Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–086–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Some of the fruits and vegetables are already eligible for importation under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would be required to meet other special conditions. In one case, we propose to add a systems approach that would provide an alternative to methyl bromide fumigation. These actions would provide the United States with additional types and sources of fruits and vegetables while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

DATES: We will consider all comments that we receive on or before February 21, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2005–0107 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 03–086–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–086–1.

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

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

At the request of various importers and foreign ministries of agriculture, we are proposing to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under certain conditions, for importation into the United States. We are also proposing to list certain fruits and vegetables that have been imported into the United States under a permit without being specifically listed in the regulations to improve the transparency of our regulations.

The fruits and vegetables referred to in this document would have to be imported under a permit and would be subject to the requirements in § 319.56–6 of the regulations, which provides that all imported fruits and vegetables will be inspected and will be subject to disinfection at the port of first arrival if an inspector requires it. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated.

Some of the fruits and vegetables proposed for importation would have to meet other special conditions. The proposed conditions of entry, which are discussed below, appear adequate to prevent the introduction and spread of quarantine pests through the importation of these fruits and vegetables.

We have prepared a pest risk assessment for each of the fruits and vegetables that we propose to add, unless we have allowed their entry previously under a permit. Copies of the pest risk assessments are available from the person listed under **FOR FURTHER INFORMATION CONTACT**.

We propose to make other amendments to update and clarify the regulations and improve their effectiveness. Our proposed amendments are discussed below by topic.

Allium spp. from Canada

In § 319.56–2, paragraph (c) serves as a general permit for fruits and vegetables grown in Canada and provides that fruits and vegetables grown in Canada may be imported into the United States without restrictions, with one exception. (That exception applies to potatoes grown in Newfoundland and a portion of the Municipality of Central Saanich in the Province of British Columbia; potatoes from those two areas are prohibited importation into the United States due to potato wart disease and golden nematode, respectively.) In this document, we propose to amend § 319.56–2(c) to add a requirement that consignments of *Allium* spp. consisting of the whole plant or above ground parts be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Canada with an additional declaration

stating that the articles are free from *Acrolepiopsis assectella* (Zeller).

A. assectella, known as the leek moth, has been reported to infest *Allium* spp. in Canada and is known to be a serious pest in continental Europe, where Italian leek infestation rates have been known to reach 40 percent. Leek moth larvae and pupae are often hidden within *Allium* tops, near new growth at the crown, which is why the proposed phytosanitary certificate requirement would apply to consignments consisting of the whole plant or above ground parts, and not to consignments consisting solely of bulbs. We believe this proposed requirement is necessary to prevent the introduction of leek moth into the United States.

Fruits and Vegetables Eligible for Entry Under Permit

Prior to 1992, APHIS did not specifically amend the regulations to list those fruits and vegetables for which we issued a permit after determining that the fruit or vegetable was eligible for entry under the regulations in § 319.56–2(e). However, in 1992, in an effort to increase transparency, we changed our approach and began to amend the regulations to specifically list all newly eligible fruits and vegetables (i.e., those that were not previously eligible under a specific administrative instruction or imported under permit in accordance with § 319.56–2(e)). In 2004, we began the process of amending the regulations to list those fruits and vegetables that were allowed entry exclusively under permit prior to our decision to specifically list the commodities in the regulations.

In this document, we continue the process of amending the regulations to list those fruits and vegetables that were approved for entry prior to 1992 and that have been eligible for importation under permit. In those cases where a permit has contained additional conditions that apply to the importation of the fruit or vegetable (such as a requirement for a phytosanitary certificate with an additional declaration or limitations on the origin or distribution of the article), those additional conditions would be reflected in the regulations. This proposed action would serve to improve the transparency of our regulations.

The permit requirement for these fruits and vegetables would continue to apply to their importation, as would the requirements of § 319.56–6 of the regulations described earlier in this document.

As noted previously, some of the fruits and vegetables we would list in the regulations would also have to meet other special conditions. The proposed conditions of entry, which are discussed below, have proven to be adequate to prevent the introduction and spread of quarantine pests through the importation of these fruits and vegetables.

