)(2)(i) of this section. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Deputy Administrator of the Plant Protection and Quarantine Programs before any

phase of cold treatment is begun. Requests for such approval shall be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.<sup>1</sup> Hereafter before a shipboard refrigeration installation will be approved it must first be certified by the American Bureau of Shipping or a comparable agency as in good order, with the insulated spaces clean and otherwise in satisfactory condition.

(d) *Caution and disclaimer.* The cold treatments required for the entry of fruit are considered necessary for the elimination of plant pests, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event injury results to fruit offered for entry in accordance with these instructions. In prescribing cold treatments of certain fruits, it should be emphasized that inexactness and carelessness in applying the treatments may result in injury to the fruit, or its rejection for entry. Oranges have been successfully cold treated for the false codling moth in commercial shipments at the temperature prescribed in paragraph (a)(2)(v) of this section. Since commercial varieties of oranges show a wide variation in acceptable refrigeration temperatures, it is recommended that extensive tests be made with each variety in the country of origin before shipping in commercial quantities.

[31 FR 16601, Dec. 29, 1966; as amended at 32 FR 12832, Sept. 8, 1967; 32 FR 13215, Sept. 19, 1967; 35 FR 5031, Mar. 25, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 59 FR 40796, Aug. 10, 1994; 59 FR 67610, Dec. 30, 1994; 61 FR 47666, Sept. 10, 1996]

**§ 319.56-2e Administrative instructions; conditions governing the entry of cipollini from Morocco.**

(a) Shipments of cipollini (*Muscari comosum*) from Morocco have frequently been found infested at time of entry with an injurious insect, *Exosoma lusitanica*, not known to

<sup>1</sup>Applications for permits to import fruit under this subpart may be made to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

occur in the United States. The limited type of inspection at our disposal is not considered adequate to detect all cases of infestation and, since the effectiveness of methyl bromide fumigation in freeing this product from the insect in question is now well established, it has been decided to require this fumigation as a condition of entry for future shipments.

(b) On and after December 7, 1939, therefore, fumigation with methyl bromide will be a condition of entry for all shipments of cipollini from Morocco. This treatment shall be carried out under the supervision of a plant quarantine inspector at the expense of the importer, and release of the shipment will be withheld until the treatment has been completed. In addition to fumigation only such inspection will be given as the inspector may judge necessary from time to time to determine pest conditions on arrival or to assure himself of the effectiveness of the treatment.

(c) The entry of cipollini from Morocco may be made only through the ports of New York and Boston at which ports facilities for vacuum fumigation with methyl bromide, as herein required, are available.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

**§ 319.56-2f [Reserved]**

**§ 319.56-2g Administrative instructions prescribing method of treatment of garlic from specified countries.**

(a) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers, in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Armenia, Austria, Azerbaijan, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Latvia, Lithuania, Moldova, Morocco, Portugal, Romania, the area of the Russian Federation west of the Ural Mountains, Slovakia, South Africa (Republic of), Spain, Switzerland,

Syria, Turkey, Ukraine, and the area of the former Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

(b)(1) The following alternate procedure is approved by the Deputy Administrator of the Plant Protection and Quarantine Programs as a condition of entry under permit for shipments of garlic (*Allium sativum*) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of *Brachycerus* spp. and *Dyspessa ulula* (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Protection and Quarantine Programs, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of *Brachycerus* spp. or *Dyspessa ulula* (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in paragraph (b)(1) of this section will be limited to the ports named in paragraph (a)(1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in paragraph (b)(1) of this section for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

[24 FR 10788, Dec. 29, 1959, as amended at 35 FR 18385, Dec. 3, 1970; 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 62 FR 50235, Sept. 25, 1997]

**§ 319.56-2h Regulations governing the entry of grapes from Australia.**

(a) *Importations allowed.* (1) Grapes from Australia may be imported into the United States only if they are inspected by an inspector of the Animal and Plant Health Inspection Service [APHIS], either in Australia or the United States, and treated with an authorized treatment under the supervision of an APHIS inspector for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Dacus tryoni*), and the light brown apple moth (*Epiphyas postvittana*).

(2) If an APHIS inspector finds evidence of any other insect pests for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the grapes will remain eligible for importation into the United States only if they are treated for the pests in Australia, or at their first port of arrival in the United States, under the supervision of an APHIS inspector.

(b) *Authorized treatments.* Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference. For the full identification of this standard, see §300.1 of this chapter, "Materials incorporated by reference."

(c) *Trust Fund Agreement.* Grapes that undergo the fumigation phase of their treatment in Australia may be imported into the United States only if the national plant protection service of

Australia has entered into a trust fund agreement with APHIS. This agreement requires the national plant protection service of Australia to pay in advance all costs that APHIS estimates it will incur in providing services in Australia. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses, and other incidental expenses incurred by APHIS inspectors in performing these services. The agreement requires the national plant protection service of Australia to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection service of Australia to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the grapes may be imported. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the national plant protection service of Australia, or held on account until needed.

(d) *Department not responsible for damage.* The treatment for grapes from Australia prescribed in the Plant Protection and Quarantine Treatment Manual is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 25953, June 26, 1990]

**§ 319.56-2i Administrative instructions prescribing treatments for mangoes from Central America, Mexico, South America, and the West Indies.**

(a) *Authorized treatments.* (1) Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56-2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chap-

ter, "Materials incorporated by reference."

(2) Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56-2 as a condition for the importation into the United States of mangoes from Mexico. Manila mangoes from Mexico may also be imported into the United States in accordance with § 319.56-2f of this subpart. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chapter "Materials incorporated by reference."

(b) *Department not responsible for damage.* The treatments for mangoes prescribed in § 319.56-2f of this subpart and in the Plant Protection and Quarantine Treatment Manual are judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 39134, Sept. 25, 1990]

**§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.<sup>2</sup>**

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56-2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry—(1) Statistical sample inspection.* A biometrically designed statistical sample will be taken under § 319.56-6 by the inspector of the plant protection and quarantine programs from each shipment<sup>3</sup> of apples and each shipment of pears moved from New Zealand or Australia (including

<sup>2</sup> Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements of § 319.56-2d.

<sup>3</sup> A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56-2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

(2) *Approved fumigation.* Fumigation with methyl bromide in accordance with procedures described in this section is effective against certain insect pests of the family Tortricidae found in Australia (including Tasmania) and New Zealand. Accordingly, this treatment is required as a condition of entry under § 319.56-2(e)(3) for any shipment of apples or pears required to be treated under paragraph (a)(1) of this section.

The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-imperious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation tempera-

tures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber:<sup>1</sup>

MB at NAP 1½ lb for 2 hours at 80–89° F.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:

MB at NAP 1½ lb/1,000 ft<sup>3</sup> for 2½ hours at 80–89 °F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours). 2 lbs/1,000 ft<sup>3</sup> for 2½ hours at 70–79 °F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours). 2½ lbs/1,000 ft<sup>3</sup> for 2½ hours at 60–69 °F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours). 3 lbs/1,000 ft<sup>3</sup> for 2½ hours at 50–59 °F. (36 oz minimum gas concentration at ½ hour) (28 oz. minimum gas concentration at 2½ hours). 4 lb/1,000 ft<sup>3</sup> for 2½ hours at 40–49 °F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

(3) *Ports of entry.* Apples and pears to be offered for entry under this section may be shipped to any U.S. port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by paragraph (a)(2) of this section, as he deems necessary to prevent the spread of insect pests and assure compliance with the provisions of this subpart.

(5) *Costs.* All costs of treatment, required safeguards, and supervision,

<sup>1</sup>MB=methyl bromide; NAP=normal atmospheric pressure.

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other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because of safeguards required under paragraph (a)(4) of this section.

(Secs. 5 and 9, 37 Stat. 316, 318 (7 U.S.C. 159, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985]

**§ 319.56-2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.**

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of southern and middle Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions prescribed in the permit as conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of southern and middle Europe, North Africa, and the Near East.* As used in this section, the term "continental countries of southern and middle Europe, North Africa, and the Near East" means Algeria, Austria, Bulgaria, Cyprus, Egypt, France, Germany, Greece, Hungary, Israel, Italy, Libya, Luxembourg, Portugal, Spain, Switzerland, Syria, and Union of Soviet Socialist Republics.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.<sup>1</sup>

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with the following fumigation schedule:

Temperature, degrees F.	Methyl bromide dosage in pounds per 1,000 cubic feet	Exposure time—hours
70-79 .....	2	2½
60-69 .....	2½	2½
50-59 .....	3	2½
40-49 .....	3½	2½

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the grapes or his representative.

<sup>1</sup>Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56-2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.

(g) *Department not responsible for damage.* The treatment prescribed in paragraph (d) of this section is judged from experimental tests to be safe for use with field-grown grapes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (e) of this section or in the precooling of fruit required prior to unloading from the vessel.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

**§ 319.56-21 Administrative instructions prescribing method of treatment of imported yams.**

(a) *Fumigation upon arrival.* Except as otherwise provided in paragraph (b) of this section, approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, upon arrival at the port of entry, is hereby prescribed as a condition of importation under permit under § 319.56-2 for shipments of yams from all foreign countries.

(1) *Ports of entry.* Yams to be offered for entry may be shipped, under permit under § 319.56-2, direct from the country of origin to ports in the United States where approved fumigation facilities are available.

(2) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be applied at the following rates:

Temperature, (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90-96 .....	2.5	4
80-89 .....	3.0	4
70-79 .....	3.5	4

(ii) Yams to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The four-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Cubic feet of space shall include the

load of yams to be fumigated. The required temperatures apply to both the air and the yams. Good circulation above and below the load shall be provided as soon as the yams are loaded in the chamber and shall continue during the full period of fumigation and until the yams have been removed to a well-ventilated location. Fumigation of yams below the minimum temperature prescribed in the fumigation schedule may result in injury to the yams and should be avoided. Yams are sensitive to bruising and should be carefully packed to prevent this. At the same time they should be given as much aeration as possible.

(3) *Other conditions.* (i) Inspectors of the Plant Protection and Quarantine Programs will supervise the fumigation of yams and will specify such safeguards as may be necessary for their handling and transportation before and after fumigation, if, in the opinion of the inspector, this is necessary to assure there will be no pest risk associated with the importation and treatment. Final release of the yams for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation chambers will, if practicable, be carried on as a part of normal port inspection activities. When so available such supervision will be furnished without cost to the owner of the yams or his representative.

(4) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the yams, or his representative.

(5) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with yams, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards.

(b) *Alternate procedures.* (1) Yams produced in Japan and offered for entry under a permit issued in accordance

with § 319.56-2 shall be subject to examination by an inspector at the port of entry. If this examination shows the yams to be free of plant pests, they may be imported without the fumigation required by paragraph (a) of this section.

(2) Yams produced in Cuba, if satisfactorily treated in Cuba and otherwise handled and certified as provided in this subparagraph will be eligible for entry under permit under § 319.56-2.

(i) *Approved fumigation.* The yams shall be fumigated at approved plants in Cuba in accordance with paragraph (a)(2) of this section.

(ii) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant, approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, to apply the treatment prescribed in paragraph (a)(2) of this section and upon the availability of qualified personnel for assignment to approve the plant and to supervise the treatment and posttreatment handling of the yams in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, for all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Protection and Quarantine Programs.

(iii) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the yams so fumigated must be under the supervision of a representative of the Plant Protection and Quarantine Programs. The treated yams must be safeguarded against insect infestation during the period prior to shipment from Cuba, in

a manner required by such representative.

(iv) *Certification.* Yams will be certified by a representative of the Plant Protection and Quarantine Programs in Cuba for entry into the United States upon the basis of treatment under this subparagraph and compliance with the posttreatment safeguard requirements imposed by such representative. The final release of the yams for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(v) *Costs.* All costs incident to fumigation, including those for construction, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of posttreatment safeguards, and all costs as indicated in paragraph (b)(2)(ii) of this section incident to plant approval and supervision of treatment and subsequent handling of the yams in Cuba shall be borne by the owner of the yams or his representative.

(vi) *Department not responsible for damage.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests to be safe for use with yams. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(vii) *Ports of entry.* Yams to be offered for entry in accordance with the alternate procedure provided for in this subparagraph may be entered under permit under § 319.56-2 at any United States port where an inspector is stationed.

(viii) *Ineligible shipments.* Any shipments of yams produced in Cuba that are not eligible for certification under the alternate procedure provided for in this paragraph may enter only upon compliance with paragraph (a) of this section.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

**§ 319.56-2m Administrative instructions prescribing method of fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile.**

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. This fumigation shall be in addition to other conditions that may be prescribed in the permit, such as a limitation as to origin, and requirements as to marking containers, safeguarding shipments from fruit fly infestation, and obtaining Chilean certification.

(a) *Ports of entry.* (1) Grapes from Chile may be imported through all maritime ports when approved facilities are available for fumigation in approved chambers or under tarpaulins.

(2) Apricots, nectarines, peaches, plumcot, and plums from Chile may be imported through ports on the Great Lakes, or on the Atlantic and Gulf Coasts (exclusive of Florida ports), subject to the availability of such approved fumigation facilities.

(b) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will ensure adequate air and fruit temperatures, and volatilization, distribution, and concentration of the fumigant. The treatment period shall be 2 hours for chamber fumigation and 2½ hours for tarpaulin fumigation, and the load shall not exceed 80 percent of the chamber volume or area enclosed by the tarpaulin. The fumigation shall be in accordance with the following schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80-89 (inclusive) .....	1½
70-79 (inclusive) .....	2
60-69 (inclusive) .....	2½
50-59 (inclusive) .....	3
40-49 (inclusive) .....	4

(c) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(d) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or his representative.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use with apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (c) of this section.

[25 FR 10865, Nov. 16, 1960, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 58 FR 69179, Dec. 30, 1993]

**§ 319.56-2n Administrative instructions prescribing a combination treatment of fumigation plus refrigeration for certain fruits.**

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage, in accordance with the procedures described in this section, is specific for the Mediterranean fruit fly, the oriental fruit fly, and the grape vine moth, and for certain pests of grapes and other fruit from Chile, but may not be effective against certain other dangerous pests of fruit. Accordingly this treatment will be approved for use as an alternative method of treatment to the methods prescribed in § 319.56-2d and § 319.56-2n, in connection with the issuance of permits under § 319.56-4 for

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the importation of fruits from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Fruits to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration, and a precooling and refrigeration period. The fumigation dosage rates and refrigeration periods are designated in the following table:

Methyl bromide at 70° F. or above dosage	Exposure period	Days of refrigeration at—			
		33–37 °F.	34–40 °F.	43–47 °F.	50–56 °F.
2 pounds/1000 cubic feet .....	2 hours	4	4	11	10
2 pounds/1000 cubic feet .....	2½ hours			6	
2 pounds/1000 cubic feet .....	3 hours			3	6

(1) *Fumigation and aeration.* The approved fumigation shall consist of fumigation with methyl bromide at 70° F. or above at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins, in a manner satisfactory to the inspector, that will insure adequate air circulation and proper volatilization, distribution, and concentration of the fumigant. The fruit may be packed in field boxes, slatted crates, or well-perforated, unwaxed cardboard cartons with approved packing material such as wood excelsior or cardboard dividers. The fruit may be individually wrapped with conventional tissue which is gas permeable. When stacking the fruit for fumigation, spacing must be provided to insure adequate gas circulation. The load shall not exceed 80 percent of the volume of the area under fumigation. Following the fumigation, an aeration period of 2 hours is required.

(2) *Precooling and refrigeration period.* At the conclusion of the aeration period, the fruit shall be precooled and refrigerated in approved facilities for any one of the periods designated in the table in this section. Cooling shall begin as soon as possible after the aeration period, but in no event may the time lapse between the termination of fumigation and the beginning of the precooling exceed 24 hours. Cooling to the required refrigeration temperature shall be effected as soon as possible. The refrigeration period shall not commence until the fruit pulp temperatures indicate the prescribed temperature range has been reached.

(c) *Supervision of treatment and subsequent handling.* The treatment approved in this section and the subsequent handling of the fruit so treated must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the fruit, or his representative, when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from limited experimental tests to be safe for use with fruits likely to be infested with the Mediterranean fruit fly or the oriental fruit fly, or with the grape vine moth or other pests of grapes or other fruits from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment. There has not been an opportunity to test the treatment on all varieties of fruits that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 283, Jan. 8, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

**§ 319.56-2o Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.**

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage in accordance with the procedures described in this section is effective against the Mediterranean fruit fly, the melon fly, and the oriental fruit fly in avocados but is not effective against other dangerous pests of this fruit. Accordingly, this treatment will be approved for treatment of avocados in connection with the issuance of permits under § 319.56-4 for the importation of avocados from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Avocados offered for entry will be regulated by one of the following provisions:

(1) Avocados certified as having received the combined fumigation-refrigeration treatment in the country of origin immediately prior to shipment are enterable at all ports under permit.

(2) Avocados certified as having been fumigated in the country of origin and which are receiving the refrigeration storage on board approved transiting vessels are enterable at the U.S. ports named in the permit upon completion of the refrigerated storage period.

(3) Avocados which have not been treated are enterable at the ports named in the permit for treatment upon arrival.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be two pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for 7 days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados will determine when pulp temperatures have reached 45° F. or below.

(c) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the avocados or his representative when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use on avocados at the mature green stage of development. However, the Department of Agriculture assumes no responsibility for any damage sustained through or in the course of treatment. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 2503, Feb. 4, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

**§ 319.56-2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.**

(a) *Conditions for issuance of permits.*

(1) Under § 319.56-2, okra may be imported under permit and in compliance with the regulations in this subpart, from Mexico, the West Indies, Colombia, Ecuador, Peru, Suriname and Venezuela and any other South American country specified in the permit, upon presentation of evidence that it has been treated in accordance with the procedure prescribed in paragraph (b) of this section.

(2) Further, it is hereby determined, pursuant to § 319.56, that existing conditions as to the pest risk involved in the importation of okra from such countries make it safe to make less stringent the restrictions contained in § 319.56-2, by allowing the importation of okra, as provided in paragraphs (c), (d), and (e) of this section without routinely requiring such treatment.

