

(h) 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.

(i) 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.

(j) Any permit that has been issued for the importation of Unshu oranges may be withdrawn by an inspector orally or in writing, if he or she determines that the holder of the permit has not complied with any of the conditions in the regulations.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 Any person whose permit has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn.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 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 Administrator.

(k) The term *inspector* means any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, who is authorized by the Administrator to enforce the regulations in this subpart.

[32 FR 7959, June 2, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 319.28, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### Subpart—Plants for Planting<sup>1 2</sup>

SOURCE: 45 FR 31585, May 13, 1980; 60 FR 27674, May 25, 1995, unless otherwise noted.

#### § 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 or any article whose importation is not authorized pending pest risk analysis in accordance with § 319.37–2a, 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 United States of quarantine 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 quarantine 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

<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.

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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, as amended at 76 FR 31208, May 27, 2011]

### §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:

*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.

*Bulb.* 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 quarantine pests.

*Controlled import permit.* A written or electronically transmitted authorization issued by APHIS for the importation into the United States of otherwise prohibited or restricted plant material for experimental, therapeutic, or developmental purposes, under controlled conditions as prescribed by the Administrator in accordance with §319.6.

*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 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*;

<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.