Inspected and Subject to Disinfection

Section 319.56–2t lists fruits and vegetables that may be imported into the United States in accordance with the inspection and disinfection requirements of § 319.56–6 and all other applicable requirements of the regulations. We propose to amend that list to include the following additional fruits and vegetables from certain countries. All of these fruits and vegetables are currently eligible for importation into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations. These fruits and vegetables also meet the criteria of § 319.56–2(e)(4) and have been imported into the United States under permit since before 1992.

Country of origin	Common name	Botanical name
Bahamas	Grapefruit	*Citrus paradisi.*
	Lemon	*Citrus limon.*
	Orange	*Citrus sinensis.*
	Tangelo	*Citrus reticulata.*
Belize	Cichorium	*Cichorium* spp.
	Eggplant	*Solanum melongena.*
Brazil	Cichorium	*Cichorium* spp.
Chile	Cichorium	*Cichorium* spp.
Colombia	Cichorium	*Cichorium* spp.
Costa Rica	Cichorium	*Cichorium* spp.
	Eggplant	*Solanum melongena.*
Guatemala	Cichorium	*Cichorium* spp.
Honduras	Eggplant	*Solanum melongena.*

We have determined that any quarantine pests that might be carried by any of the fruits and vegetables listed above would be readily detectable by an inspector. Therefore, the provisions of § 319.56–6 for inspection and disinfection at the U.S. port of first arrival appear adequate to prevent the introduction into the United States of quarantine pests by the importation of these fruits and vegetables.

Paragraph (b) of § 319.56–2t currently sets out any additional restrictions that may apply to a fruit or vegetable listed in the table in paragraph (a) of that section, such as a requirement for a phytosanitary certificate with an additional declaration or limitations on the species of fruit or vegetables that are eligible for entry. For citrus from the Bahamas, we would add a new paragraph (b)(6)(i) that would specify grapefruit (*Citrus paradisi*), lemon (*C. limon*), orange (*C. sinensis*), and tangelo (*C. reticulata*) as eligible for importation into the United States.

Following an outbreak of citrus canker disease (*Xanthomonas citri* (Hasse) Dowson) on the island of Abaco in 2004, we began requiring all shipments of citrus from the Bahamas to be accompanied by a phytosanitary certificate issued by the NPPO of the Bahamas with an additional declaration stating that the fruit originated in an area that is free of citrus canker. Currently, the island of Abaco is the only area in the Bahamas where citrus canker is known to occur. Therefore, we would also add a new paragraph (b)(5)(vi) to § 319.56–2t which would provide for all shipments of citrus from the Bahamas to be accompanied by a phytosanitary certificate with that additional declaration.

The import permit for eggplant from Belize, Costa Rica, and Honduras specifies that the eggplant may be imported in commercial shipments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often

grown with little or no pest control. Commercial shipments, as defined in § 319.56–1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Identification of a particular shipment as commercial is based on a variety of indicators, including, but not limited to, the quantity of produce, the type of packaging, identification of a grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Fruit From Fruit Fly-Free Areas

We propose to amend § 319.56–2t to allow the entry of grapes from Argentina, which are currently eligible for entry under permit, provided the shipments meet the criteria set forth in § 319.56–6, were grown in an area recognized by APHIS as free of Mediterranean fruit fly (Medfly, *Ceratitis capitata*) and *Anastrepha* spp., and are accompanied by a phytosanitary certificate issued by the NPPO of Argentina. The proposed origin and phytosanitary certificate requirements for these fruits, which reflect the current permit conditions that apply to their importation, are necessary to assure us that the fruits originated in a fruit fly-free area and were inspected and found free of plant pests.

To address those cases where grapes from Argentina are grown outside a fruit fly-free area, we would also amend § 319.56–2x to add grapes from Argentina to the list of fruits and vegetables that may be imported into the United States provided that they are treated in accordance with 7 CFR part 305.

Fruits and Vegetables Enterable With Treatment

We propose to amend § 319.56–2x to list the fruits and vegetables in the table below as eligible for importation, provided they have been treated in accordance with 7 CFR part 305. The fruits listed are already admissible under permit with prescribed treatment. This proposed action would provide the same benefit as the amendments to § 319.56–2t discussed earlier in this document, i.e., they would improve the transparency of our regulations. Applicable treatments have proven effective at mitigating the risk of introducing any quarantine pests that might be carried by any of the fruits and vegetables listed below.