(3) As used in this section—(i) *West Indies* means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles, and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela);

(ii) *Inspector* means an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department of Agriculture;

(iii) *Enter into the United States* means to introduce into the commerce of the United States after release from government detention;

(iv) *Import into the United States* means to bring within the territorial limits of the United States;

(v) *Port of arrival* means the first place at which a carrier containing okra stops to unload cargo after coming within the territorial limits of the United States;

(vi) *Permit* means a document issued for an article by Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, stating that

the article is eligible for importation into the United States; and

(vii) *United States* means the several states of the United States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all other territories and possessions of the United States.”

(b) *Authorized treatment procedure.* (1) The treatment shall consist of fumigation with methyl bromide at normal atmospheric pressure, under supervision, in a fumigation chamber which has been approved for that purpose, as prescribed in this section. This treatment is specific for the pink bollworm (*Pectinophora gossypiella* (Saunders)) which is known to occur in Mexico, the West Indies, and South America. Under certain cultural conditions this pest will infest okra.

(2) *Approval of fumigation chambers.* (i) Fumigation chambers in the United States or elsewhere will be approved only if they are properly constructed and adequately equipped to handle and treat okra. Within the United States the chambers must be located within the practicable supervisory range of inspectors of the Plant Protection and Quarantine Programs stationed at the ports of entry authorized in permits for the importation of okra. Approval of fumigation chambers outside the United States will depend upon the availability of qualified inspectors for assignment to supervise the treatment and posttreatment handling of okra.

(ii) Determination of eligibility for approval under this section of fumigation plants will be made by an inspector of the Plant Protection and Quarantine Programs.

(3) *Fumigation schedule.* Such fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90-96 .....	1.0	2
80-89 .....	1.5	2
70-79 .....	2.0	2
60-69 .....	2.5	2
50-59 .....	3.0	2
40-49 .....	3.5	2

(4) *Fumigation procedure.* Okra to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall

not be loaded to more than two-thirds of its capacity. The containers may be stacked one on top of another, but a 3- to 4-inch space must be provided between all containers throughout the load. Good air circulation above and below the load shall be provided as soon as the okra is loaded and must be continued during the full period of fumigation and until the okra has been removed to a well-ventilated location. Strong blasts of air should not be directed against the okra. Fumigation at temperatures in excess of 90° F. may result in injury to okra and should be avoided if possible. Past experience indicates that injury may also result from excess moisture, such as residual moisture from harvesting when dew-covered.

(5) *Supervision of fumigation*—(i) *Other than interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in locations other than those in the interior of Mexico and will specify safeguards in specific cases for the packing, other handling and transportation of the okra before and subsequent to fumigation, if, in the opinion of the inspector, this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the specified safeguards. Such supervision at plants within the United States will be carried on as a part of normal port inspection activities.

(ii) *Interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in the interior of Mexico and will prescribe safeguards in specific cases for the packing and other handling of the okra at the treating plant and the transportation of the okra from the time it leaves the treating plant until it reaches the U.S. port of entry, if in the opinion of the inspector this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon

compliance with the prescribed safeguards.

(6) *Ports of entry.* Okra required to be treated for the pink bollworm may be imported into the United States only at New Orleans or such other South Atlantic or gulf ports with approved treatment facilities as may be named in the permit, except that, in addition, Mexican okra required to be treated for the pink bollworm may be imported into the United States at Mexican Border ports named in the permit.

(7) *Costs.* Persons desiring to import okra required to be treated under this section must make advance arrangements for approval of the fumigation plant and for supervision of the fumigation by an authorized inspector. All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out specified pretreatment and posttreatment safeguards, and all additional costs to the Department arising from supervision under this section, by an inspector away from his regular place of official duty or outside of his regular hours of official duty (including as appropriate, base salary, overtime and holiday pay, travel subsistence, transportation, employee benefits, and incidental expenses) shall be borne by the owner of the okra or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable basis. The owner of the okra or his representative must furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that he will provide funds to the U.S. Department of Agriculture to cover all costs of supervision, in accordance with §§354.1 and 354.2 of this chapter and this paragraph.

(8) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with okra, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards. There has not been an opportunity to test these treatments under

all conditions or on all okra varieties or on okra from all areas involved.

(c) *Importations of okra without treatment from the Dominican Republic, Mexico, and Suriname* Okra produced in the Dominican Republic, Mexico, or Suriname, may be entered into the United States without treatment for the pink bollworm only if:

(1) The okra is imported from the Dominican Republic, Mexico, or Suriname under permit;

(2) The okra is made available for examination by an inspector at the port of arrival and remains at the port of arrival until released by an inspector;

(3) During March 16 through December 31, inclusive, the okra is not moved into California; and

(4) During May 16 through November 30, inclusive, the okra is not moved into Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel.

(d) *Importation of okra without treatment from the West Indies and certain countries in South America.* Okra produced in the West Indies, Colombia, Ecuador, Peru, Venezuela, or other South American country, designated in accordance with § 319.56-2 in a permit to import okra, may be imported into the United States through any North Atlantic port with approved treatment facilities, under permit and subject to inspection at the port of arrival but without treatment for the pink bollworm in paragraph (d)(2) of this section if destined to: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel.

(e) *Importation of okra without treatment from Andros Island of the Bahamas; and okra without treatment from the West Indies for importation into the American Virgin Islands.* Okra produced in Andros

Island, Bahamas, may be imported into the United States under permit through any port named in the permit, without treatment but subject to inspection at the port of arrival. Okra produced in the West Indies may be imported into the American Virgin Islands without treatment but subject to inspection at the port of arrival.

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds injurious insects, other than the pink bollworm, that do not exist in the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. See § 300.1 of this chapter, *Materials incorporated by reference.* "If the treatment authorized by the Plant Protection and Quarantine Treatment Manual is not available, or if no authorized treatment exists, the okra may not be entered into the United States."

[35 FR 18033, Nov. 25, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 54 FR 33666, Aug. 16, 1989; 57 FR 54489, Nov. 19, 1992]

**§ 319.56-2q Administrative instructions: Conditions governing the entry of citrus from South Africa.**

Clementine (*Citrus reticulata*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), minneola (*C. paradisi* x *C. reticulata*), navel orange (*Citrus sinensis*), satsuma (*Citrus reticulata*), and valencia orange (*Citrus sinensis*) may be imported into the United States from the Western Cape Province of South Africa only under the following conditions:

(a) The citrus fruit must be grown in, packed in, and shipped from the Western Cape Province of South Africa.

(b) The citrus fruit must be cold treated for false codling moth and fruit flies of the genus *Ceratitis* and *Pterandrus* in accordance with the

Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter.

(1) If the cold treatment is to be conducted in the United States, entry of the citrus fruit into the United States is limited to ports listed in §319.56-2d(b)(1).

(2) If the cold treatment is conducted in South Africa or in transit to the United States, entry of the citrus into the United States may be made through any U.S. port.

(c) Each shipment of citrus fruit must be accompanied by a phytosanitary certificate issued by the South African Ministry of Agriculture stating that the conditions of paragraph (a) of this section have been met. (Approved by the Office of Management and Budget under control number 0579-0049)

[62 FR 595, Jan. 6, 1997]

**§ 319.56-2r Administrative instructions governing the entry of apples and pears from certain countries in Europe.**

(a) *Importations allowed.* Pursuant to §319.56(c), the Administrator has determined that the following fruits may be imported into the United States in accordance with this section and other applicable provisions of this subpart:

(1) Apples from Belgium, Denmark, France, Germany, Great Britain, Italy, The Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, and Switzerland;

(2) Pears from Belgium, France, Great Britain, Italy, The Netherlands, Portugal, and Spain.

(b) *Trust fund agreement.* Except as provided in paragraph (h) of this section, the apples or pears may be imported only if the national plant protection service of the exporting country (referred to in this section as the plant protection service) has entered into a trust fund agreement with Plant Protection and Quarantine (PPQ) for that shipping season. This agreement requires the plant protection service to pay in advance all estimated costs incurred by PPQ in providing the preclearance inspections prescribed in paragraph (d) of this section. These costs will include administrative ex-

penses incurred in conducting the inspection 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 these services. The agreement requires the plant protection service to deposit a certified or cashier's check with the Animal and Plant Health Inspection Service (APHIS) for the amount of these costs, as estimated by PPQ. If the deposit is not sufficient to meet all costs incurred by PPQ, the agreement further requires the plant protection service to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by PPQ, before the inspection will be completed.

(c) *Responsibilities of the exporting country.* The apples or pears may be imported in any single shipping season only if all of the following conditions are met:

(1) Officials of the plant protection service must survey each orchard producing apples or pears for shipment to the United States at least two times between the time of spring blossoming and harvest. If the officials find any leaf mines that suggest the presence of *Leucoptera malifoliella* in an orchard, the officials must reject any fruit harvested from that orchard during that growing season for shipment to the United States. If the officials find evidence in an orchard of any other plant pest referred to in paragraph (g) of this section, they must ensure that the orchard and all other orchards within 1 kilometer of that orchard will be treated for that pest with a pesticide approved by the U.S. Environmental Protection Agency, in accordance with label directions and under the direction of the plant protection service. If the officials determine that the treatment program has not been applied as required or is not controlling the plant pest in the orchard, they must reject any fruit harvested from that orchard during that growing season for shipment to the United States.

(2) The apples or pears must be identified with the orchard from which

they are harvested (the producing orchard) until the fruit arrives in the United States.

(3) The apples or pears must be processed and inspected in the approved packing sheds as follows:

(i) Upon arrival at the packing shed, the apples or pears must be inspected for insect pests as follows: For each grower lot (all fruit delivered for processing from a single orchard at a given time), packing shed technicians must examine all fruit in one carton on every third pallet (there are approximately 42 cartons to a pallet), or at least 80 apples or pears in every third bin (if the fruit is not in cartons on pallets). If they find any live larva or pupa of *Leucoptera malifoliella*, they must reject the entire grower lot for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season.

(ii) The apples or pears must be sorted, sized, packed, and otherwise handled in the packing sheds on grading and packing lines used solely for fruit intended for shipment to the United States, or, if on grading and packing lines used previously for other fruit, only after the lines have been washed with water.

(iii) During packing operations, apples and pears must be inspected for insect pests as follows: All fruit in each grower lot must be inspected at each of two inspection stations on the packing line by packing shed technicians. In addition, one carton from every pallet in each grower lot must be inspected by officials of the plant protection service. If the inspections reveal any live larva or pupa of *Leucoptera malifoliella*, the entire grower lot must be rejected for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of that shipping season. If the inspections reveal any other insect pest referred to in paragraph (g) of this section, and a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the fruit will remain eligible for shipment to the United States if the entire grower lot is treated for the pest under the

supervision of a PPQ inspector. However, if the entire grower lot is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the entire grower lot will be rejected for shipment to the United States.

(4) Apples or pears that pass inspection at approved packing sheds must be presented to PPQ inspectors for preclearance inspection as prescribed in paragraph (d) of this section or for inspection in the United States as prescribed in paragraph (h) of this section.

(5) Apples and pears presented for preclearance inspection must be identified with the packing shed where they were processed, as well as with the producing orchard, and this identity must be maintained until the apples or pears arrive in the United States.

(6) Facilities for the preclearance inspections prescribed in paragraph (d) of this section must be provided in the exporting country at a site acceptable to PPQ.

(7) Any apples or pears rejected for shipment into the United States may not, under any circumstance, be presented again for shipment to the United States.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in the exporting country by PPQ inspectors. Preclearance inspection will be conducted for a minimum of 6,000 cartons of apples or pears, which may represent multiple grower lots from different packing sheds. The cartons examined during any given preclearance inspection will be known as an inspection unit. Apples or pears in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, a biometrically designed statistical sample of 300 cartons drawn from each inspection unit.

(i) If inspectors find any live larva or pupa of *Leucoptera malifoliella*, they will reject the entire inspection unit for shipment to the United States. The inspectors also will reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season. However, other orchards

represented in the rejected inspection unit will not be affected for the remainder of the shipping season because of that rejection. Additionally, if inspectors reject any three inspection units in a single shipping season because of *Leucoptera malifoliella* on fruit processed by a single packing shed, no additional fruit from that packing shed will be accepted for shipment to the United States for the remainder of that shipping season.

(ii) If the inspectors find evidence of any other plant pest referred to in paragraph (g) of this section, and a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest under the supervision of a PPQ inspector. However, if the entire inspectional unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the inspectors will reject the entire inspection unit for shipment to the United States. Rejection of an inspection unit because of pests other than *Leucoptera malifoliella* will not be cause for rejecting additional fruit from an orchard or packing shed.

(iii) Apples and pears precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States (except as necessary to ensure that the fruit has been precleared) unless the preclearance program with the exporting country is terminated in accordance with paragraph (e) of this section. If the preclearance program is terminated with any country, precleared fruit in transit to the United States at the time of termination will be spot-checked by PPQ inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (g) of this section. If any live larva or pupa of *Leucoptera malifoliella* is found in any carton of fruit, inspectors will reject that carton and all other cartons in that shipment that are from the same producing orchard. In addition, the remaining cartons of fruit in that shipment will be reinspected as an in-

spection unit in accordance with the preclearance procedures prescribed in paragraph (d) of this section.

(e) *Termination of preclearance programs.* The Administrator may terminate the preclearance program in a country if he determines that any of the conditions specified in paragraph (c) of this section are not met or because of pests found during preclearance inspections. Termination of the preclearance program will stop shipments of apples or pears from that country for the remainder of that shipping season. Termination of the preclearance program for findings of *Leucoptera malifoliella* in preclearance inspections in any country will be based on rates of rejection of inspection units as follows:

(1) Termination because of findings of *Leucoptera malifoliella*. The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of *Leucoptera malifoliella* as follows:

(i) 5 inspection units in sequence among inspection units 1-20, or a total of 8 or more of the inspection units 1-20;

(ii) 5 inspection units in sequence among inspection units 21-40, or a total of 10 or more of the inspection units 1-40;

(iii) 5 inspection units in sequence among inspection units 41-60, or a total of 12 or more of the inspection units 1-60;

(iv) 5 inspection units in sequence among inspection units 61-80, or a total of 14 or more of the inspection units 1-80;

(v) 5 inspection units in sequence among inspection units 81-100, or a total of 16 or more of the inspection units 1-100;

(vi) 5 inspection units in sequence among inspection units 101-120, or a total of 18 or more of the inspection units 1-120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 2.)

(2) Termination because of findings of other plant pests. The preclearance program will be terminated with a country when, in one shipping season,

inspection units are rejected because of other insect pests as follows:

- (i) 10 or more of the inspection units 1-20;
- (ii) 15 or more of the inspection units 1-40;
- (iii) 20 or more of the inspection units 1-60;
- (iv) 25 or more of the inspection units 1-80;
- (v) 30 or more of the inspection units 1-100; or
- (vi) 35 or more of the inspection units 1-120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 5.)

(f) *Cold treatment.* In addition to all other requirements of this section, apples or pears may be imported into the United States from France, Italy, Portugal, or Spain only if the fruit is cold treated for the Mediterranean fruit fly in accordance with §319.56-2d of this subpart.

(g) *Plant pests; authorized treatments.* (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, Switzerland, and West Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of a PPQ inspector: the pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rossler) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard,

see §300.1 of this chapter, "Materials incorporated by reference."

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

- (1) The Administrator has determined that inspection can be accomplished at the port of arrival without increasing the risk of introducing insect pests into the United States;
- (2) Each pallet of apples or pears must be completely enclosed in plastic, to prevent the escape of insects, before it is offloaded at the port of arrival;
- (3) The entire shipment of apples or pears must be offloaded and moved to an enclosed warehouse, where adequate inspection facilities are available, under the supervision of PPQ inspectors.
- (4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.
- (5) The method of inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[52 FR 46058, Dec. 4, 1987, as amended at 60 FR 14208, Mar. 16, 1995; 62 FR 50236, Sept. 25, 1997]

**§ 319.56-2s Administrative instructions governing the entry of apricots, nectarines, peaches, plumcot, and plums from Chile.**

(a) *Importations allowed.* Pursuant to §319.56(c), the Administrator has determined that apricots, nectarines, peaches, plumcot, and plums may be imported into the United States from Chile in accordance with this section and other applicable provisions of this subpart, as an alternative to importation in accordance with §319.56-2m.

(b) *Trust fund agreement.* Except as provided in §319.56-2m or in paragraph (g) of this section, apricots, nectarines, peaches, plumcot, and plums may be imported only if the plant protection service of Chile (Servicio Agrícola Y Ganadero, referred to in this section as SAG), has entered into a trust fund

agreement with the Animal and Plant Health Inspection Service (APHIS) for that shipping season. This agreement requires SAG to pay in advance all estimated costs incurred by APHIS in providing the preclearance prescribed in paragraph (d) of this section. Payment of costs will be made on a monthly or other schedule designated by APHIS, but payment must be made for each preclearance service before APHIS provides the service. These costs will include administrative expenses incurred in conducting the preclearance 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 providing these services. The agreement requires SAG to deposit certified or cashier's checks with APHIS for the amount of these costs, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during the shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season upon request, or otherwise will be applied to preclearance services for the next shipping season.

(c) *Responsibilities of Servicio Agricola Y Ganadero.* SAG will ensure that:

(1) Apricots, nectarines, peaches, plumcot, or plums are presented to APHIS inspectors for preclearance in their shipping containers at the shipping site for preclearance as prescribed in paragraph (d) of this section.

(2) Apricots, nectarines, peaches, plumcot, and plums presented for in-

spection are identified in shipping documents accompanying each load of fruit that identify the packing shed where they were processed and the orchards where they were produced; and this identity is maintained until the apricots, nectarines, peaches, or plums are released for entry into the United States.

(3) Facilities for the inspections prescribed in paragraph (d) of this section are provided in Chile at an inspection site acceptable to APHIS.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in Chile under the direction of APHIS inspectors. An inspection unit will consist of a lot or shipment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from different packing sheds. Apricots, nectarines, peaches, plumcot, or plums in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, the contents of the cartons which were selected based on a sampling scheme established for each inspection unit. An APHIS inspector will designate which cartons to inspect in each inspection unit to ensure that units infested at a level of 3 percent or more will be identified with a confidence level of 95 percent.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, plumcot, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the

fruit has been precleared and for occasional monitoring purposes.