Country of origin	Common name	Botanical name	Plant parts
Chile	Lemon	*Citrus limon*	Fruit.
Italy	Kiwi	*Actinidia deliciosa*	Fruit.
Republic of South Africa	Apple	*Malus domestica*	Fruit.
	Grape	*Vitis* spp.	Fruit.

Cichorium From Central and South America

As noted above, articles of the genus *Cichorium* are currently allowed importation under permit from Belize, Brazil, Chile, Colombia, Costa Rica, and Guatemala. In addition, articles of the genus *Cichorium* are currently listed in § 319.56–2t as eligible for importation from Argentina, Bolivia, Ecuador, Honduras, Nicaragua, Panama, and Peru. In this document, we are proposing to amend § 319.56–2t to list *Cichorium* spp. from El Salvador, French Guiana, Guyana, Paraguay, Suriname, Uruguay, and Venezuela as enterable subject to § 319.56–6 and all other applicable requirements of the regulations.

In 1996, we prepared a qualitative pest risk analysis entitled, ''Fresh *Cichorium endivia* and *Cichorium intybus* for Consumption from Ecuador and Nicaragua into the United States.'' In our assessment, we examined potential pests associated with *Cichorium* spp. in Central America and South America so that we could use our conclusions as a basis for future import requests for *Cichorium* spp. from countries in these regions. We concluded that no quarantine pests were likely to follow the pathway and, because of the low risk associated with the importation of *Cichorium* spp., that inspection was the only necessary mitigation measure. There have been no significant developments or data that would necessitate changing our earlier pest risk assessments regarding *Cichorium* spp.

Currently, in the table in § 319.56–2t, in the entries for those Central American and South American countries noted in the paragraph above the previous paragraph, we list only specific species of cichorium (e.g., chicory) as eligible for importation. In order to make our regulations more clear and consistent, we also propose to amend § 319.56–2t by removing the common name entries under Argentina for endive, Bolivia for Belgian endive, Ecuador for radicchio, Honduras for chicory, Nicaragua for radicchio, Panama for Belgian endive, chicory, and endive, and Peru for radicchio and to replace those common name entries with ''cichorium.'' This would allow for the importation of additional varieties of cichorium from these countries.

Eggplant From Central America

Eggplant from Guatemala and Panama is listed in the table in § 319.56–2t. As a condition of entry in its import permit, shipments are limited to commercial eggplant only, but we failed to specify ''commercial shipments only'' when those entries were added to § 319.56–2t. Therefore, we propose to add a reference to paragraph (b)(3), which specifies ''commercial shipments only,'' under the entries for eggplant from Guatemala and Panama in the table in § 319.56–2t.

New Zealand Spinach From Israel

In February 2004, at the request of Israel, we prepared a pest risk analysis entitled, ''Importation of New Zealand Spinach, (*Tetragonia tetragonioides*) Palas., from Israel into the United States.'' In that document, we identified several pests associated with New Zealand Spinach that were known to exist in Israel, including nematodes, bacteria, and fungi. We determined that there was a low risk associated with these pests because they were either already established in the United States or they were not likely to follow the pathway from Israel to the United States. We concluded that inspection at the port of entry was the only necessary mitigation measure. Therefore, we propose to amend § 319.56–2t by adding New Zealand spinach from Israel to the list of commodities eligible for importation into the United States.

Citrus From New Zealand

We propose to amend § 319.56–2t by adding an entry for commercial citrus from New Zealand. We have prepared a pest risk assessment and a risk management document for *Citrus* spp. from New Zealand and identified *Cnephasia jactatana*, *Coscinoptycha improbana, Ctenopseustis obliquana*, *Epiphyas postvittana*, *Planotortrix excessana*, and *Pezothrips kellyanus* as

pests of concern for citrus with a medium risk of introduction. In the risk management document, we described a single set of mitigation measures for all six pests. The mitigation measures, which are discussed below, are also part of the existing Australian citrus import program described in § 319.56–2v. Australia and New Zealand have similar climates and citrus is subject to similar pests in both countries and these measures have been effective at mitigating the risk of introducing pests of concern on Australian citrus. Therefore, we believe the same mitigation measures used for Australian citrus would mitigate the risk of introducing quarantine pests on New Zealand citrus also.

In the entry we would add for New Zealand citrus in the table in § 319.56–2t, a reference to paragraph (b)(3) of that section, which states ''commercial shipments only.'' We would allow only the importation of commercial shipments of citrus from New Zealand because *Cnephasia jactatana*, *Coscinoptycha improbana*, *Ctenopseustis obliquana*, *Epiphyas postvittana*, and *Planotortrix excessana* are surface feeders that would be readily removed by the commercial post-harvest processing, which includes washing, brushing, sanitizing dips, waxing, and drying. Fruit are inspected after washing/brushing, and any fruit with unacceptable feeding damage or that are visibly infested with the larvae of any of the surface feeding pests are culled at this stage. Standard post-harvest processes for commercially produced fruit would also remove larval and adult *P. kellyanus* on the surface of the fruit. *P. kellyanus* is an early season problem with anecdotal evidence indicating that fruit becomes relatively resistant to *P. kellyanus* once the calyx closes up; however, there is no information available about the likelihood of eggs being present in fruit at the time of harvest. Although the species has been reported to lay eggs within the epidermis of green fruit in a laboratory situation, it is not known if eggs are laid in mature fruit under natural conditions. Oviposition, when it does occur, is shallow and the sanitizing agents used and heat (up to 48 °C) treatment during standard post-harvest processing would render non-viable most eggs that might be present in the harvested fruit. In addition, there is evidence that wax treatments, when used in combination with the other post-harvest processes discussed in this paragraph, provide significant control of adult arthropods in fruit crops (e.g., *Brevipalpus chilensis* in cherimoyas and citrus).

In addition, we would amend paragraph (b) of § 319.56–2t by adding a new paragraph (b)(5)(vii), which would require all shipments of citrus from New Zealand to be accompanied by a phytosanitary certificate issued by the country's NPPO with an additional declaration stating that the fruit in the shipment has been inspected and found free of *Cnephasia jactatana*, *Coscinoptycha improbana*, *Ctenopseustis obliquana*, *Epiphyas postvittana*, *Planotortrix excessana*, and *Pezothrips kellyanus*. The phytosanitary certificate would provide additional security that the fruit has been inspected prior to shipment and that the post-harvest procedures have been effective at removing all quarantine pests.

Paragraph (b)(5)(vii) would also provide for an additional inspection at the port of entry consisting of a biometric sampling at a rate of 100 percent of 30 boxes, taken randomly throughout the shipment. This inspection would also include an examination of the box for hitchhiking pests. We believe that the post-harvest procedures, phytosanitary certificate, and port-of-entry inspection would effectively mitigate the risk of introducing the pests of concern into the United States.

Pineapples From South Africa

We currently allow pineapples from South Africa entry into all States, except Hawaii, and territories without restrictions, but the pest risk assessment entitled ''Importation of Pineapple Fruit (*Ananas comosus*) from South Africa into the Continental United States'' (March 1997) only evaluated the risks associated with the importation of South African pineapples into the continental United States. This oversight has recently come to our attention and in order to correct it, we would amend the entry for pineapples from South Africa in the table in § 319.56–2t by adding a reference to a new paragraph (b)(2)(v), which would limit distribution to the continental United States only and require shipments to be labeled accordingly.

Miscellaneous Changes to §§ 319.56–2t and 319.56–2x

We propose to make several nomenclature changes to commodities listed in §§ 319.56–2t and 319.56–2x. These changes would more accurately describe each commodity, are more universally understood, and would allow for easier identification at ports of entry. In § 319.56–2t, we propose to change the common name of chard from the Republic of Korea to Swiss chard and to change the plant part entry to read ''leaf and stem'' instead of ''leaf.'' We also propose to change the botanical name for Swiss chard from Peru from *Beta vulgaris* to *Beta vulgaris* subsp. *cicla*. In § 319.56–2x, we propose to amend the entry for El Salvador by changing the common name for garden bean to green bean.