(e) *Termination of preclearance programs.* Shipments of apricots, nectarines, peaches, plumcot, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections determine that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of shipments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by APHIS inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments.*

(1) Apricots, nectarines, peaches, plumcot, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of an APHIS inspector: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard,

see §300.1 of this chapter. "Materials incorporated by reference."

(g) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, plumcot, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection of fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treatment can be accomplished at the intended port of arrival without increasing the risk of introducing insect pests into the United States;

(3) The entire shipment of apricots, nectarines, peaches, plumcot, or plums must be offloaded and moved, under the supervision of APHIS inspectors, to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[55 FR 42352, Oct. 19, 1990, as amended at 58 FR 69179, Dec. 30, 1993]

**§ 319.56-2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.**

The following commodities may be imported into all parts of the United States, unless otherwise indicated, from the places specified, in accordance with §319.56-6 and all other applicable requirements of this subpart:

Country/locality	Common name	Botanical name	Plant part(s)
Argentina .....	Artichoke, globe .....	<i>Cynara scolymus</i> .....	Immature flower head.
	Basil .....	<i>Ocimum</i> spp. ....	Above ground parts.
	Currant .....	<i>Ribes</i> spp. ....	Fruit.
	Endive .....	<i>Cichorium endivia</i> .....	Leaf and stem.
	Gooseberry .....	<i>Ribes</i> spp. ....	Fruit.

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Country/locality	Common name	Botanical name	Plant part(s)
Australia	Currant	<i>Ribes</i> spp.	Fruit.
	Gooseberry	<i>Ribes</i> spp.	Fruit.
Austria	Asparagus, white	<i>Asparagus officinalis</i>	Shoot. <sup>3</sup>
Barbados	Banana	<i>Musa</i> spp.	Flower.
Belgium	Leek	<i>Allium</i> spp.	Whole plant. (Must be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture of Belgium stating that the leek is apparently free of <i>Acrolepiopsis assectella</i> .)
Belize	Pepper	<i>Capsicum</i> spp.	Fruit.
	Banana	<i>Musa</i> spp.	Flower in bracts with stems.
	Bay leaf	<i>Laurus nobilis</i>	Leaf and stem.
	Mint	<i>Mentha</i> spp.	Above ground parts.
	Papaya	<i>Carica papaya</i>	Fruit (Must be accompanied by a phytosanitary certificate issued by the Belizean department of agriculture stating that the fruit originated in the district of Cayo, Corozal, or Orange Walk or in any portion of the district of Stann Creek except the area bounded as follows: Beginning at the southernmost point of the Placencia Peninsula; then north along the coast of the Caribbean Sea to Riverdale Rd.; then west along Riverdale Rd. to Southern Hwy.; then south along the Southern Hwy. to Independence Rd.; then east along Independence Rd. to Big Creek Port; then east, on an imaginary line, from Big Creek Port across the Placencia Lagoon to the point of beginning. Papayas from other areas of Belize enterable only with treatment—see § 319.56-2x). Prohibited entry into Hawaii due to the papaya fruit fly, <i>Toxotrypana curvicauda</i> . Cartons in which fruit is packed must be stamped "Not for importation into or distribution within HI."
Bermuda	Sage	<i>Salvia officinalis</i>	Leaf and stem.
	Tarragon	<i>Artemisia dracunculus</i>	Above ground parts.
	Avocado	<i>Persea americana</i>	Fruit.
	Carambola	<i>Averrhoa carambola</i>	Fruit.
	Grapefruit	<i>Citrus paradisi</i>	Fruit.
	Guava	<i>Psidium guajava</i>	Fruit.
	Lemon	<i>Citrus limon</i>	Fruit.

Country/locality	Common name	Botanical name	Plant part(s)
	Longan .....	<i>Dimocarpus longan</i> .....	Fruit.
	Loquat .....	<i>Eriobotrya japonica</i> .....	Fruit.
	Mandarin orange .....	<i>Citrus reticulata</i> .....	Fruit.
	Natal plum .....	<i>Carissa macrocarpa</i> .....	Fruit.
	Orange, sour .....	<i>Citrus aurantium</i> .....	Fruit.
	Orange, sweet .....	<i>Citrus sinensis</i> .....	Fruit.
	Papaya .....	<i>Carica papaya</i> .....	Fruit.
	Passion fruit .....	<i>Passiflora</i> spp .....	Fruit.
	Peach .....	<i>Prunus persica</i> .....	Fruit.
	Pineapple guava .....	<i>Feijoa</i> spp .....	Fruit.
	Suriname cherry .....	<i>Eugenia uniflora</i> .....	Fruit.
Bolivia .....	Belgian endive .....	<i>Cichorium intybus</i> .....	Leaf.
Chile .....	Babaco .....	<i>Carica x heilborni</i> var. <i>pentagona</i> .	Fruit (from medfly-free areas—see § 319.56–2j. Fruit must be accompanied by a phytosanitary certificate issued by the Chilean department of agriculture stating that the fruit originated in a Medfly-free province.)
	Basil .....	<i>Ocimum</i> spp. ....	Above ground parts.
	Lucuma .....	<i>Manilkara sapota</i> (= <i>Lucuma mammosa</i> ).	Fruit (From Medfly-free areas only—see § 319.56–2(j)).
	Mountain papaya .....	<i>Carica pubescens</i> (= <i>C. candamarcensis</i> ).	Fruit. (From Medfly-free areas—see § 319.56–2(j). Fruit from outside Medfly-free areas must be treated in accordance with § 319.56–2x.)
	Oregano .....	<i>Origanum</i> spp. ....	Leaf and stem.
	Sandpear .....	<i>Pyrus pyrifolia</i> .....	Fruit (From Medfly-free areas—see § 319.56–2(j). Fruit from outside Medfly-free areas must be treated in accordance with § 319.56–2x.)
	Tarragon .....	<i>Artemisia dracunculus</i> .....	Above ground parts.
China .....	Bamboo .....	<i>Bambuseae</i> spp .....	Edible shoot, free of leaves and roots.
Colombia .....	Rhubarb .....	<i>Rheum rhabarbarum</i> .....	Stalk.
	Snow pea .....	<i>Pisum Sativum</i> subsp. <i>sativum</i>	Flat, immature pod.
	Tarragon .....	<i>Artemisia dracunculus</i> .....	Above ground parts.
Cook Islands .....	Banana .....	<i>Musa</i> spp .....	Green fruit. <sup>1</sup>
	Cucumber .....	<i>Cucumis sativus</i> .....	Fruit.
	Drumstick .....	<i>Moringa pterygosperma</i> .....	Leaf.
	Ginger .....	<i>Zingiber officinale</i> .....	Root (Prohibited entry into Puerto Rico, Virgin Islands, and Guam due to ginger weevil ( <i>Elytrateinus subtruncatus</i> ). Cartons in which ginger is packed must be stamped "Not for distribution in PR, VI, or Guam.")
	Indian mulberry .....	<i>Morinda citrifolia</i> .....	Leaf.
	Lemongrass .....	<i>Cymbopogon</i> spp .....	Leaf.
	Tossa jute .....	<i>Corchorus olitorius</i> .....	Leaf.
Costa Rica .....	Basil .....	<i>Ocimum</i> spp .....	Whole plant.
	Chinese kale .....	<i>Brassica alboglabra</i> .....	Leaf and stem.
	Chinese turnip .....	<i>Raphanus sativus</i> .....	Root.
	Jicama .....	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.

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Country/locality	Common name	Botanical name	Plant part(s)
Dominican Republic	Bamboo	<i>Bambuseae</i> spp	Edible shoot, free of leaves and roots.
Ecuador	Durian	<i>Durio zibethinus</i>	Fruit.
	Banana	<i>Musa</i> spp.	Flower.
	Basil	<i>Ocimum</i> spp.	Above ground parts.
	Chervil	<i>Anthriscus</i> spp.	Leaf and stem.
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.
El Salvador	Radicchio	<i>Cichorium</i> spp.	Above ground parts.
	Basil	<i>Ocimum</i> spp.	Above ground parts.
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.
	Dill	<i>Anethum graveolens</i>	Above ground parts.
	Eggplant	<i>Solanum melongena</i>	Fruit, commercial shipments only.
France	Tomato	( <i>Lycopersicon esculentum</i> )	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from the Region of Brittany and only in accordance with §319.56–2dd of this subpart).
Great Britain	Basil	<i>Ocimum</i> spp	Leaf and stem.
Grenada	Abiu	<i>Pouteria caimito</i>	Fruit.
	Bilimbi	<i>Averrhoa bilimbi</i>	Fruit.
	Breadnut	<i>Brosimum alicastrum</i>	Fruit.
	Cocoplum	<i>Chrysobalanus icaco</i>	Fruit.
	Cucurbits	Cucurbitaceae	Fruit.
	Durian	<i>Durio zibethinus</i>	Fruit.
	Jackfruit	<i>Artocarpus heterophyllus</i>	Fruit.
	Jambolan	<i>Syzygium cumini</i>	Fruit.
	Jujube	<i>Ziziphus</i> spp	Fruit.
	Langsat	<i>Lansium domesticum</i>	Fruit.
	Litchi	<i>Litchi chinensis</i>	Fruit.
	Malay apple	<i>Syzygium malaccense</i>	Fruit.
	Mammee apple	<i>Mammea americana</i>	Fruit.
	Peach palm	<i>Bactris gasipaes</i>	Fruit.
	Piper	<i>Piper</i> spp	Fruit.
	Pulasan	<i>Nephelium ramboutan-ake</i>	Fruit.
	Rambutan	<i>Nephelium lappaceum</i>	Fruit.
	Rose apple	<i>Syzygium jambos</i>	Fruit.
	Santol	<i>Sandoricum koetjape</i>	Fruit.
	Sapote	<i>Pouteria sapota</i>	Fruit.
Guatemala	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.
	Basil	<i>Ocimum</i> spp.	Above ground parts.
	Dill	<i>Anethum graveolens</i>	Above ground parts.
	Eggplant	<i>Solanum melongena</i>	Fruit.
	Loroco	<i>Fernaldia</i> spp	Above ground parts.
	Mint	<i>Mentha</i> spp	Above ground parts.
	Oregano	<i>Origanum</i> spp	Leaf and stem.
	Rhubarb	<i>Rheum rhabarbarum</i>	Above ground parts.
	Rosemary	<i>Rosmarinus officinalis</i>	Above ground parts.
	Tarragon	<i>Artemisia dracunculus</i>	Above ground parts.
	Jicama	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.
Haiti <sup>2</sup>	Jackfruit	<i>Artocarpus heterophyllus</i>	Fruit.
Honduras	Banana	<i>Musa</i> spp	Flower.
	Chicory	<i>Cichorium</i> spp	Leaf and stem.
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
	Radish	<i>Raphanus sativus</i>	Root.
Indonesia	Dasheen	<i>Colocasia</i> spp., <i>Alocasia</i> spp., and <i>Xanthosoma</i> spp.	Tuber (Prohibited entry into Guam due to dasheen mosaic virus. Cartons in which dasheen is packed must be stamped "Not for distribution in Guam.")

Country/locality	Common name	Botanical name	Plant part(s)
Israel	Onion	<i>Allium cepa</i>	Bulb.
	Shallot	<i>Allium ascalonicum</i>	Bulb.
	Arugula	<i>Eruca sativa</i>	Leaf and stem.
	Chives	<i>Allium schoenoprasum</i>	Leaf.
	Dill	<i>Anethum graveolens</i>	Above ground parts.
	Mint	<i>Mentha</i> spp	Above ground parts.
Jamaica	Parsley	<i>Petroselinum crispum</i>	Above ground parts.
	Watercress	<i>Nasturtium officinale</i>	Leaf and stem.
	Fenugreek	<i>Tirgonella foenum-graceum</i>	Leaf, stem, root.
	Jackfruit	<i>Artocarpus heterophyllus</i>	Fruit.
	Ivy gourd	<i>Coccinia grandis</i>	Fruit.
	Pak choi	<i>Brassica chinensis</i>	Leaf and stem.
Japan	Pointed gourd	<i>Trichosanthes dioica</i>	Fruit.
	Bamboo	<i>Bambuseae</i> spp	Edible shoot, free of leaves and roots.
Liberia	Mioga Ginger	<i>Zingiber mioga</i>	Above ground parts.
	Mung bean	<i>Vigna radiata</i>	Seed sprout.
	Soybean	<i>Glycine max</i>	Seed sprout
	Jute	<i>Corchorus capsularis</i>	Leaf.
Mexico	Potato	<i>Solanum tuberosum</i>	Leaf.
	Anise	<i>Pimpinella anisum</i>	Leaf and stem.
Morocco and Western Sahara	Banana	<i>Musa</i> spp	Flower.
	Bay leaf	<i>Laurus nobilis</i>	Leaf and stem.
	Blueberry	<i>Vaccinium</i> spp.	Fruit.
	Cucurbits	Cucurbitaceae	Inflorescence.
	Arugula	<i>Eruca sativa</i>	Leaf and stem.
	Lambsquarters	<i>Chenopodium</i> spp.	Above ground parts.
	Piper	<i>Piper</i> spp	Leaf and stem.
	Porophyllum	<i>Porophyllum</i> spp	Above ground parts.
	Rosemary	<i>Rosmarinus officinalis</i>	Above ground parts.
	Salicornia	<i>Salicornia</i> spp	Above ground parts.
	Tepeguaje	<i>Leucaena</i> spp.	Fruit.
	Thyme	<i>Thymus vulgaris</i>	Above ground parts.
	Strawberry	<i>Fragaria</i> spp.	Fruit.
	Tomato	<i>(Lycopersicon esculentum)</i>	Fruit, only if it is green upon arrival in the United States (pink fruit may only be imported from the El Jadida or Safi Province, Morocco, or Dahkla Province, Western Sahara, and only in accordance with § 319.56–2dd of this subpart).
	Netherlands	Leek	<i>Allium</i> spp.
New Zealand	Radish	<i>Raphanus sativus</i>	Root.
	Avocado	<i>Persea americana</i>	Fruit.
	Fig	<i>Ficus carica</i>	Fruit.
Nicaragua	Oca	<i>Oxalis tuberosa</i>	Tuber.
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.
	Eggplant	<i>Solanum melongena</i>	Fruit, commercial shipments only.
Panama	Mint	<i>Mentha</i> spp	Above ground parts.
	Parsley	<i>Petroselinum crispum</i>	Above ground parts.
	Radicchio	<i>Cichorium</i> spp.	Above ground parts.
	Rosemary	<i>Rosmarinus officinalis</i>	Above ground parts.
	Basil	<i>Ocimum</i> spp	Above ground parts.
	Bean, green and lima	<i>Phaseolus vulgaris</i> and <i>P. lunatus</i> .	Seed.

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Country/locality	Common name	Botanical name	Plant part(s)
	Belgian endive .....	<i>Cichorium</i> spp .....	Above ground parts.
	Chervil .....	<i>Anthriscus cerefolium</i> .....	Above ground parts.
	Chicory .....	<i>Cichorium</i> spp .....	Above ground parts.
	Eggplant .....	<i>Solanum melongena</i> .....	Fruit.
	Endive .....	<i>Cichorium</i> spp .....	Above ground parts.
	Fenugreek .....	<i>Tirgonella foenum-graceum</i> .....	Leaf, stem.
	Lemon thyme .....	<i>Thymus citriodorus</i> .....	Leaf and stem.
	Mint .....	<i>Mentha</i> spp .....	Above ground parts.
	Oregano .....	<i>Origanum</i> spp .....	Above ground parts.
	Rosemary .....	<i>Rosmarinus officinalis</i> .....	Above ground parts.
	Tarragon .....	<i>Artemisia dracunculus</i> .....	Above ground parts.
Peru .....	Arugula .....	<i>Eruca sativa</i> .....	Leaf and stem.
	Basil .....	<i>Ocimum</i> spp .....	Leaf and stem.
	Carrot .....	<i>Daucus carota</i> .....	Root.
	Chervil .....	<i>Anthriscus</i> spp .....	Leaf and stem.
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp .....	Whole plant of edible varieties only.
	Cornsalad .....	<i>Valerianella</i> spp .....	Whole plant.
	Dill .....	<i>Anethum graveolens</i> .....	Above ground parts.
	Lambsquarters .....	<i>Chenopodium album</i> .....	Above ground parts.
	Lemongrass .....	<i>Cymbopogon</i> spp .....	Leaf and stem.
	Mustard greens .....	<i>Brassica juncea</i> .....	Leaf.
	Oregano .....	<i>Origanum</i> spp .....	Leaf and stem.
	Parsley .....	<i>Petroselinum crispum</i> .....	Leaf and stem.
	Radicchio .....	<i>Cichorium</i> spp .....	Leaf.
	Swiss chard .....	<i>Beta vulgaris</i> .....	Leaf and stem.
	Thyme .....	<i>Thymus vulgaris</i> .....	Above ground parts.
Philippines .....	Jicama .....	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.
Poland .....	Pepper .....	<i>Capsicum</i> spp .....	Fruit.
	Tomato .....	<i>Lycopersicon esculentum</i> .....	Fruit.
Republic of Korea .....	Angelica .....	<i>Aralia elata</i> .....	Edible shoot.
	Aster greens .....	<i>Aster scaber</i> .....	Leaf, stem.
	Bonnet bellflower .....	<i>Codonopsis lanceolata</i> .....	Root.
	Chard .....	<i>Beta vulgaris</i> subsp. <i>cicla</i> .....	Leaf.
	Chinese bellflower .....	<i>Platycodon grandiflorum</i> .....	Root.
	Dasheen .....	<i>Colocasia</i> spp., <i>Alocasia</i> spp., and <i>Xanthosoma</i> spp.	Root (Prohibited entry into Guam due to dasheen mosaic virus). Cartons in which dasheen is packed must be stamped "Not for distribution in Guam."
	Eggplant .....	<i>Solanum melongena</i> .....	Fruit.
	Kiwi .....	<i>Actinidia deliciosa</i> .....	Fruit.
	Lettuce .....	<i>Lactuca sativa</i> .....	Leaf.
	Mugwort .....	<i>Artemisia vulgaris</i> .....	Leaf and stem.
	Onion .....	<i>Allium cepa</i> .....	Bulb.
	Shepherd's purse .....	<i>Capsella bursa-pastoris</i> .....	Leaf and stem.
	Strawberry .....	<i>Fragaria</i> spp .....	Fruit (Entry permitted only from September 15 to May 31, inclusive, to prevent the introduction of a complex of exotic pests including, but not limited to, a thrips ( <i>Haplothrips chinensis</i> ) and a leafroller ( <i>Capua tortrix</i> )).
	Watercress .....	<i>Nasturtium officinale</i> .....	Leaf and stem.
	Youngia greens .....	<i>Youngia sonchifolia</i> .....	Leaf, stem, root.
Sierra Leone .....	Cassava .....	<i>Manihot esculenta</i> .....	Leaf.
	Jute .....	<i>Corchorus capsularis</i> .....	Leaf.
	Potato .....	<i>Solanum tuberosum</i> .....	Leaf.
St. Vincent and the Grenadines	Turmeric .....	<i>Curcuma longa</i> .....	Rhizome.
South Africa .....	Artichoke, globe .....	<i>Cynara scolymus</i> .....	Immature flower head.
	Pineapple .....	<i>Ananas</i> spp .....	Fruit.