We also propose to make nonsubstantive changes to § 319.56–2t for clarity. We propose to revise the plant parts entries for rambutan, longan, and litchi to include ''cluster;'' for bananas from Mexico to read ''flower and leaf'' instead of ''flower and fruit;'' for loroco from El Salvador and Nicaragua to read ''flower and leaf;'' and for cassava from Sierra Leone to read ''leaf and root.''

In § 319.56–2x, we would amend all entries for litchis and longan to include ''cluster'' under the plant parts heading.

Tomatoes From Chile

Currently, the regulations in § 319.56–2dd(d) provide for tomatoes from Chile to be imported only if treated for Medfly, the fruit fly *Rhagoletis tomatis*, and tomato leafminer (*Tuta absoluta*) with methyl bromide in accordance with 7 CFR part 305. In March 2005, in an effort to develop alternatives to methyl bromide fumigation, we prepared a pest risk analysis entitled, ''Importation of Fresh Tomato Fruit (*Lycopersicon esculentum* Mill.) from Chile into the United States.'' The risk analysis evaluated the efficacy of a systems approach against Medfly, *Rhagoletis tomatis*, *Tuta absoluta*, and *Liriomyza huidobrensis*, a leafminer. A systems approach is defined as a set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain pests.

We propose to amend § 319.56–2dd by reorganizing paragraph (d) and by adding a new paragraph (d)(2) which would set forth provisions of a systems approach for tomatoes from all regions in Chile. The regulations in § 319.56–2dd currently provide for the importation of tomatoes from Spain, France, and Morocco into the United States under a similar systems approach. Since the implementation of the systems approach, pest interceptions associated with tomatoes from Spain and France have been low, which demonstrate the effectiveness of the systems approach. The provisions of the systems approach, described below,

would include mitigation measures for Medfly, *Rhagoletis tomatis*, *Tuta absoluta*, and *Liriomyza huidobrensis*.

Under paragraph (d)(2)(i) of the proposed regulations, we would require all production sites to be approved and registered with the NPPO of Chile. Initial approval of production sites would be done by APHIS and the NPPO of Chile. The NPPO of Chile would be required to visit and inspect the sites monthly starting 2 months before harvest and continuing through the end of the shipping season. APHIS could monitor the production sites at any time during this period.

Paragraph (d)(2)(ii) would require tomato production sites to consist of pest exclusionary greenhouses, which would be required to have self-closing double doors and have all other openings and vents covered with 1.6 mm (or less) screening.

Under paragraph (d)(2)(iii) of the proposed regulations, production sites located in a region of Chile where Medfly occurs would have to conduct trapping for Medfly; this trapping would not be required for Medfly-free regions of the country. Medfly free areas of Chile are listed in § 319.56–2, paragraph (j). Where trapping is necessary, we would require McPhail traps with an approved protein bait be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least 2 traps per greenhouse. We would also require a minimum of 10 traps with trimedlure to be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap/10 ha. At least one of these traps would have to be near a greenhouse. All traps would have to be checked on a weekly basis.

Production sites would have to maintain Medfly prevalence levels of 0.7 fly/trap/week (F/T/W) or less for 2 months before harvest and throughout the harvest season in order to maintain their registration. If the F/T/W exceeds this level, the production site would be prohibited from shipping under the systems approach until APHIS and the NPPO of Chile agree that risk mitigation has been achieved.

Production sites in all areas of Chile would be required to put in place mitigation measures for *Rhagoletis tomatis*, *Tuta absoluta*, and *Liriomyza huidobrensis*.

Under paragraph (d)(2)(iv), all registered production sites would have to conduct trapping for *Rhagoletis tomatis*. We would require McPhail traps with an approved protein bait be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least 2 traps per greenhouse. We would require only the use of a protein bait approved for *R. tomatis* inside greenhouses because the bait is strong enough to attract both fruit flies if they are present inside greenhouses without attracting additional Medflies from outside of greenhouses. Therefore, it would be unnecessary to duplicate the trapping protocol for greenhouses in areas where Medfly is known to occur. We would require McPhail traps with an approved protein bait be placed in the area surrounding the production site. Traps would have to be placed inside a 500 meter buffer zone at a density of 1 trap/10 ha for a minimum of 10 traps. At least one of the traps would have to be near a greenhouse. All traps would have to be checked on a weekly basis. There is only one approved bait for *R. tomatis* and it is a weak lure for Medfly. While this bait would be sufficient to attract Medfly in the confines of a greenhouse, it would not be strong enough to attract Medfly in the open areas surrounding a greenhouse. Therefore, it would be necessary to use separate traps for both Medfly and *R. tomatis* in areas surrounding production sites in areas where Medfly exists.