Country/locality	Common name	Botanical name	Plant part(s)
Spain	Tomato	<i>(Lycopersicon esculentum)</i>	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from Almeria Province and only in accordance with § 319.56-2dd of this subpart).
Suriname	Amaranth	<i>Amaranthus</i> spp.	Leaf and stem.
	Black palm nut	<i>Astrocaryum</i> spp.	Fruit.
	Jessamine	<i>Cestrum latifolium</i>	Leaf and stem.
	Malabar spinach	<i>Bassella alba</i>	Leaf and stem.
	Mung bean	<i>Vigna radiata</i>	Seed sprout.
	Pak choi	<i>Brassica chinensis</i>	Leaf and stem.
Sweden	Dill	<i>Anethum graveolens</i>	Above ground parts.
Taiwan	Bamboo	<i>Bambuseae</i> spp.	Edible shoot, free of leaves and roots.
	Burdock	<i>Arctium lappa</i>	Root.
	Wasabi (Japanese horseradish)	<i>Wasabia japonica</i>	Root and stem.
Thailand	Dasheen	<i>Alocasia</i> spp., <i>Colocasia</i> spp., and <i>Xanthosoma</i> spp.	Leaf and stem.
	Turmeric	<i>Curcuma domestica</i>	Leaf and stem.
Tonga	Burdock	<i>Arctium lappa</i>	Root, stem and leaf.
	Jicama	<i>Pachyrhizus tuberosus</i>	Root.
	Pumpkin	<i>Cucurbita maxima</i>	Fruit.
Trinidad and Tobago	Lemongrass	<i>Cymbopogon citratus</i>	Leaf and stem.
	Leren	<i>Calathea allouia</i>	Tuber.
	Shield leaf	<i>Cecropia peltata</i>	Leaf and stem.
Zambia	Pea, snow	<i>Pisum sativum</i> spp. <i>sativum</i>	Flat immature pod.

<sup>1</sup>The bananas must be green at the time of export. Inspectors at the port of arrival will determine that the bananas were green at the time of export if: (1) bananas shipped by air are still green upon arrival in the United States; and (2) bananas shipped by sea are either still green upon arrival in the United States or are yellow but firm.

<sup>2</sup>Executive Order 12779 of October 28, 1991 (56 FR 55975-55976, published October 30, 1991), prohibits the importation into the United States of any goods of Haitian origin, other than publications and other informational materials, or of services performed in Haiti. Importation of any Haitian produce will not be allowed as long as this Executive order is in effect.

<sup>3</sup>No green may be visible on the shoot.

(Approved by the Office of Management and Budget under control number 0579-0049)

[57 FR 54489, Nov. 19, 1992, as amended at 58 FR 43497, Aug. 17, 1993; 58 FR 69180, Dec. 30, 1993; 59 FR 43711, 43712, Aug. 25, 1994; 60 FR 14208, Mar. 16, 1995; 60 FR 50385, Sept. 29, 1995; 62 FR 596, Jan. 6, 1997; 62 FR 50236, Sept. 25, 1997; 63 FR 13485, Mar. 20, 1998; 63 FR 39215, July 22, 1998; 63 FR 65655, Nov. 30, 1998]

**§ 319.56-2u Conditions governing the entry of lettuce and peppers from Israel.**

(a) Lettuce may be imported into the United States from Israel without fumigation for leafminers, thrips, and *Sminthuris viridis* only under the following conditions:

(1) *Growing conditions.* (i) The lettuce must be grown in insect-proof houses covered with 50 mesh screens, double self-closing doors, and hard walks (no soil) between the beds;

(ii) The lettuce must be grown in growing media that has been sterilized by steam or chemical means;

(iii) The lettuce must be inspected during its active growth phase and the inspection must be monitored by a representative of the Israeli Ministry of Agriculture;

(iv) The crop must be protected with sticky traps and prophylactic sprays approved for the crop by Israel;

(v) The lettuce must be moved to an insect-proof packing house at night in plastic containers covered by 50 mesh screens;

(vi) The lettuce must be packed in an insect-proof packing house, individually packed in transparent plastic bags, packed in cartons, placed on pallets, and then covered with shrink wrapping; and

(vii) The lettuce must be transported to the airport in a closed refrigerated truck for shipment to the United States.

(2) Each shipment of lettuce must be accompanied by a phytosanitary certificate issued by the Israeli Ministry

of Agriculture stating that the conditions of paragraph (a)(1) of this section have been met.

(b) Peppers (fruit) (*Capsicum* spp.) from Israel may be imported into the United States only under the following conditions:

(1) The peppers have been grown the Arava Valley by growers registered with the Israeli Department of Plant Protection and Inspection (DPPI).

(2) Malathion bait sprays shall be applied in the residential areas of the Arava Valley at 6- to 10-day intervals beginning not less than 30 days before the harvest of backyard host material in residential areas and shall continue through harvest.

(3) The peppers have been grown in insect-proof plastic screenhouses approved by the DPPI and APHIS. Houses shall be examined periodically by DPPI or APHIS personnel for tears in either plastic or screening.

(4) Trapping for Mediterranean fruit fly (Medfly) shall be conducted by DPPI throughout the year in the agricultural region along Arava Highway 90 and in the residential area of Paran. The capture of a single Medfly in a screenhouse will immediately cancel export from that house until the source of the infestation is delimited, trap density is increased, pesticide sprays are applied, or other measures acceptable to APHIS are taken to prevent further occurrences.

(5) Signs in English and Hebrew shall be posted along Arava Highway 90 stating that it is prohibited to throw out/discard fruits and vegetables from passing vehicles.

(6) Sorting and packing of peppers shall be done in the insect-proof screenhouses in the Arava Valley.

(7) Transportation of the peppers from the Arava Valley to Tel Aviv Airport for export shall be in fruit fly-proof containers.

(8) The peppers shall be exported directly from Tel Aviv, by air, to the United States.

[57 FR 3120, Jan. 28, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 46321, Sept. 8, 1994; 60 FR 50385, Sept. 29, 1995; 62 FR 50236, Sept. 25, 1997]

**§ 319.56-2v Conditions governing the entry of citrus from Australia.**

(a) The Administrator has determined that the irrigated horticultural areas within the following districts of Australia meet the criteria of § 319.56-2 (e) and (f) with regard to the Mediterranean fruit fly (*Ceratitidis capitata* [Wiedemann]), the Queensland fruit fly (*Dacus tryoni* [Frogg]), and other fruit flies destructive of citrus:

(1) The Riverland district of South Australia, defined as the county of Hamley and the geographical subdivisions, called "hundreds," of Bookpurnong, Cadell, Gordon, Holder, Katarapko, Loveday, Markaranka, Morook, Murtho, Parcoola, Paringa, Pooginook, Pyap, Stuart, and Waikerie;

(2) The Riverina district of New South Wales, defined as:

(i) The shire of Carrathool; and

(ii) The Murrumbidgee Irrigation Area, which is within the administrative boundaries of the city of Griffith and the shires of Leeton, Narrendera, and Murrumbidgee; and

(3) The Sunraysia district, defined as the shires of Wentworth and Balranald in New South Wales and the shires of Mildura, Swan Hill, Wakool, and Kerang, the cities of Mildura and Swan Hill, and the borough of Kerang in Victoria.

(b) Oranges (*Citrus sinensis* [Osbeck]); lemons (*C. limonia* [Osbeck] and *meyeri* [Tanaka]); limes (*C. aurantiifolia* [Swingle] and *latifolia* [Tanaka]); mandarins, including satsumas, tangerines, tangors, and other fruits grown from this species or its hybrids (*C. reticulata* [Blanco]); and grapefruit (*C. paradisi* [MacFad.]) may be imported from the Riverland, Riverina, and Sunraysia districts without treatment for fruit flies, subject to paragraph (c) of this section and all other applicable requirements of this subpart.

(c) If surveys conducted in accordance with § 319.56-2d(f) detect, in a district listed in paragraph (a) of this section, the Mediterranean fruit fly (*Ceratitidis capitata* [Wiedemann]), the Queensland fruit fly (*Dacus tryoni* [Frogg]), or other fruit flies that attack citrus and for which a treatment is listed in the Plant Protection and Quarantine (PPQ) Treatment Manual,

citrus fruit from that district will remain eligible for importation into the United States in accordance with § 319.56-2(e)(2), provided the fruit undergoes cold treatment in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, and provided the fruit meets all other applicable requirements of this subpart. Entry is limited to ports listed in § 319.56-2d(b)(1) of this subpart if the treatment is to be completed in the United States. Entry may be through any port if the treatment has been completed in Australia or in transit to the United States. If no approved treatment for the detected fruit fly appears in the PPQ Treatment Manual, importation of citrus from the affected district or districts is prohibited.

[61 FR 8207, Mar. 4, 1996]

**§ 319.56-2w Administrative instruction; conditions governing the entry of papayas from Brazil and Costa Rica.**

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the State of Espirito Santo, Brazil, and the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The papayas were grown and packed for shipment to the United States in the State of Espirito Santo, Brazil, or in the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were  $\frac{1}{2}$  or more ripe (more than  $\frac{1}{4}$  of the shell surface yellow), and all culled and fallen fruits were buried, destroyed, or removed from the farm at least twice a week.

(c) The papayas were treated with a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F).

(d) When packed, the papayas were less than  $\frac{1}{2}$  ripe (the shell surface was no more than  $\frac{1}{4}$  yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(e) The papayas were safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and other injurious insect pests. The package containing the papayas does not contain any other fruit, including papayas not qualified for importation into the United States.

(f) All cartons in which papayas are packed must be stamped "Not for importation into or distribution in HI."

(g) All activities described in paragraphs (a) through (f) of this section were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

(h) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. If the average Jackson trap catch was greater than 7 Medflies per trap per week, measures were taken to control the Medfly population in the production area. The national Ministry of Agriculture kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(i) If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(j) In the State of Espirito Santo, Brazil, if the average McPhail trap catch was greater than 7 South American fruit flies (*Anastrepha fraterculus*) per trap per week, measures were taken to control the South American fruit fly population in the production area. If the average McPhail trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area must be halted until the rate of capture

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drops to an average of 7 or fewer South American fruit flies per trap per week.

(k) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

(Approved by the Office of Management and Budget under control number 0579-0128)

[63 FR 12396, Mar. 13, 1998]

**§ 319.56-2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.**

(a) The following fruits and vegetables may be imported into the United States only if they have been treated in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter:

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Blueberry	<i>Vaccinium</i> spp.	fruit. (Treatment for Medfly not required for fruit grown in the districts of Cayo, Corozal, and Orange Walk, or in any portion of the district of Stann Creek except the area bounded as follows: Beginning at the southernmost point of the Placencia Peninsula; then north along the coast of the Caribbean Sea to Riverdale Rd.; then west along Riverdale Rd. to Southern Hwy.; then south along the Southern Hwy. to Independence Rd.; then east along Independence Rd. to Big Creek Port; then east, on an imaginary line, from Big Creek Port across the Placencia Lagoon to the point of beginning—see §319.56-2j. Papayas prohibited entry into Hawaii due to the papaya fruit fly, <i>Toxotrypana curvicauda</i> . Cartons in which fruit is packed must be stamped "Not for importation into or distribution within HI."
Belize	Papaya	<i>Carica papaya</i>	fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in Medfly free area (see §319.56-2(j)).)
Bolivia	Blueberry	<i>Vaccinium</i> spp.	fruit.
Chile	Lime	<i>Citrus aurantiifolia</i> and <i>C. latifolia</i>	fruit.
	Mountain papaya	<i>Carica pubescens</i> (= <i>C. candamarcensis</i> )	fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in Medfly free area (see §319.56-2(j)).)
	Sandpear	<i>Pyrus pyrifolia</i>	fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in Medfly free area (see §319.56-2(j)).)
China	Litchi	<i>Litchi chinensis</i>	fruit. (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL".)
Ecuador	Blueberry	<i>Vaccinium</i> spp.	fruit.
El Salvador	Garden bean	<i>Phaseolus vulgaris</i>	pod or shelled.
Greece	Kiwi	<i>Actinidia deliciosa</i>	fruit.
	Tangerine	<i>Citrus reticulata</i>	fruit.
Guatemala	Tuna	<i>Opuntia</i> spp.	fruit.
Guyana	Apple	<i>Malus domestica</i>	fruit.
Honduras	Hyacinth bean	<i>Lablab purpureus</i>	Pod or shelled.
	Yard long bean	<i>Vigna unguiculata</i> , subsp. <i>sesquipedalis</i>	Pod or shelled.
India	Litchi	<i>Litchi chinensis</i>	fruit. (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL".)
Israel	Cactus	<i>Opuntia</i> spp.	fruit.
	Lettuce	<i>Lactuca sativa</i>	leaf. (Treatment for leafminers, thrips, and <i>Sminthuris viridis</i> not required if the lettuce is imported in accordance with §319.56-2u(e)).
	Litchi	<i>Litchi chinensis</i>	fruit.
	Loquat	<i>Eriobotrya japonica</i>	fruit.

Jordan	Pummelo	<i>Citrus grandis</i>	fruit.
	Apple	<i>Malus domestica</i>	fruit.
	Grape	<i>Vitis</i> spp.	fruit.
Lebanon	Persimmon	<i>Diospyros</i> spp.	fruit.
Mexico	Apple	<i>Malus domestica</i>	fruit.
	Cherry	<i>Prunus avium</i>	fruit.
	Grapefruit	<i>Citrus paradisi</i>	fruit.
	Mango	<i>Mangifera indica</i>	fruit.
	Orange	<i>Citrus sinensis</i>	fruit.
Nicaragua	Tangerine	<i>Citrus reticulata</i>	fruit.
	Broad bean	<i>Vicia faba</i>	Pod or shelled.
	Green bean	<i>Phaseolus</i> spp.	Pod or shelled.
	Mung bean	<i>Vigna radiata</i>	Pod or shelled.
Panama	Bean, green and lima	<i>Phaseolus vulgaris</i> and <i>P. lunatus</i>	pod.
Peru	Blueberry	<i>Vaccinium</i> spp.	fruit.
Taiwan	Carambola	<i>Averrhoa carambola</i>	fruit.
	Litchi	<i>Litchi chinensis</i>	fruit (Prohibited entry into Florida due to <i>Eriophyes litchii</i> . Cartons in which litchi are packed must be stamped "Not for distribution in FL").
Thailand	Mango	<i>Mangifera indica</i>	fruit.
Uruguay	Asparagus	<i>Asparagus officinalis</i>	shoot.
Zimbabwe	Plum	<i>Prunus domestica</i>	fruit.
	Apple	<i>Malus domestica</i>	fruit.
	Apricot	<i>Prunus armeniaca</i>	fruit.
	Kiwi	<i>Actinidia deliciosa</i>	fruit.
	Nectarine	<i>Prunus persica</i>	fruit.
	Peach	<i>Prunus persica</i>	fruit.
	Pear	<i>Pyrus communis</i>	fruit.
	Plum	<i>Prunus domestica</i>	fruit.

(b) If treatment has not been completed before the fruits and vegetables arrive in the United States, fruits and vegetables listed above and requiring treatment for fruit flies may arrive in the United States only at the following ports: Atlantic ports north of, and including, Baltimore, MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; the maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Baltimore-Washington International and Dulles International airports, Washington, DC. North Atlantic ports are: Atlantic ports north of and including Baltimore; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and, for air shipments, Washington, DC (including Baltimore-Washington International and Dulles International airports).

[57 FR 54491, Nov. 19, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 40796, Aug. 10, 1994; 59 FR 43712, Aug. 25, 1994; 60 FR 6958, Feb. 6, 1995; 60 FR 14209, Mar. 16, 1995; 60 FR 50385, Sept. 29, 1995; 61 FR 47667, Sept. 10, 1996; 62 FR 597, Jan. 6, 1997]

**§ 319.56-2y Administrative instructions; conditions governing the entry of cantaloupe and watermelon from Ecuador.**

(a) Cantaloupe (*Cucumis melo*) and watermelon (fruit) (*Citrullus lanatus*) may be imported into the United States from Ecuador only under the following conditions:

(1) The cantaloupe or watermelon may be imported in commercial shipments only;

(2) The cantaloupe or watermelon must have been grown in an area where trapping for the South American cucurbit fruit fly has been conducted for at least the previous 12 months by the plant protection service of Ecuador, under the direction of APHIS,<sup>1</sup> with no findings of the pest.