If within 30 days of harvest a single *Rhagoletis tomatis* is captured inside the greenhouse or in a consignment or if two *R. tomatis* are captured or detected in the buffer zone, shipments from the production site would be suspended until APHIS and the NPPO of Chile determine that risk mitigation is achieved.

Paragraph (d)(2)(v) would require that registered production sites conduct regular inspections for *Tuta absoluta* throughout the harvest season and find these areas free of *T. absoluta* evidence (e.g., eggs or larvae). We would not require trapping for *T. absoluta* in the greenhouses or surrounding areas because the female *T. absoluta* releases a powerful pheromone that can lure males from long distances.

If within 30 days of harvest two *Tuta absoluta* are captured inside the greenhouse or a single *T. absoluta* is found inside the fruit or in a consignment, shipments from the production site would be suspended until APHIS and the NPPO of Chile determine that risk mitigation is achieved.

Under paragraph (d)(2)(vi), we would require that the NPPO of Chile conduct monthly inspections for *Liriomyza huidobrensis* leaf mines and visible external pupae or adults to maintain low populations of the pest inside greenhouses. *L. huidobrensis* larvae frequently mine along the midribs of leaves and late instar larvae and are almost always found mining the lower surfaces of leaves or within petioles, making them easy to identify. If *L. huidobrensis* is found to be generally infesting the production site, APHIS would immediately cancel exports from the production site until APHIS and the NPPO of Chile determine that risk mitigation is achieved. We believe these inspections would successfully mitigate the risk associated with *L. huidobrensis* because the mines are easy to detect in visual inspections.

Under paragraph (d)(2)(vii), we would require that all traps in registered sites be placed at least 2 months prior to the harvest and be maintained through the harvest season. We would also require traps to be monitored and serviced weekly.

Under paragraph (d)(2)(viii), we would require the NPPO of Chile to maintain records of trap placement, checking of traps, and of any *Rhagoletis tomatis* or *Tuta absoluta* captures for 1 year for APHIS review. The NPPO of Chile would be required to maintain an APHIS approved quality control program to monitor or audit the trapping program. APHIS would have to be notified when a production site is removed from or added to the program.

Paragraph (d)(2)(ix) would require the tomatoes be packed within 24 hours of harvest in a pest exclusionary packinghouse and be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. In addition tomatoes, would have to be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin, for transit to the United States, which would have to remain intact until arrival in the United States. These requirements would safeguard harvested fruit from infestation as well as deter additional pests that may hitchhike with the shipment.

Under paragraph (d)(2)(x) we would require the packinghouse to only accept fruit from registered approved production sites during the time the packinghouse is in use for exporting fruit to the United States. This measure would ensure that fruit grown and harvested under the systems approach would not be exposed to potentially infested fruit from unregistered groves.

Finally, paragraph (d)(2)(xi) would require each shipment of tomatoes to be accompanied by a phytosanitary certificate issued by the NPPO of Chile with an additional declaration, ''These tomatoes were grown in an approved production site in Chile.'' In addition, we would require each shipment box to

be labeled with the identity of the production site.