<sup>1</sup>Information on the trapping program may be obtained by writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations,

(3) The following area meets the requirements of paragraph (a)(2) of this section: The area within 5 kilometers of either side of the following roads:

(i) Beginning in Guayaquil, the road north through Nobol, Palestina, and Balzar to Velasco-Ibarra (Empalme);

(ii) Beginning in Guayaquil, the road south through E1 26, Puerto Inca, Naranjal, and Camilo Ponce to Enriquez;

(iii) Beginning in Guayaquil, the road east through Palestina to Vinces;

(iv) Beginning in Guayaquil, the road west through Piedrahita (Novol) to Pedro Carbo; or

(v) Beginning in Guayaquil, the road west through Progreso, Engunga, Tugaduaja, and Zapotal to El Azucar; and

(4) The cantaloupe or watermelon may not be moved into Alabama, American Samoa, Arizona, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, New Mexico, Puerto Rico, South Carolina, Texas, and the U.S. Virgin Islands. The boxes in which the cantaloupe or watermelon is packed must be stamped with the name of the commodity followed by the words "Not to be distributed in the following States or territories: AL, AS, AZ, CA, FL, GA, GU, HI, LA, MS, NM, PR, SC, TX, VI.

(b) [Reserved]

[57 FR 54491, Nov. 19, 1992, as amended at 58 FR 69182, Dec. 30, 1993; 59 FR 67610, Dec. 30, 1994]

**§ 319.56-2z Administrative instructions governing the entry of cherimoyas from Chile.**

Cherimoyas may be imported into the United States from Chile only under the following conditions:

(a) *Treatment.* The cherimoyas must be treated, under the supervision of an inspector, either in Chile or in the United States, for the Chile false red mite of grapes (*Brevipalpus chilensis*) in accordance with one of the following procedures:

(1) *Fumigation.* The cherimoyas must be fumigated with methyl bromide at normal atmospheric pressure. The fumigation must be done in a fumigation

Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

chamber that has been approved for that purpose by the Animal and Plant Health Inspection Service, or under tarpaulins, according to the schedule below. The treatment period must be 2 hours.

Temperature (°F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80-89 (inclusive) .....	1½
70-79 (inclusive) .....	2
60-69 (inclusive) .....	2½
50-59 (inclusive) .....	3

(2) *Soapy water and wax.* The cherimoyas must be immersed in a soapy water bath consisting of 1 part soap solution (such as Deterfrut) to 3,000 parts water for a minimum of 20 seconds, followed by a pressure shower rinse to remove soapy excess, and then followed by immersion for a minimum of 20 seconds in an undiluted wax coating (such as Johnson Wax Primafresh 31 Kosher fruit coating).

(b) *APHIS inspection.* Cherimoyas from Chile are subject to inspection under the direction of an inspector, either in Chile or at the port of arrival in the United States. Imported cherimoyas inspected in Chile are subject to reinspection at the port of arrival as provided for in §319.56-6.

(c) *Trust Fund Agreement.* Cherimoyas that are treated or inspected in Chile may be imported into the United States only if the plant protection service of Chile (Servicio Agrícola Y Ganadero, referred to in this section as SAG) has entered into a trust fund agreement with APHIS. This agreement requires SAG to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing inspection services in Chile during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agree-

ment further requires SAG to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before any more cherimoyas will be treated or inspected in Chile. After a final audit at the conclusions of each shipping season, any overpayment of funds would be returned to SAG, or held on account until needed, at SAG's option.

(d) *Costs for services in the United States.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or a representative of the owner.

(e) *Limitation of origin.* The cherimoyas must have been grown in a province of Chile that is free from the Mediterranean fruit fly (see §319.56-2(j)).

(f) *Ports of entry.* Cherimoyas from Chile may be imported through all ports staffed by an inspector.<sup>1</sup>

(g) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with cherimoyas from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) of this section.

[57 FR 56436, Nov. 30, 1992, as amended at 59 FR 67610, Dec. 30, 1994]

**§ 319.56-2aa Administrative instructions governing the entry of cantaloupe, honeydew melons, and watermelon from Brazil and Venezuela.**

Cantaloupe, honeydew melons, and watermelon may be imported into the United States from Brazil and Venezuela only under permit, and only in accordance with this section and all

<sup>1</sup>Information concerning ports staffed by inspectors may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

§ 319.56-2bb

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other applicable requirements of this subpart:

(a) The cantaloupe, honeydew melons, or watermelon must have been grown in the area of Brazil or the area of Venezuela considered by the Animal and Plant Health Inspection Service to be free of the South American cucurbit fly, (*Anastrepha grandis*), in accordance with §319.56-2(e)(4) of this subpart. In addition, all shipments of cantaloupe, honeydew melons, and watermelon must be accompanied by a phytosanitary certificate issued either by the Departamento de Defesa e Inspeção Vegetal (Brazilian Department of Plant Health and Inspection) or the Servicio Autonomo de Sanidad Agropecuaria (the plant protection service of Venezuela) that includes a declaration indicating that the cantaloupe or melons were grown in an area recognized to be free of the South American cucurbit fly.

(1) *Area considered free of the South American cucurbit fly in Brazil.* The following area in Brazil is considered free of the South American cucurbit fly: That portion of Brazil bounded on the north by the Atlantic Ocean; on the east by the River Assu (Acu) from the Atlantic Ocean to the city of Assu; on the south by Highway BR 304 from the city of Assu (Acu) to Mossoro, and by Farm Road RN-015 from Mossoro to the Ceara State line; and on the west by the Ceara State line to the Atlantic Ocean.

(2) *Area considered free of the South American cucurbit fly in Venezuela.* The following area in Venezuela is considered free of the South American cucurbit fly: The Paraguana Peninsula, located in the State of Falcon, bounded on the north and east by the Caribbean Ocean, on the south by the Gulf of Coro and an imaginary line dividing the autonomous districts of Falcon and Miranda, and on the west by the Gulf of Venezuela.

(b) *Shipping requirements.* The cantaloupe, honeydew melons, and watermelon must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(c) *Labeling.* All shipments of cantaloupe, honeydew melons, and water-

melon must be labeled in accordance with §319.56-2(g) of this subpart.

[63 FR 65656, Nov. 30, 1998]

**§ 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.

[58 FR 40037, July 27, 1993]

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

Fuji variety apples may be imported into the United States from Japan and

the Republic of Korea only under the following conditions:

(a) *Treatment and fumigation.* The apples must be cold treated and then fumigated, under the supervision of an Animal and Plant Health Inspection Service (APHIS) inspector, either in Japan or the Republic of Korea, 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*), in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(b) *APHIS inspection.* The apples must be inspected upon completion of the treatments required by paragraph (a) of this section, prior to export from Japan or the Republic of Korea, by an APHIS inspector and an inspector from the national plant protection agency of Japan or the Republic of Korea. The apples shall be subject to further disinfection in the exporting country if plant pests are found prior to export. Imported Fuji variety apples inspected in Japan or the Republic of Korea are also subject to inspection and disinfection at the port of first arrival, as provided in § 319.56-6.

(c) *Trust fund agreements.* The national plant protection agency of the exporting country must enter into a trust fund agreement with APHIS before APHIS will provide the services necessary for Fuji variety apples to be imported into the United States from Japan or the Republic of Korea. The agreement requires the national plant protection agency to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing services in Japan or the Republic of Korea during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the national plant protection agency to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient

to meet all costs incurred by APHIS, the agreement further requires the national plant protection agency to deposit with APHIS a certified or cashiers check for the amount of the remaining costs, as determined by APHIS, before APHIS will provide any more services necessary for Fuji variety apples to be imported into the United States from that country. After a final audit at the conclusion of each shipping season, any overpayment of funds will be returned to the national plant protection agency, or held on account until needed, at that agency's option.

(d) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with Fuji variety apples from Japan and the Republic of Korea. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) or (b) of this section.

[59 FR 42154, Aug. 17, 1994]

**§ 319.56-2dd Administrative instructions: conditions governing the entry of tomatoes.**

(a) *Tomatoes (fruit) (Lycopersicon esculentum) from Spain.* Pink or red tomatoes may be imported into the United States from Spain only under the following conditions:<sup>1</sup>

(1) The tomatoes must be grown in the Almeria Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all

<sup>1</sup>The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red. Green tomatoes may be imported in accordance with § 319.56-2t of this subpart.

areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1-month time period will result in cancellation of exports from all registered greenhouses within 2 kilometers of the find until the source of infestation is determined and the Medfly infestation is eradicated;

(5) MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by MAFF before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, "These tomatoes were grown in registered greenhouses in Almeria Province in Spain."

(b) *Tomatoes (fruit) (Lycopersicon esculentum) from France.* Pink or red tomatoes may be imported into the

United States from France only under the following conditions:<sup>2</sup>

(1) The tomatoes must be grown in the Brittany Region of France in greenhouses registered with, and inspected by, the Service de la Protection Vegetaux (SRPV);

(2) From June 1 through September 30, SRPV must set and maintain one Medfly trap baited with trimedlure inside and one outside each greenhouse and must check the traps every 7 days;

(3) Capture of a single Medfly inside or outside a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation;

(4) SRPV must maintain records of trap placement, checking of traps, and any Medfly captures, and must make them available to APHIS upon request;

(5) From June 1 through September 30, the tomatoes must be packed within 24 hours of harvest. They must be safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. At all times of the year, transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by SRPV before shipment and the official seal number is recorded on the phytosanitary certificate; and

(6) SRPV is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, "These tomatoes were grown in registered greenhouses in the Brittany Region of France."

(c) *Tomatoes (fruit) (Lycopersicon esculentum) from Morocco and Western Sahara.* Pink tomatoes may be imported into the United States from Morocco and Western Sahara only under the following conditions:<sup>3</sup>

(1) The tomatoes must be grown in the provinces of El Jadida or Safi in Morocco or in the province of Dahkla in Western Sahara in insect-proof greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF);

(2) The tomatoes may be shipped from Morocco and Western Sahara only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In Morocco, traps must also be placed outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap must be placed outside in the immediate proximity of each registered greenhouse. All traps in Morocco and Western Sahara must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request;

(5) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of 2 Medflies within 200 meters of a registered greenhouse and within a 1-month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof

<sup>2</sup> See footnote 1 in paragraph (a) of this section.

<sup>3</sup> See footnote 1 in paragraph (a) of this section.

mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. The tomatoes must be pink at the time of packing. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) EACCE is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, "These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing" or "These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing."

(d) *Tomatoes from Chile.* Tomatoes (fruit) (*Lycopersicon esculentum*) from Chile, whether green or at any stage of ripeness, may be imported into the United States only under the following conditions:

(1) The tomatoes must be treated in Chile with methyl bromide in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. The treatment must be conducted in facilities registered with the Servicio Agricola y Ganadero (SAG) and with APHIS personnel monitoring the treatments;

(2) The tomatoes must be treated and packed within 24 hours of harvest. Once treated, the tomatoes must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers under APHIS monitoring for transit to the airport and subsequent shipping to the United States; and

(3) Tomatoes may be imported into the United States from Chile only if SAG has entered into a trust fund agreement with APHIS for that ship-

ping season. This agreement requires SAG to pay in advance all costs that APHIS estimates it will incur in providing the preclearance services prescribed in this section for that shipping season. These costs will include administrative expenses incurred in conducting the preclearance 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 providing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the initial deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS another certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during a shipping season exceeds the total cost incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season.

(Approved by the Office of Management and Budget under control number 0579-0131)

[63 FR 39216, July 22, 1998]

**§ 319.56-2ee Administrative instructions: Conditions governing the entry of Ya variety pears from China.**

Ya variety pears may be imported into the United States from China only under the following conditions:

(a) *Growing and harvest conditions.* (1) The pears must have been grown by growers registered with the Chinese Ministry of Agriculture in an APHIS-approved export growing area in Hebei Province.

(2) Field inspections for signs of pest infestation must be conducted by the

Chinese Ministry of Agriculture during the growing season.

(3) The registered growers shall be responsible for following the phytosanitary measures agreed upon by APHIS and the Chinese Ministry of Agriculture, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for pests to attack the fruit during the growing season. The bags must remain on the pears through the harvest and during their movement to the packing house.

(4) The packing houses in which the pears are prepared for exportation shall not be used for any fruit other than Ya variety pears from registered growers during the pear export season. The packing houses shall accept only those pears that are in intact bags as required by paragraph (a)(3) of this section. The pears must be loaded into containers at the packing house and the containers then sealed before movement to the port of export.

(b) *Treatment.* The pears must be cold treated for *Bactrocera dorsalis* in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter.

(c) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the Chinese Ministry of Agriculture stating that the conditions of paragraphs (a) and (b) of this section have been met.

[60 FR 50386, Sept. 29, 1995]

**§ 319.56–2ff Administrative instructions governing movement of Hass avocados from Mexico to the Northeastern United States.**

Fresh Hass variety avocados (*Persea americana*) may be imported from Mexico into the United States for distribution in the northeastern United States only under a permit issued in accordance with §319.56–4, and only under the following conditions:

(a) *Shipping restrictions.* (1) The avocados may be imported in commercial shipments only;

(2) The avocados may be imported only during the months of November, December, January, and February; and

(3) The avocados may be distributed only in the following northeastern

States: Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.

(b) *Trust fund agreement.* The avocados may be imported only if the Mexican avocado industry association representing Mexican avocado growers, packers, and exporters has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) for that shipping season. That agreement requires the Mexican avocado industry association to pay in advance all estimated costs that APHIS expects to incur through its involvement in the trapping, survey, harvest, and packinghouse operations prescribed in paragraph (c) of this section. These costs will 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 these services. The agreement requires the Mexican avocado industry association to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Mexican avocado industry association to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Mexican avocado industry association or held on account until needed.

(c) *Safeguards in Mexico.* The avocados must have been grown in the Mexican State of Michoacan in an orchard located in a municipality that meets the requirements of paragraph (c)(1) of this section. The orchard in which the avocados are grown must meet the requirements of paragraph (c)(2) of this section. The avocados must be packed for export to the United States in a

packinghouse that meets the requirements of paragraph (c)(3) of this section. Sanidad Vegetal must provide an annual work plan to APHIS that details the activities that Sanidad Vegetal will, subject to APHIS' approval of the work plan, carry out to meet the requirements of this section; APHIS will be directly involved with Sanidad Vegetal in the monitoring and supervision of those activities. The personnel conducting the trapping and pest surveys must be hired, trained, and supervised by Sanidad Vegetal or by the Michoacan State delegate of the Secretaria de Agricultura, Ganaderia y Desarrollo Rural (SAGDR).

(1) *Municipality requirements.* (i) The municipality must be listed as an approved municipality in the annual work plan provided to APHIS by Sanidad Vegetal.

(ii) The municipality must be surveyed at least annually and found to be free from the large avocado seed weevil *Heilipus lauri*, the avocado seed moth *Stenomoma catenifer*, and the small avocado seed weevils *Conotrachelus aguacatae* and *C. perseae*. The survey must cover at least 300 hectares in the municipality and include randomly selected portions of each registered orchard and areas with wild or backyard avocado trees. The survey must be conducted during the growing season and completed prior to the harvest of the avocados.

(iii) Trapping must be conducted in the municipality for Mediterranean fruit fly (Medfly) (*Ceratitis capitata*) at the rate of 1 trap per 1 to 4 square miles. Any findings of Medfly must be reported to APHIS.

(2) *Orchard and grower requirements.* The orchard and the grower must be registered with Sanidad Vegetal's avocado export program and must be listed as an approved orchard or an approved grower in the annual work plan provided to APHIS by Sanidad Vegetal. The operations of the orchard must meet the following conditions:

(i) The orchard and all contiguous orchards and properties must be surveyed annually and found to be free from the avocado stem weevil *Copturus aguacatae*. The survey must be conducted during the growing season and

completed prior to the harvest of the avocados.

(ii) Trapping must be conducted in the orchard for the fruit flies *Anastrepha ludens*, *A. serpentina*, and *A. striata* at the rate of one trap per 10 hectares. If one of those fruit flies is trapped, at least 10 additional traps must be deployed in a 50-hectare area immediately surrounding the trap in which the fruit fly was found. If within 30 days of the first finding any additional fruit flies are trapped within the 260-hectare area surrounding the first finding, malathion bait treatments must be applied in the affected orchard in order for the orchard to remain eligible to export avocados.

(iii) Avocado fruit that has fallen from the trees must be removed from the orchard at least once every 7 days and may not be included in field boxes of fruit to be packed for export.

(iv) Dead branches on avocado trees in the orchard must be pruned and removed from the orchard.

(v) Harvested avocados must be placed in field boxes or containers of field boxes that are marked to show the Sanidad Vegetal registration number of the orchard. The avocados must be moved from the orchard to the packinghouse within 3 hours of harvest or they must be protected from fruit fly infestation until moved.

(vi) The avocados must be protected from fruit fly infestation during their movement from the orchard to the packinghouse and must be accompanied by a field record indicating that the avocados originated from a certified orchard.

(3) *Packinghouse requirements.* The packinghouse must be registered with Sanidad Vegetal's avocado export program and must be listed as an approved packinghouse in the annual work plan provided to APHIS by Sanidad Vegetal. The operations of the packinghouse must meet the following conditions:

(i) During the time the packinghouse is used to prepare avocados for export to the United States, the packinghouse may accept fruit only from orchards certified by Sanidad Vegetal for participation in the avocado export program.

(ii) All openings to the outside must be covered by screening with openings

of not more than 1.6 mm or by some other barrier that prevents insects from entering the packinghouse.

(iii) The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(iv) Prior to the culling process, a sample of 300 avocados per shipment must be selected, cut, and inspected by Sanidad Vegetal and found free from pests.

(v) The identity of the avocados must be maintained from field boxes or containers to the shipping boxes so the avocados can be traced back to the orchard in which they were grown if pests are found at the packinghouse or the port of first arrival in the United States.

(vi) Prior to being packed in boxes, each avocado fruit must be cleaned of all stems, leaves, and other portions of plants and labeled with a sticker that bears the Sanidad Vegetal registration number of the packinghouse.

(vii) The avocados must be packed in clean, new boxes. The boxes must be clearly marked with the identity of the grower, packinghouse, and exporter, and the statement “Distribution limited to the following States: CT, DC, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and WI.”

(viii) The boxes must be placed in a refrigerated truck or refrigerated container and remain in that truck or container while in transit through Mexico to the port of first arrival in the United States. Prior to leaving the packinghouse, the truck or container must be secured by Sanidad Vegetal with a seal that will be broken when the truck or container is opened. Once sealed, the refrigerated truck or refrigerated container must remain unopened until it reaches the port of first arrival in the United States.