Mangoes From Philippines

Section 319.56–2ii contains administrative instructions to provide for the importation of mangoes from the Phillippines. Currently, only mangos from the island of Guimaras are allowed importation into the United States because it is the only area in the Philippines that is free of mango seed weevil, a quarantine pest. We have determined that mangos can be safely imported from most areas of the Philippines into Guam and Hawaii because the mango seed weevil is already present in those areas. Therefore, we propose to amend § 319.56–2ii to allow mangos to be imported from all areas of the Philippines, except the island of Palawan, into Guam and Hawaii. The island of Palawan is an exception because the pulp seed weevil is present there, a pest that is not known to exist in the United States. Shipments would be allowed importation into Guam and Hawaii provided that they are labeled ''For distribution in Guam and Hawaii only.'' We would also require shipments of mangoes originating from those additional islands of the Philippines to meet all other provisions set forth in § 319.56–2ii, which include vapor heat treatment for fruit flies of the genus *Bactrocera*, inspection in either the Philippines or the port of first arrival in the United States, and a phytosanitary certificate stating that the shipment has been treated for fruit flies of the genus *Bactrocera* in accordance with paragraph (b) of § 319.56–2ii.

Miscellaneous

We propose to amend § 319.56–1 by adding a definition of *national plant protection organization* (NPPO). Our proposed definition is the same as that provided in the International Plant Protection Convention's Glossary of Phytosanitary Terms.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities that may incur benefits or costs from the implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

We propose to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Many of these fruits and vegetables are already being imported under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would be required to be treated or meet other special conditions. We also propose to eliminate or modify existing treatment requirements for specified commodities and make other miscellaneous changes. These actions would improve the transparency of our regulations while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

Impact on Small Entities

The Regulatory Flexibility Act requires agencies to consider the economic impact of their regulations on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between differently sized entities. Data on the number and size of U.S. producers of the various commodities proposed for importation into the United States in this document are not available. However, since most fruit and vegetable farms are small by Small Business Administration standards, it is likely that the majority of U.S. farms producing the commodities listed below are small entities.

As previously stated, many of the commodities listed in this document may currently enter the United States under permit. Therefore, we do not expect the amount of many commodities submitted for importation to increase beyond current levels. Additionally, in many cases, importation of certain commodities is necessary given that the commodities are not grown extensively in the United States (e.g., chicory, kiwis, and mangoes). In other instances, importation augments domestic supplies that are not sufficient to meet consumer demand (e.g., apples, garlic, and onions).

Grapes and Cichorium From Argentina

Grapes from Argentina are already admissible under permit into the United States. The United States imports an average of 490,000 tons of grapes (7 percent of its domestic supply) per year to satisfy its domestic demand for consumption.[1] However, less than 1 percent of these imports originate in Argentina. The growing season for grapes in Argentina is opposite of that in the United States, thereby complementing rather than competing with U.S. grape production. Therefore, even if we assume that Argentina greatly increases its exports of grapes to the United States, it is more likely to displace other countries' share of U.S. imports than to affect the level of U.S. consumption of domestic grapes. The economic impact on the level of U.S. grape consumption and production resulting from this proposed change is expected to be small.

With respect to cichorium, no official production data are available in either the United States or Argentina. Therefore, we assume that both the United States and Argentina are small commercial producers of cichorium. Between 2000 and 2003, U.S. imports of fresh cichorium averaged 3.8 thousand tons of a non-witloof variety and 2.5 thousand tons of a witloof variety; none of these imports originated in Argentina.[2] Between 2000 and 2003, Argentina's exports of cichorium to the world as a whole averaged 7 metric tons annually. Even if all of these exports were directed to the United States, they would only represent 0.11 percent of U.S. demand for imported cichorium. The economic impact resulting from this proposed change is not expected to be substantial.

***Allium* spp. From Canada**

Alliaceous vegetables (i.e., onions, shallots, leeks, and garlic) from Canada can be imported into the United States

[1] FAOSTAT for production data. USDA/FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Trade Data: Harmonized Tariff Schedule for trade data.

[2] FAOSTAT for production data. USDA/FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Trade Data: Harmonized Tariff Schedule (HS: 070529 non-witloof variety of chicory, and 070521 fresh chicory of witloof variety).