(ix) Any avocados that have not been packed or loaded into a refrigerated truck or refrigerated container by the end of the work day must be kept in the screened packing area.

(d) *Certification.* All shipments of avocados must be accompanied by a phytosanitary certificate issued by Sanidad Vegetal certifying that the

conditions specified in this section have been met.

(e) *Pest detection.* (1) If any of the avocado seed pests *Heilipus lauri*, *Conotrachelus aquacatae*, *C. perseae*, or *Stenomoma catenifer* are discovered in a municipality during an annual pest survey, orchard survey, packinghouse inspection, or other monitoring or inspection activity in the municipality, Sanidad Vegetal must immediately initiate an investigation and take measures to isolate and eradicate the pests. Sanidad Vegetal must also provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The municipality in which the pests are discovered will lose its pest-free certification and avocado exports from that municipality will be suspended until APHIS and Sanidad Vegetal agree that the pest eradication measures taken have been effective and that the pest risk within that municipality has been eliminated.

(2) If Sanidad Vegetal discovers the stem weevil *Copturus aguacatae* in an orchard during an orchard survey or other monitoring or inspection activity in the orchard, Sanidad Vegetal must provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The orchard in which the pest was found will lose its export certification immediately and will be denied export certification for the entire shipping season of November through February.

(3) If Sanidad Vegetal discovers the stem weevil *Copturus aguacatae* in fruit at a packinghouse, Sanidad Vegetal must investigate the origin of the infested fruit and provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The orchard where the infested fruit originated will lose its export certification immediately and will be denied export certification for the entire shipping season of November through February.

(f) *Ports.* The avocados may enter the United States at:

(1) Any port located in the northeastern States specified in paragraph (a)(3) of this section;

(2) The ports of Galveston or Houston, TX, or the border ports of Nogales, AZ, or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, TX; or

(3) Other ports within that area of the United States specified in paragraph (g) of this section.

(g) *Shipping areas.* Except as explained below in this paragraph for avocados that enter the United States at Nogales, AZ, avocados moved by truck or rail car may transit only that area of the United States bounded on the west by a line extending from El Paso, TX, to Denver, CO, and due north from Denver; and on the east and south by a line extending from Brownsville, TX, to Galveston, TX, to Kinder, LA, to Memphis, TN, to Knoxville, TN, following Interstate 40 to Raleigh, NC, and due east from Raleigh. 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, AZ, must be moved to El Paso, TX, by the route specified on the permit, and then must remain within the shipping area described above in this paragraph.

(h) *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 a refrigerated container on a truck or rail car. If the avocados are moved in a refrigerated container on a truck or rail car, an inspector must seal the container 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.

(i) *Inspection.* The avocados are subject to inspection by an inspector at the port of first arrival, at any stops in the United States en route to the northeastern States, and upon arrival at the terminal market in the north-

eastern States. At the port of first arrival, an inspector will sample and cut avocados from each shipment to detect pest infestation.

(j) *Repackaging.* If any avocados are removed from their original shipping boxes and repackaged, the stickers required by paragraph (c)(3)(vi) of this section may not be removed or obscured and the new boxes must be clearly marked with all the information required by paragraph (c)(3)(vii) of this section.

(k) *Compliance agreements.* (1) Any person, other than the permittee, who moves or distributes the avocados following their importation into the United States (i.e., a second-party or subsequent handler) must enter into a compliance agreement with APHIS. In the compliance agreement, the person must acknowledge, and agree to observe, the requirements of paragraph (a) and paragraphs (f) through (k) of this section. Compliance agreement forms are available, free of charge, from local offices of Plant Protection and Quarantine, which are listed in local telephone directories. A compliance agreement will not be required for an individual place of business that only offers the avocados for sale directly to consumers.

(2) Before transferring the avocados to any person (i.e., a second-party handler) for movement or distribution, the permittee must confirm that the second-party handler has entered into a compliance agreement with APHIS as required by paragraph (k)(1) of this section. If the permittee transfers the avocados to a second-party handler who has not entered into a compliance agreement, APHIS may revoke the permittee's import permit for the remainder of the current shipping season.

(3) Any second-party or subsequent handler who transfers the avocados to another person for movement or distribution must confirm that the person receiving the avocados has entered into a compliance agreement with APHIS as required by paragraph (k)(1) of this section. If the second-party or subsequent handler transfers the avocados to a person who has not entered into a compliance agreement, APHIS may revoke the handler's compliance agreement

for the remainder of the current shipping season.

(4) *Action on repeat violators.* APHIS may deny an application for an import permit from, or refuse to enter into a compliance agreement with, any person who has had his or her import permit or compliance agreement revoked under paragraph (k)(2) or (k)(3) of this section twice within any 5-year period.

(Approved by the Office of Management and Budget under control number 0579-0129.)

[62 FR 5313, Feb. 5, 1997, as amended at 64 FR 68005, Dec. 6, 1999]

EFFECTIVE DATE NOTE: At 64 FR 68005, Dec. 6, 1999 in §319.56-2ff, new paragraphs (j) and (k) are added, effective Jan. 5, 2000.

**§319.56-2gg Administrative instructions; conditions governing the entry of peppers from Spain.**

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(b) The peppers may be shipped only from December 1 through April 30, inclusive;

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Deputy Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a reg-

istered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded against fruit fly infestation from harvest to export. Such safeguarding includes covering newly harvested peppers with fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packing the peppers in fruit fly-proof cartons, or cartons covered with fruit-fly proof mesh or plastic tarpaulin, and placing those cartons in enclosed shipping containers for transit to the airport and subsequent shipment to the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, "These peppers were grown in registered greenhouses in Almeria Province in Spain," must accompany the shipment.

[63 FR 65656, Nov. 30, 1998]

**§319.56-3 Applications for permits for importation of fruits and vegetables.**

(a) Persons contemplating the importation of fruits or vegetables the entry of which is authorized in the regulations in this subpart shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the country or locality of origin of the fruits or vegetables, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the

**§ 319.56-4**

importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be given.

(d) A separate permit must be secured for shipments from each country and for each port of first arrival in the United States.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.56-4 Issuance of permits.**

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

**§ 319.56-5 Notice of arrival by permittee.**

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in § 319.56, at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee

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or his agent fails to submit the notice of arrival or gives a false notice or in any other way violates the quarantine.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.56-6 Inspection and other requirements at the port of first arrival.**

(a) *Inspection and treatment.* All imported fruits or vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector, and shall be subject to reinspection at other locations at the option of an inspector. If an inspector finds a plant pest or evidence of a plant pest on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests, the owner or agent of the owner of the fruit or vegetable shall clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(b) *Assembly for inspection.* The owner or agent of the owner shall assemble imported fruits and vegetables for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(c) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited or is so infested with a plant pest that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(d) *Release for movement.* No person shall move from the port of first arrival any imported fruit or vegetable unless and until an inspector notifies the person (in person, in writing, by telephone, or through electronic means) that the fruit or vegetable:

(1) Has been released; or  
 (2) Requires reinspection, cleaning, or treatment of the fruit or vegetable at that port or at a place other than the port of first arrival, or is prohibited and must be exported from the United States.

(e) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, re-exportation, or other action with regard to imported fruits or vegetables, the inspector shall file an emergency action notification (PPQ Form 523) with the owner of the fruits or vegetables or an agent of the owner. The owner must, within the time specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed by an inspector to prevent the introduction of plant pests into the United States.

(f) *Costs and charges.* The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.<sup>1</sup> The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 62320, Dec. 6, 1995]

**§ 319.56-7 Inspection of baggage and cargo on the dock.**

Inspectors of the U.S. Department of Agriculture are authorized to cooperate with the customs inspectors in the examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of en-

<sup>1</sup>Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

forcing the provisions of § 319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

**§ 319.56-8 Territorial applicability.**

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

**Subpart—Wheat Diseases**

*AUTHORITY:* Secs. 105, 107, 71 Stat. 32 and 34, as amended; 37 Stat. 854; secs. 7 and 9, 37 Stat. 317 and 318, as amended; sec. 10, 45 Stat. 468 (7 U.S.C. 150dd, 150ff, 155, 160, 162, and 164a); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565.

**§ 319.59 Prohibitions on importation; disposal of articles refused importation.**

(a) Pursuant to section 7 of the Plant Quarantine Act (7 U.S.C. 160) the Secretary has determined that, in order to prevent the introduction into the United States from any foreign country or locality of foreign strains of flag smut or Karnal bunt, it is necessary, except as provided in § 319.59-2(c) of this subpart, to prohibit the importation into the United States of certain articles from certain foreign countries and localities. Accordingly, no person shall import or offer for entry into the United States any article designated in § 319.59-2 (a) and (b) of this subpart as a prohibited article, except as otherwise provided in § 319.59-2(c) of this subpart.

(b) Any article refused importation in accordance with the requirements of this subpart shall be promptly removed from the United States or destroyed as deemed necessary by an inspector at the expense of the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of injurious plant diseases (including foreign strains of flag smut) and Karnal bunt, injurious insect pests and other plant pests as an inspector determines necessary to prevent the introduction into the United States of such diseases or pests. If such article is not promptly

safeguarded, removed from the United States, or destroyed as deemed necessary by an inspector at the expense of the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735 Oct. 14, 1983; 63 FR 31101, June 8, 1998]

#### § 319.59-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

*Deputy Administrator.* The Deputy Administrator of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his/her stead has been or may hereafter be delegated.

*Disease.* The term, in addition to its common meaning, includes a disease agent which incites a disease.

*Foreign strains of flag smut.* Plant diseases caused by foreign strains of highly infective fungi, *Urocystis agropyri* (Preuss) Schroet., which attack wheat and substantially reduce its yield, and which are new to or not widely prevalent or distributed within and throughout the United States.

*From.* An article is considered to be "from" any country or locality in which it was grown.

*Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

*Karnal bunt.* A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

*Person.* An individual, corporation, company, society, or association.

*Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, dele-

gated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

*Prohibited article.* Any class of seed, plant, or other plant product specified as prohibited articles in § 319.59-2(a) or (b).

*Secretary.* The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

*Spp. (species).* All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

*United States.* The States, District of Columbia, American Samoa, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735, Oct. 14, 1983; 63 FR 50752, Sept. 23, 1998]

#### § 319.59-2 Prohibited articles.

(a) The articles listed in paragraph (a)(1) of this section from the countries and localities listed in paragraph (a)(2) of this section are prohibited articles because of foreign strains of flag smut and are prohibited from being imported or offered for entry into the United States except as provided in paragraph (c) of this section.

(1)(i) Seeds, plants, and straw (other than straw, with or without heads and which have been processed or manufactured for use indoors, such as for decorative purposes or for use as toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass).

(ii) Seeds of *melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(2) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal,

North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

(b) The articles listed in paragraph (b)(1) of this section from the countries and locations listed in paragraph (b)(2) of this section are prohibited articles because of Karnal bunt:

(1) Seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticum* spp. (wheat).

(2) Afghanistan, India, Iraq, Mexico (except for that portion of the Mexicali Valley described in paragraph (b)(3) of this section) and Pakistan.

(3) The following area of the Mexicali Valley in Mexico has been determined to be free from Karnal bunt: Those portions of the municipality of Mexicali, in the State of Baja California, and the municipality of San Luis Rio Colorado, in the State of Sonora, that are included in the Distrito de Desarrollo Rural (Rural Development District) 002 Rio Colorado. Except for wheat (*Triticum* spp.) plants, which are prohibited importation under § 319.37-2(a) (see Poaceae) of this part, any articles described in paragraph (b)(1) of this section that are from that designated area may be imported into the United States subject to the following conditions:

(i) The articles are offered for entry at the port of Calexico, CA; and

(ii) The articles offered for entry are made available for examination by an inspector and remain at the port until released, or authorized further movement pending release, by an inspector; and

(iii) The articles are accompanied by a phytosanitary certificate issued by the Mexican national plant protection organization that certifies that the articles are from the area of the Mexicali Valley described in this paragraph and remained within that area prior to and during their movement to the United States.

(c) Any article listed as a prohibited article in paragraph (a) or (b) of this section may be imported or offered for entry into the United States if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705 or at any port of entry with an asterisk listed in § 319.37-14(b) of this part.

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the Plant Germplasm Quarantine Center;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases (including foreign strains of flag smut), injurious insects, and other plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735 Oct. 14, 1983; 49 FR 24877, June 18, 1984; 63 FR 31101, June 8, 1998]

### Subpart—Packing Materials

#### QUARANTINE

#### § 319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

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(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) The following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by §319.59 of this part from any country or locality listed in §319.59-2 of this part.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytocha, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(4) Soil containing an appreciable admixture of vegetable matter, from all countries, which is authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

(c) However, whenever the Deputy Administrator of the Plant Protection

and Quarantine Programs shall find that existing conditions as to pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

(e) As used in this subpart, unless the context otherwise requires, the term *United States* means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 26 FR 9333, Oct. 4, 1961; 36 FR 24917, Dec. 24, 1971; 60 FR 27682, May 25, 1995; 63 FR 31102, June 8, 1998]

**§ 319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in § 319.69.**

(a) Plants and products designated in §319.69(a)(1), (3), (4), and (5) and (b)(1) and (3) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infested, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with §330.106 of this chapter.

(b) Corn and allied plants listed in §319.69(a)(2) may be imported into

Guam subject to the requirements of §§ 319.69-2, 319.69-3, and 319.69-4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37-9.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27682, May 25, 1995; 62 FR 65009, Dec. 10, 1997]

#### RULES AND REGULATIONS

##### § 319.69-1 Definitions.

(a) *Packing materials.* The expression “packing material”, as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word “packing”, as used in the expression “packing materials”, shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.<sup>1</sup>

(b) *Soil containing vegetable matter.* Soil containing an appreciable admixture of vegetable matter, here brought under quarantine only because its content of decaying vegetation or plant remains carries a definite pest risk, is to be distinguished from soil of purely mineral or earthy composition, which is not covered by this quarantine.

(c) *Inspector.* An inspector of the U.S. Department of Agriculture.

##### § 319.69-2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

##### § 319.69-3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

<sup>1</sup>Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

##### § 319.69-4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, he may refuse entry to the shipment, or he may seize and destroy or otherwise dispose of such packing material, or he may require it to be replaced, or sterilized, or otherwise treated.

##### § 319.69-5 Types of soil authorized for packing.

The following types of soil or earth are authorized as safe for packing: (a) Peat, (b) peat moss, and (c) Osmunda fiber.

#### Subpart—Coffee

SOURCE: 63 FR 65650, Nov. 30, 1998, unless otherwise noted.

##### § 319.73-1 Definitions.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

*Inspector.* Any individual authorized by the Administrator to enforce this subpart.

*Sample.* Unroasted coffee not for commercial resale. Intended use includes, but is not limited to, evaluation, testing, or market analysis.

*United States.* The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

*Unroasted coffee.* The raw or unroasted seeds or beans of coffee.

##### § 319.73-2 Products prohibited importation.

(a) To prevent the spread of the coffee berry borer *Hypothenemus hampei* (Ferrari) and the fungus *Hemileia vastatrix* (Berkely and Broome), which causes an injurious rust disease, the

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following articles are prohibited importation into Hawaii and Puerto Rico, except as provided in § 319.73-3 of this subpart:

- (1) Unroasted coffee;
- (2) Coffee plants and leaves; and
- (3) Empty sacks previously used for unroasted coffee.

(b) Due to the risk of Mediterranean fruit fly and other injurious insects, seeds of all kinds when in pulp, including coffee berries or fruits, are prohibited importation into all parts of the United States by § 319.37-2(a) of this part, except as provided in § 319.37-2(c).

### § 319.73-3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) *Mail.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico en route to other destinations and that are packaged to prevent the escape of any plant pests may proceed without action by an inspector. Packaging that would prevent the escape of plant pests includes, but is not limited to, sealed cartons, airtight containers, or vacuum packaging. Samples of unroasted coffee received by mail but not packaged in this manner are subject to inspection and safeguard by an inspector. These samples must be returned to origin or forwarded to a destination outside Hawaii or Puerto Rico in a time specified by an inspector and in packaging that will prevent the escape of any plant pests. If this action is not possible, the samples must be destroyed.

(b) *Cargo.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico as cargo and that remain on the carrier may proceed to a destination outside Hawaii or Puerto Rico without action by an inspector. Samples may be transshipped in Puerto Rico or Hawaii only after an inspector determines that they are packaged to prevent the escape of any plant pests. Samples that are not packaged in this manner must be rewrapped or packaged in a manner prescribed by an inspector to prevent the escape of plant pests before the transshipment will be allowed.

(c) Other mail, cargo, and baggage shipments of articles covered by § 319.73-2 arriving in Puerto Rico or Hawaii may not be unloaded or trans-

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shipped in Puerto Rico or Hawaii and are subject to inspection and other applicable requirements of the Plant Safeguard Regulations (part 352 of this chapter).

### 319.73-4 Costs.

All costs of inspection, packing materials, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart will be borne by the owner, importer, or agent of the owner or importer, including a broker. The services of an inspector during regularly assigned hours of duty and at the usual places of duty will be furnished without cost to the importer.

### Subpart—Cut Flowers

SOURCE: 64 FR 38110, July 15, 1999, unless otherwise noted.

### § 319.74-1 Definitions.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

*Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, which is the severed portion of a plant, including the inflorescence and any parts of the plant attached to it, in a fresh state. This definition does not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; or Christmas greenery, such as holly, mistletoe, and Christmas trees.

*Inspector.* Any individual authorized by the Administrator to enforce this subpart.

*United States.* All of the States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories or possessions of the United States.

**§ 319.74-2 Conditions governing the entry of cut flowers.**

(a) *Inspection.* All cut flowers imported into the United States must be made available to an inspector for examination at the port of first arrival and must remain at the port of first arrival until released, or authorized further movement, by an inspector.

(b) *Actions to prevent the introduction of plant pests; notice by an inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported cut flowers that are found to be infested with injurious plant pests or infected with diseases, the inspector will provide an emergency action notification (PPQ Form 523) to the importer, owner, or agent or representative of the importer or owner of the cut flowers. The importer, owner, or agent or representative of the importer or owner must, within the time specified in the PPQ Form 523 and at his or her own expense, destroy the cut flowers, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments, clean, or apply other safeguards to the cut flowers as prescribed by the inspector on the PPQ Form 523. Further, if the importer, owner, or agent or representative of the importer or owner fails to follow the conditions on PPQ Form 523 by the time specified on the form, APHIS will arrange for destruction of the cut flowers, and the importer, owner, or agent or representative of the importer or owner will be responsible for all costs incurred. Cut flowers that have been cleaned or treated must be made available for further inspection, cleaning, and treatment at the option of the inspector at any time and place indicated by the inspector before the requirements of this subpart will have been met. Neither the Department of Agriculture nor the inspector may be held responsible for any adverse effects of treatment on imported cut flowers.

(c) *Fumigation for agromyzids.* (1) Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) must be fumigated at the time of importation with methyl bromide in accordance with

paragraph (c)(2) of this section, with the following exceptions:

(i) Fumigation will not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids.

(ii) Fumigation will not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

(2) *Fumigation schedules.* Fumigation of cut flowers for agromyzids (insects of the family Agromyzidae) must consist of fumigation with methyl bromide at normal atmospheric pressure in a chamber or under a tarpaulin in accordance with one of the following schedules:

1½ lbs. per 1,000 cu. ft. for 2 hours at 80-90 °F.

(19 oz. concentration at first ½ hour)

(12 oz. concentration at 2 hours); or

2 lbs. per 1,000 cu. ft. for 2 hours at 70-79 °F.

(24 oz. concentration at first ½ hour)

(16 oz. concentration at 2 hours); or

2½ lbs. per 1,000 cu. ft. for 2 hours at 60-69 °F.

(30 oz. concentration at first ½ hour)

(20 oz. concentration at 2 hours); or

3 lbs. per 1,000 cu. ft. for 2 hours at 50-59 °F.

(36 oz. concentration at first ½ hour)

(24 oz. concentration at 2 hours); or

3½ lbs. per 1,000 cu. ft. for 2 hours at 40-49 °F.

(41 oz. concentration at first ½ hour)

(27 oz. concentration at 2 hours)

NOTE: There is a possibility that some cut flowers could be damaged by such fumigation.

(d) *Refusal of entry.* If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease that, in the judgment of the inspector, they cannot be cleaned or treated, or if they contain soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

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**§ 319.74-3 Importations by the Department.**

The U.S. Department of Agriculture may import cut flowers for experimental or scientific purposes under such conditions and restrictions as the Administrator may prescribe to prevent the dissemination of plant pests.

**§ 319.74-4 Costs and charges.**

The Animal and Plant Health Inspection Service, U.S. Department of Agriculture, will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty (provisions relating to costs for other services of an inspector are contained in 7 CFR part 354). The importer, owner, or agent or representative of the importer or owner of cut flowers is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including the costs of any labor, chemicals, packing materials, or other supplies required.

**§ 319.74-3 Conditions governing the entry of cut flowers.**

(a) All cut flowers shall be given such inspection and treatment at the port of entry as may be deemed necessary by the inspector. Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) shall be fumigated at the time of importation with methyl bromide in accordance with a procedure specified in paragraph (c) of this section, except that such fumigation shall not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids, and shall not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess). Any cut flowers found upon inspection to be infested with injurious insects or infected with plant diseases, which cannot be eliminated by treatment, shall be denied entry. The importer

will be given the option of abandoning for destruction such rejected cut flowers or immediately shipping them to a point outside the United States.

(b) Whenever, during the inspection of cut flowers imported in accordance with the regulations in this subpart, the inspector shall find them to be infested with an injurious insect or infected with an injurious plant disease, which can be eliminated by a method of treatment selected by him in accordance with administratively authorized procedures known to be effective under the conditions applied, he may prescribe as a condition of entry that such treatment be applied by the importer or his agent, under the supervision of the inspector. All costs for such treatment, except for the services of the inspector, shall be borne by the importer or his agent. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of such treatment on the cut flowers so treated. In lieu of treatment the importer of infested or infected cut flowers shall be given the option of immediately shipping them to a point outside the United States or abandoning them for immediate destruction.

(c) Fumigation of cut flowers for agromyzids (insects of the family Agromyzidae) shall consist of fumigation with methyl bromide at normal atmospheric pressure in a chamber or under a tarpaulin in accordance with one of the following schedules:

*1½ lbs. per 1000 cu. ft. for 2 hours at 80°-90° F.*

(19 oz. concentration at first ½ hour)  
(12 oz. concentration at 2 hours); or

*2 lbs. per 1000 cu. ft. for 2 hours at 70°-79° F.*

(24 oz. concentration at first ½ hour)  
(16 oz. concentration at 2 hours); or

*2½ lbs. per 1000 cu. ft. for 2 hours at 60°-69° F.*

(30 oz. concentration at first ½ hour)  
(20 oz. concentration at 2 hours); or

*3 lbs. per 1000 cu. ft. for 2 hours at 50°-59° F.*

(36 oz. concentration at first ½ hour)  
(24 oz. concentration at 2 hours); or

*3½ lbs. per 1000 cu. ft. for 2 hours at 40°-49° F.*

(41 oz. concentration at first ½ hour)  
(27 oz. concentration at 2 hours)

NOTE: There is a possibility that some cut flowers could be damaged by such fumigation.

(Secs. 5 and 9, 37 Stat. 316, 318, as amended, 7 U.S.C. 159, 162; 7 CFR 2.17, 2.51, and 371.2.; secs. 5 and 9, 37 Stat. 316, 318, as amended, 7 U. S. C. 159, 162; 7 CFR 2.17, 2.51, and 371.2(c))

[24 FR 10788, Dec. 29, 1959, as amended at 47 FR 38103, Aug. 30, 1982; 48 FR 16877, Apr. 20, 1983; 48 FR 20403, May 6, 1983; 49 FR 24988, June 19, 1984; 62 FR 50231, Sept. 25, 1997]

**§ 319.74-4 Shipments for experimental or scientific purposes.**

Cut flowers may be imported for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and restrictions as the Deputy Administrator of the Plant Protection and Quarantine Programs may prescribe.

[24 FR 10788, Dec. 29, 1959. Redesignated at 62 FR 50231, Sept. 25, 1997]

**Subpart—Khapra Beetle**

**§ 319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.**

(a) The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(c) A restricted article may be imported without complying with other restrictions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982]

**§ 319.75-1 Definitions.**

Terms used in the singular form in this subpart shall be construed as the plural, and vice-versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

*Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any other officer or employee of the Department to whom authority to act in his/her stead has been or many hereafter be delegated.

*From.* An article is considered to be "from" any country or locality in which it originated or any country(ies) or locality(ies) in which it was offloaded prior to arrival in the United States.

*Import.* (importation, imported). To import or move into the United States.

*Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

*Nursery stock.* All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

*Person.* Any individual, corporation, company, society, association or other organized group.

*Phytosanitary certificate of inspection.* A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States.

*Plant gum.* Any of numerous colloidal polysaccharide substances of plant origin that are gelatinous when moist but harden on drying. Plant gums include but are not limited to acacia gum, guar gum, gum arabic, locust gum and tragacanth gum.

*Plant pest.* The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure

or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

*Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

*Secretary.* The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

*United States.* The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985]

#### § 319.75-2 Restricted articles.<sup>1</sup>

(a) The following articles from the specified localities or countries are restricted articles:

(1) Seeds of the plant family Cucurbitaceae<sup>2</sup> if in shipments greater than two ounces, if not for propagation, and if from a country listed in paragraph (b) of this section;

(2) Brassware and wooden screens from Bombay, India;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned,

<sup>1</sup>The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of 7 CFR 319.56 *et seq.*

<sup>2</sup>Seeds of the plant family Cucurbitaceae include but are not limited to: Benincasa hispida (wax gourd), Citrullus Lanatus (watermelon) Cucumis melon (muskmelon, cantaloup, honeydew), Cumumis sativius (cucumber), Cucurbita pepo (pumpkin, squashes, vegetable marrow), Lagenaria siceraria (calabash, gourd), Luffa cylindrica (dishcloth gourd), Mormoridica charantia (bitter melon), and Sechium edule (chayote).

blue-chromed, pickled in mineral acid, or salted and moist) from Sudan or India;

(4) Plant gums shipped as bulk cargo (in an unpackaged state) if from a country listed in paragraph (b) of this section;

(5) Used jute or burlap bagging not containing cargo if from a country listed in paragraph (b) of this section;<sup>3</sup>

(6) Used jute or burlap bagging from a country listed in paragraph (b) of this section that contains cargo, and the cargo in such bagging;<sup>3</sup>

(7) Used jute or burlap bagging from a country listed in paragraph (b) of this section that is used as a packing material (such as filler, wrapping, ties, lining, matting, moisture retention material, or protection material), and the cargo for which the used jute or burlap bagging is used as a packing material;<sup>3</sup> and

(8) Whole chilies (*Capsicum* spp.), whole red peppers (*Capsicum* spp.), and cumin seeds (*Cuminum cyminum*) in new jute or burlap bags from Pakistan.

(b) Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, and Upper Volta.

[50 FR 8706, Mar. 5, 1985]

### § 319.75-3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, at least 60 days prior to arrival of the article at the port of entry. The completed application shall include the following information:<sup>4</sup>

<sup>3</sup>Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.*

<sup>4</sup>Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds of articles intended to be imported;

(3) Country or locality of origin;

(4) Country(ies) or locality(ies) where it is intended to be off-loaded prior to arrival in the United States;

(5) Intended U.S. port of entry;

(6) Means of transportation; and

(7) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation under this subpart shall be issued for the importation of articles specified in the application if such articles described in the application appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, such article may be moved into the United States from the port of entry only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) are necessary with respect to such article.<sup>5</sup>

(d) Any permit which has been issued may be withdrawn by an inspector or

River Road Unit 136, Riverdale, Maryland 20737-1236, or local offices which are listed in telephone directories.

<sup>5</sup>Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, dispose of, in such manner as he deems appropriate, subject to provisions in sections 105 (b) and (c) of the Act (7 U.S.C. 150dd (b) and (c)), any product or article, including any article subject to this subpart, which is moving into or through the United States, and which he has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against restricted articles which are not in compliance with the provisions of this subpart.

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the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983; 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985; 59 FR 67610, Dec. 30, 1994]

§ 319.75-4 Treatments.<sup>6</sup>

A restricted article prior to movement into the United States from the port of entry shall be treated under the supervision of an inspector for possible infestation with khapra beetle as set forth below:

(a) Brassware; wooden screens; goat-skins; lambskins; sheepskins; plant gums; seeds of the plant family cucurbitaceae; jute or burlap bagging that contains cargo, and the cargo in such bagging (except for articles specified in paragraphs (b) and (c) of this section); and jute or burlap bagging that is used as a packing material, and the cargo for which the jute or burlap bagging is used as a packing material (except for articles specified in paragraphs (b) and (c) of this section).

(1) Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure in accordance with one of the following schedules:

(i) 40 g/m<sup>3</sup> (2½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 32° C (90° F) or above.

(20 g (oz) minimum gas concentration at 2-4 hrs.)

(15 g (oz) minimum gas concentration at 12 hrs.)

(ii) 56 g/m<sup>3</sup> (3½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 26.5°-31.5° C (80°-89° F).

(30 g (oz) minimum gas concentration at 2-4 hrs.)

(20 g (oz) minimum gas concentration at 12 hrs.)

(iii) 72 g/m<sup>3</sup> (4½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 21°-26° C (70°-79° F).

(40 g (oz) minimum gas concentration at 2-4 hrs.)

(25 g (oz) minimum gas concentration at 12 hrs.)

(iv) 96 g/m<sup>3</sup> (6 lb/1000 ft<sup>3</sup>) for 12 hrs. at 15.5°-20.5° C (60°-69° F).

(50 g (oz) minimum gas concentration at 2-4 hrs.)

(30 g (oz) minimum gas concentration at 12 hrs.)

(v) 120 g/m<sup>3</sup> (7½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 10°-15° C (50°-59° F).

(60 g (oz) minimum gas concentration at 2-4 hrs.)

(35 g (oz) minimum gas concentration at 12 hrs.)

(vi) 144 g/m<sup>3</sup> (9 lb/1000 ft<sup>3</sup>) for 12 hrs. at 4.5°-9.5° C (40°-49° F).

(70 g (oz) minimum gas concentration at 2-4 hrs.)

(40 g (oz) minimum gas concentration at 12 hrs.)

(2) Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 40 g/m<sup>3</sup> (2½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 32° C (90° F) or above.

(ii) 56 g/m<sup>3</sup> (3½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 26.5°-31.5° C (80°-89° F).

(iii) 72 g/m<sup>3</sup> (4½ lb/1000 ft<sup>3</sup>) for 12 hrs. at 21°-26° C (70°-79° F).

(iv) 96 g/m<sup>3</sup> (6 lb/1000 ft<sup>3</sup>) for 12 hrs. at 15.5°-20.5° C (60°-69° F).

(v) 160 g/m<sup>3</sup> (10 lb/1000 ft<sup>3</sup>) for 12 hrs. at 10°-15° C (50°-59° F).

(vi) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 12 hrs. at 4.5°-9.5° C (40°-49° F).

(3) Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacuum at one of the following schedules:

<sup>6</sup>There is a possibility that some articles, especially live plants, could be damaged by fumigation.

(i) 128 g/m<sup>3</sup> (2½ lb/1000 ft<sup>3</sup>) for 3 hrs. at 15.5° C (60° F) or above.

(ii) 144 g/m<sup>3</sup> (9 lb/1000 ft<sup>3</sup>) for 3 hrs. at 4.5°-15° C (40°-59° F).

(iii) 160 g/m<sup>3</sup> (10 lb/1000 ft<sup>3</sup>) for 3 hrs. at -1°-4° C (30°-39° F).

NOTE: Maximum volume of commodity being treated under subsection (3) shall not exceed 75% of total volume of chamber.

(b) Burlap bagging and jute bagging not containing cargo; and flour or finely ground oily meals, and the jute or burlap bagging used as a container or packing material for such flour or meals.

(1) Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure at one of the following schedules:

(i) 64 g/m<sup>3</sup> (4 lb/1000 ft<sup>3</sup>) for 24 hrs. at 32° C (90° F) or above.

(10 g (oz) gas concentration in commodity at 4-24 hrs.).

(35 g (oz) gas concentration in space at 4-12 hrs.).

(25 g (oz) gas concentration in space at 12-24 hrs.).

(ii) 96 g/m<sup>3</sup> (6 lb/1000 ft<sup>3</sup>) for 24 hrs. at 26.5°-31.5° C (80°-89° F).

(15 g (oz) gas concentration in commodity at 4-24 hrs.).

(50 g (oz) gas concentration in space at 4-12 hrs.).

(30 g (oz) gas concentration in space at 12-24 hrs.).

(iii) 128 g/m<sup>3</sup> (8 lbs/1000 ft<sup>3</sup>) for 24 hrs. at 21°-26° C (70°-79° F).

(20 g (oz) gas concentration in commodity at 4-24 hrs.).

(65 g (oz) gas concentration in space at 4-12 hrs.).

(35 g (oz) gas concentration in space at 12-24 hrs.).

(iv) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 24 hrs. at 15.5°-20.5° C (60°-69° F).

(30 g (oz) gas concentration in commodity at 4-24 hrs.).

(95 g (oz) gas concentration in space at 4-12 hrs.).

(50 g (oz) gas concentration in space at 12-24 hrs.).

(v) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 28 hrs. at 10°-15° C (50°-59° F).

(30 g (oz) gas concentration in commodity at 4-28 hrs.).

(95 g (oz) gas concentration in space at 4-12 hrs.).

(50 g (oz) gas concentration in space at 12-28 hrs.).

(vi) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 32 hrs. at 4.5°-9.5° C (40°-49° F).

(30 g (oz) gas concentration in commodity at 4-32 hrs.).

(95 g (oz) gas concentration in space at 4-12 hrs.).

(50 g (oz) gas concentration in space at 12-32 hrs.).

(2) Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 64 g/m<sup>3</sup> (4 lb/1000 ft<sup>3</sup>) for 24 hrs. at 32° C (90° F) or above.

(ii) 96 g/m<sup>3</sup> (6 lb/1000 ft<sup>3</sup>) for 24 hrs. at 26.5°-31.5° C (80°-89° F).

(iii) 128 g/m<sup>3</sup> (8 lbs/1000 ft<sup>3</sup>) for 24 hrs. at 21°-26° C (70°-79° F).

(iv) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 24 hrs. at 15.5°-20.5° C (60°-69° F).

(v) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 28 hrs. at 10°-15° C (50°-59° F).

(vi) 192 g/m<sup>3</sup> (12 lb/1000 ft<sup>3</sup>) for 32 hrs. at 4.5°-9.5° C (40°-49° F).

(3) Fumigation with methyl bromide in a chamber at 660 mm (26 inch) vacuum at one of the following schedules:

(i) 128 g/m<sup>3</sup> (8 lb/1000 ft<sup>3</sup>) for 3 hrs. at 15.5° C (60° F) or above.

(ii) 144 g/m<sup>3</sup> (9 lb/1000 ft<sup>3</sup>) for 3 hrs. at 4.5-15° C (40°-59° F).

NOTE: Maximum volume of commodity being treated under subsection (3) shall not exceed 75% of the total volume of chamber.

(c) Baled cotton lint, cotton linters, cotton waste, and cotton piece goods; and the jute or burlap bagging used as a container or packing material for such baled cotton lint, cotton linters, cotton waste, or cotton piece goods.

(1) Fumigation with methyl bromide under a tarpaulin or in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 128 g/m<sup>3</sup> (8 lb/1000 ft<sup>3</sup>) for 24 hours at 15.5° C 60° F or above

(25 g (oz.) concentration in commodity 4-24 hrs.)

(65 g (oz.) concentration in space 4-12 hrs.)

(35 g (oz.) concentration in space 12-24 hrs.)

(ii) 176 g/m<sup>3</sup> (11 lb/1000 ft<sup>3</sup>) for 24 hrs. at 4.5°-15° C (40°-59° F)

(30 g (oz.) concentration in commodity 4-24 hrs.)

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(95 g (oz.) concentration in space 4-24 hrs.)

(50 g (oz.) concentration in space 12-24 hrs.)

NOTE: Maximum volume of commodity being treated under subsection (1) shall not exceed 50% of the total volume of chamber. Concentration readings may be omitted for chamber fumigations.

(2) Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacuum at one of the following schedules:

(i) 128 g/m<sup>3</sup> (8 lb/1000 ft<sup>3</sup>) for 3 hrs. at 15.5° C (60° F) or above.

(ii) 144 g/m<sup>3</sup> (9 lb/1000 ft<sup>3</sup>) for 3 hrs. at 4.5°-15° C (40°-59° F).

NOTE: Maximum volume of commodity being treated under subsection (2) shall not exceed 75% of the total volume of chamber.

[46 FR 38334, July 27, 1981, as amended at 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985]

**§ 319.75-5 Marking and identity.**

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number, and

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983]

**§ 319.75-6 Arrival notification.**

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, way-

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bill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, as amended at 48 FR 57466, Dec. 30, 1983]

**§ 319.75-7 Costs and charges.**

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.<sup>3</sup> The importer shall be responsible for arrangements for treatments required under § 319.75-4. Any treatment required under § 319.75-4 for a restricted article shall be performed at the port of entry by a nongovernmental fumigator at the importer's expense, and shall be performed under the supervision of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[46 FR 38334, July 27, 1981]

**§ 319.75-8 Ports of entry.**

Any restricted article shall be imported only at a port of entry listed in § 319.37-14 of this part and found by the Deputy Administrator and specified on the permit issued pursuant to § 319.75-3 to have a nongovernmental fumigator available at the port to treat such restricted article pursuant to § 319.75-4. It is the responsibility of the importer to arrange with the nongovernmental fumigator for treatment of the article.

[46 FR 38334, July 27, 1981]

**§ 319.75-9 Inspection and phytosanitary certificate of inspection.**

(a) Any nursery stock, plant, fruit, vegetable, root, bulb, or other plant product designated as a restricted article and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied

<sup>3</sup>Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article which is accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article and grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

[50 FR 8707, Mar. 5, 1985]

#### Subpart—Exotic Bee Diseases and Parasites

SOURCE: 50 FR 24172, June 10, 1985, unless otherwise noted.

#### § 319.76 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) No person may import any restricted article unless in conformity with all of the restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or

abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(c) A restricted article may be imported without complying with other provisions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container or securely attached to the article itself if not in a container, and with such tag or label bearing the name of the person to whom the permit is issued.

(Approved by the Office of Management and Budget under control number 0579-0072)

[50 FR 24172, June 10, 1985, as amended at 59 FR 67133, Dec. 29, 1994]

#### § 319.76-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed respectively, to mean:

*Bee.* Any member of the superfamily Apoidea.

*Deputy Administrator.* The Deputy Administrator of the Animal and Plant

Health Inspector Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

*Exotic bee diseases.* Bee diseases of foreign origin, including but not limited to *Aspergillus* spp., *Bacillus* spp., *Entomophthora* spp., *Beauveria* spp., *Cordyceps* spp., and *Saccharomyces* spp.

*Exotic bee parasites.* Bee parasites of foreign origin, including but not limited to *Coelioxys* spp. and *Chrysis* spp., *Varroa jacobsoni*, *Eugarroa sinhai*, *Tropilaelaps clareae*, and *Acarapis woodi*.

*Import (importation, imported).* To import or move into the United States.

*Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator in accordance with law to enforce the provisions of this subpart.

*Person.* Any individual, corporation, company, society, association, or any other organized group.

*Plant pest.* The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, or other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

*Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Federal Plant Pest Act and related legislation and regulations promulgated thereunder.

*Secretary.* The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

*United States.* The States, District of Columbia, American Samoa, Guam,

Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

#### §319.76-2 Restricted articles.

The following articles from any country or locality other than Canada are restricted articles:

- (a) Live bees, other than honeybees of the genus *Apis*, in any life stage;<sup>1</sup>
- (b) Dead bees of any genus;
- (c) Used bee boards, hives, nests, and nesting material;
- (d) Used beekeeping equipment, e.g. smokers, hive tools, gloves or other clothing, and shipping containers;
- (e) Beeswax, unless it has been liquefied;
- (f) Pollen for bee feed; and
- (g) Honey for bee feed.

[50 FR 24172, June 10, 1985, as amended at 60 FR 6000, Feb. 1, 1995]

#### §319.76-3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Biological Assessments and Taxonomic Support, 4700 River Road Unit 133, Riverdale, Maryland 20737-1236, and should be submitted at least 30 days prior to arrival of the article at the U.S. port of entry. The completed application does not have to be on any particular form but must indicate that it is an application for a written permit, and include the following information:

- (1) Name, address, and telephone number of the importer;
- (2) Approximate quantity and kinds of articles intended to be imported;
- (3) Country or locality of origin;
- (4) Intended United States port of entry;
- (5) Means of transportation; and
- (6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this

<sup>1</sup>Regulations regarding the importation of live honeybees of the genus *Apis* are set forth in 7 CFR part 322.

subpart for importation shall be issued for the importation of the articles specified in the application if such articles appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, it may be moved into the United States from the port of entry only if all requirements of this subpart are met and only if an inspector at the port of entry does not determine that emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) are necessary with respect to such article.<sup>2</sup>

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he or she determines that the permit holder has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within 20 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict

as to any material fact, a hearing shall be held to resolve the conflict.

(Approved by the Office of Management and Budget under control number 0579-0072)

[50 FR 24172, June 10, 1985, as amended at 59 FR 67610, Dec. 30, 1994]

#### § 319.76-4 Inspections and treatments.

(a) Live bees, other than honeybees of the genus *Apis*, in any life stage shall be microscopically inspected by an inspector for exotic bee diseases and parasites, and any bee disease or parasite found will be physically removed by an inspector or destroyed by an inspector by treatment with a pesticide registered by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*), for use on bees and used in accordance with directions on the label in connection with the registration under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. The inspection may include dissection of a statistically designed representative sample of the bees, if deemed necessary by the inspector for determinations concerning the absence or presence of bee diseases or parasites. If the inspector determines that a disease or parasite cannot be removed or otherwise destroyed, the bees shall be killed by immersion in a solution containing at least 70% alcohol.

(b) Any dead bees for research at the time of importation must be in a solution containing at least 70% alcohol, or must be in a dry, sealed container. If in a dry, sealed container, the dead bees shall be kept in the container under the control of an inspector at the port of entry for 7 days.

(c) Any restricted article not covered by paragraph (a) or (b) of this section, prior to movement into the United States from the port of entry, shall be treated under the supervision of an inspector as follows:

(1) Dead bees; used bee boards, hives, nests, or nesting material; used bee-keeping equipment; and pollen for bee feed shall be treated in an airtight chamber with 450 mg of ethylene oxide per liter of chamber space at a temperature of at least 100° F (37.78° C) for 8 hours.

<sup>2</sup>Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he or she deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he or she deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150dd (b) and (c)), any product or article, including any article subject to this subpart, which is moving into or through the United States, and which he or she has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against articles which are not in compliance with the provisions of this subpart.

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(2) Beeswax that has not been liquefied shall be melted.

(3) Honey for bee feed shall be heated to 212 °F (100 °C) for 30 minutes.

**§ 319.76-5 Marking and shipping.**

(a) Any restricted article for importation by means other than mail shall at the time of importation bear on the outer container (if in a container) or on the article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee, and

(5) Identifying shipper's mark and number.

(b) Any restriction article for importation by mail must be addressed and mailed to Plant Protection and Quarantine at a port of entry designated by an asterisk in §319.37-14(b) of this part; must be accompanied by a separate sheet of paper within the package bearing the name, address, and telephone number of the intended recipient; and must bear on the outer container the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin, and

(3) Name and address of shipper, owner, or person shipping or forwarding the article.

(c) Any restricted article must be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(d) Live bees in any life stage, other than honeybees of the genus *Apis*, may be imported only in loose cells within noncrushable (hard plastic, wood, or metal), insect-proof containers.

(Approved by the Office of Management and Budget under control number 0579-0072)

**§ 319.76-6 Arrival notification.**

Promptly upon arrival of any restricted article at a port of entry, except for mail shipments, the importer must notify Plant Protection and Quarantine of the arrival by such means as a manifest, customs entry document, commercial invoice, way-

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bill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

**§ 319.76-7 Costs and charges.**

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.<sup>3</sup> The importer shall be responsible for arrangements for treatments required under §319.76-4. Any treatment required under §319.76-4 for a restricted article, other than for treatments of live bees in any life stage or for holding dead bees in dry, sealed containers, shall be performed at the port of entry by a nonfederal establishment at the importer's expense, and shall be performed under the direction of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

**§ 319.76-8 Ports of entry.**

(a) Any restricted article, other than bees in any life stage, imported by means other than mail may be imported only at a port of entry listed in §319.37-14(b) of this part.

(b) Any restricted article, other than bees in any life stage, imported by mail may be imported only at a port of entry designated by an asterisk in §319.37-14(b) of this part.

(c) Live bees in any life stage, other than honeybees of the genus *Apis*, may be imported at the Bee Biology and Systematics Laboratory, USDA, ARS, 261 NRB-UMC 53, Utah State University, Logan, Utah 84322; or at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705.

**Subpart—Gypsy Moth Host Material from Canada**

SOURCE: 64 FR 45866, Aug. 23, 1999, unless otherwise noted.

<sup>3</sup>Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

**§ 319.77-1 Definitions.**

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Canadian infested area.* Any area of Canada listed as a gypsy moth infested area in § 319.77-3 of this subpart.

*Canadian noninfested area.* Any area of Canada that is not listed as a gypsy moth infested area in § 319.77-3 of this subpart.

*Certificate of origin.* A document issued by an official authorized by the national government of Canada that states the area in which a regulated article was produced or grown and includes any other required additional declarations.

*Gypsy moth.* The insect known as the gypsy moth, *Lymantria dispar* (Linnaeus), in any stage of development.

*Import (imported, importation).* To bring or move into the territorial limits of the United States.

*Mobile home.* Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

*Outdoor household articles.* Articles associated with a household that are generally kept or used outside the home. Examples of outdoor household articles are awnings, barbecue grills, bicycles, boats, dog houses, firewood, garden tools, hauling trailers, outdoor furniture and toys, recreational vehicles and their associated equipment, and tents.

*Phytosanitary certificate.* A document issued by an official authorized by the national government of Canada that contains a description of the regulated article intended for importation into the United States and that certifies that the article has been thoroughly inspected or treated, is believed to be free from plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States. A phytosanitary certificate must be addressed to the Animal and Plant Health Inspection Service and may be issued no more than 14 days prior to the shipment of the regulated article.

*Recreational vehicles.* Vehicles, including pickup truck campers, one-piece

motor homes, and travel trailers, designed to serve as temporary places of dwelling.

*United States.* All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

*U.S. infested area.* Any area of the United States listed as a gypsy moth generally infested area in § 301.45-3 of this chapter.

*U.S. noninfested area.* Any area of the United States that is not listed as a gypsy moth generally infested area in § 301.45-3 of this chapter.

**§ 319.77-2 Regulated articles.**

In order to prevent the spread of gypsy moth from Canada into non-infested areas of the United States, the gypsy moth host materials listed in paragraphs (a) through (g) of this section are designated as regulated articles. Regulated articles may be imported into the United States from Canada only under the conditions described in § 319.77-4 of this subpart.

- (a) Trees without roots (e.g., Christmas trees), unless they were greenhouse-grown throughout the year;
- (b) Trees with roots, unless they were greenhouse-grown throughout the year;
- (c) Shrubs with roots and persistent woody stems, unless they were greenhouse-grown throughout the year;
- (d) Logs with bark attached;
- (e) Pulpwood with bark attached;
- (f) Outdoor household articles; and
- (g) Mobile homes and their associated equipment.

**§ 319.77-3 Gypsy moth infested areas in Canada.**

The following areas in Canada are known to be infested with gypsy moth:

- (a) *Province of British Columbia.* That portion of Vancouver Island, in the areas of Victoria and Nanaimo, that includes the following Land Districts: Comiaken, Cowichan, Esquimalt, Goldstream, Helmecken, Highlands, Lake, Malahat, Metchosin, North Saanich, Otter, Quamichaan, Sahatlam, Seymour, Shawnigan, Somenos, Sooke, South Saanich, and Victoria.

(b) *Province of New Brunswick.* That portion of the Province of New Brunswick that includes the following counties: Charlotte, Kings, Queens, Sunbury, and York.

(c) *Province of Nova Scotia.* That portion of the Province of Nova Scotia that includes the following counties: Annapolis, Digby, Halifax, Hants, Kings, Lunenburg, Queens, Shelburne, and Yarmouth.

(d) *Province of Ontario.* That portion of the Province of Ontario that includes the Districts of Algoma, Maritoulin, Nipissing, and Sudbury and the following counties and regional municipalities: Brant, Bruce, Dufferin, Durham, Elgin, Essex, Frontenac, Grey, Haldimand-Norfolk, Haliburton, Halton, Hamilton-Wentworth, Hastings, Huron, Kent, Lambton, Lanark, Leeds-Granville, Lennox-Addington, Middlesex, Muskoka, Niagara, Northumberland, Ottawa-Carleton, Oxford, Parry Sound, Peel, Perth, Peterborough, Prescott-Russell, Prince Edward, Renfrew, Simcoe, Stormont-Dundas-Glengarry, Victoria, Waterloo, Wellington, and York.

(e) *Province of Quebec.* That portion of the Province of Quebec that includes the following regional municipalities: Acton, Antoine-Labelle, Argenteuil, Arthabaska, Asbestos, Beauce-Sartigan, Beauharnois-Salaberry, Becancour, Bellechasse, Brome-Missisquoi, Champlain, Coaticook, Communaute Urbaine de Montreale, Communaute Urbaine de L'Outaouais, Communaute Urbaine de Quebec, D'Autray, Desjardins, Deux-Montages, Drummond, Francheville, Joliette, L'Amiante, L'Assomption, L'Erable, L'Ile-D'Orleans, Lajemmerais, Laval, La Nouvelle-Beauce, La Riviere-Du-Nord, La Vallee-De-La-Gatineau, La Vallee-Du-Richelieu, Le Bas-Richelieu, Le Centre-De-La-Mauricie, Le Granit, Le Haut-Richelieu, Le Haut-Saint-Francois, Le Haut-Saint-Laurent, Le Haute-Yamaska, Le Val-Saint-Francois, Les Chutes-De-La-Chaudire, Les Collines-De-L'Outaouais, Les Etchemins, Les Jardins-De-Napierville, Les Laurentides, Les Maskoutains, Les Moulins, Les Pays-D'En-Haut, Lotbiniere, Maskinonge,

Matawinie, Mamphremagog, Mirabel, Montcalm, Montmagny, Nicolet-Yamaska, Papineau, Pontiac, Portneuf, Robert-Cliche, Roussillon, Rouville, Sherbrooke, Therese-De-Blainville, and Vaudreuil-Soulanges.

**§319.77-4 Conditions for the importation of regulated articles.**

(a) *Trees and shrubs.*<sup>1</sup> Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems may be imported into the United States from any area of Canada without restriction under this subpart if they:

(i) Were greenhouse-grown throughout the year; or

(ii) Are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas.

(2) Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the trees or shrubs originated in a Canadian infested area, they must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the trees or shrubs have been inspected and found free of gypsy moth or that the trees or shrubs have been treated for gypsy moth in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter.

(ii) If the trees or shrubs originated in a Canadian noninfested area, they must be accompanied by a certificate of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(b) *Logs and pulpwood with bark attached.*<sup>2</sup> (1) Logs or pulpwood with bark

<sup>1</sup>Trees and shrubs from Canada that are capable of propagation may be subject to additional restrictions under "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" (§§319.37 through 319.37-14 of this part).

<sup>2</sup>Logs from Canada are also subject to restrictions under "Subpart—Logs, Lumber,

attached that are destined for a U.S. infested area and that will not be moved through any U.S. noninfested area may be imported from any area of Canada without restriction under this subpart.

(2) Logs or pulpwood with bark attached that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the logs or pulpwood originated in a Canadian infested area, they must be either:

(A) Accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that they have been inspected and found free of gypsy moth or that they have been treated for gypsy moth in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter; or

(B) Destined for a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing.

(ii) If the logs or pulpwood originated in a Canadian noninfested area, they must be accompanied by a certificate of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(c) *Outdoor household articles and mobile homes and their associated equipment.* (1) Outdoor household articles and mobile homes and their associated equipment that are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas may be imported from any area in Canada without restriction under this subpart.

(2) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction under this subpart.

and Other Unmanufactured Wood Articles'' (§§ 319.40 through 319.40-11 of this part).

(3) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into a U.S. noninfested area, or that will be moved through a U.S. noninfested area, may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

(Approved by the Office of Management and Budget under control number 0579-0142)

**§ 319.77-5 Disposition of regulated articles denied entry.**

Any regulated article that is denied entry into the United States because it does not meet the requirements of this subpart must be promptly safeguarded or removed from the United States. If the article is not promptly safeguarded or removed from the United States, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd and 150ff).

**PART 322—HONEYBEES AND HONEYBEE SEMEN**

- Sec.
- 322.1 Importation of honeybees and honeybee semen.
- 322.2 Definitions.
- 322.3 Permits.
- 322.4 Inspections.
- 322.5 Marking and shipping.
- 322.6 Arrival notification.
- 322.7 Costs and charges.
- 322.8 Ports of entry.

AUTHORITY: 7 U.S.C. 281; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 50 FR 25689, June 21, 1985, unless otherwise noted.

**§ 322.1 Importation of honeybees and honeybee semen.**

(a) No persons may import honeybees or honeybee semen, except as otherwise provided in this part.

(b) Honeybees or honeybee semen from Canada may be imported into the United States without any further restrictions under this part.