under the general permit in § 319.56–2(c) for articles from Canada. Between 2000 and 2003, Canada supplied 19 percent of annual U.S. imports of shallots and onions, 3 percent of U.S. imports of leeks and 0.62 percent of U.S. imports of garlic on average.[3] U.S. imports amount to less than 10 percent of U.S. production of shallots and onions and less than 15 percent of U.S. garlic production. The proposed rule would add, as a condition of entry, that each shipment of alliaceous vegetables consisting of the whole plant or above ground parts be accompanied by a phytosanitary certificate containing an additional declaration from the Canadian NPPO that the shipment is free of *Acrolepiopsis assectella*. We would not expect exporters to incur any additional expenses as a result of this proposed requirement. Therefore, U.S. importers/consumers of these commodities would not see an increase in the cost of alliaceous vegetables from Canada. Even if exporters of alliaceous vegetables from Canada were to experience an increase in exporting cost because of the phytosanitary requirement and pass this on to U.S. importers/consumers, the benefits of keeping the leek moth out of the United States would outweigh such an increase in cost. As a result, the economic impact on the U.S. level of demand for consumption and/or production of alliaceous vegetables is not expected to be significant.

Cichorium, Lemons, and Tomatoes (Under a Systems Approach) From Chile

Lemons from Chile are already being imported into the United States under permit; between 2000 and 2003, 4 percent of annual U.S. imports of lemons and limes originated in Chile.[4] We have no reason to expect that listing lemons from Chile in the regulations would result in an increase in exports. Even if we assume that Chile increases its exports of lemons into the United States, it is more likely to displace other countries' share for U.S. imports of them than to affect the level of U.S. consumption of domestic lemons. The economic impact resulting from this change is not expected to be substantial.

Tomatoes from Chile are already being imported into the United States if fumigated with methyl bromide. The proposed rule would provide tomato producers with an alternative to methyl bromide fumigation by providing for a systems approach. APHIS continues to strive to meet the objectives of the Montreal Protocol by providing alternatives to methyl bromide fumigation treatment for fruit and vegetable producers. As registered producers in Chile already comply with most of the production practices that would be required under the systems approach, the proposed requirements would not likely result in any additional economic burden to tomato producers. In addition, registered producers who remain in compliance with the program throughout the shipping season would save money on costly fumigation treatments. Between 2000 and 2003, 0.02 percent of U.S. annual imports of tomatoes originated in Chile.[5] The total amount of tomatoes from Chile exported to the world between 2000 and 2003 (all varieties) was on average only 2,209 tons or 0.38 percent of U.S. imports. This is Chile's maximum capacity of tomato exports and is not expected to increase in the short term. This small amount of imports, whether grown under the systems approach or treated with methyl bromide, is unlikely to affect the level of U.S. consumption of domestic tomatoes. The economic impact resulting from this change is not expected to be substantial.

With respect to cichorium, there are no available data on U.S. or Chilean production. The United States imports approximately 6,000 tons of cichorium per year. Cichorium is already being imported from Chile under permit, and Chile is a major source of U.S. cichorium imports, accounting for approximately 32 percent on average. Because the United States is such a small producer of cichorium, it is unlikely that this proposed rule would significantly alter this situation. In fact, the addition of cichorium into the U.S. market from other countries such as Chile would be a benefit to U.S. consumers. The economic impact on the level of U.S. consumption of cichorium, lemons, and tomatoes as a result of these proposed changes is expected to be small.

New Zealand Spinach From Israel

According to USDA's Foreign Agricultural Service (FAS), in 2000, the United States imported 1.5 metric tons of New Zealand spinach from Israel (0.02 percent of U.S. imports of New Zealand spinach in 2000). However, APHIS' Plant Protection and Quarantine (PPQ) program has no record of these imports and New Zealand spinach from Israel is not currently admissible into the United States.[6] Israel is a small producer of spinach (all varieties), producing, on average, an amount equivalent to a quarter of total U.S. spinach imports annually. The amount imported in 2000 corresponds to 50 percent of Israel's exports. Even if we assume that Israel would double its exports into the United States, it could not supply more than 0.04 percent of U.S. demand for imports of spinach. The economic effects of this proposed change on the level of U.S. consumption and/or production of spinach are not expected to be significant.

Kiwi From Italy

Kiwi fruits from Italy can already be imported into the United States under permit. The United States is a small kiwi producer that imports almost twice as much as it produces to satisfy its domestic demand.[7] Italy supplies approximately 16 percent of U.S. imported kiwi fruits, and it is unlikely that this would change as a result of this proposed rule. Even if Italy increased its exports of kiwi to the United States, it would most likely displace another countries' share because the United States is such a small producer of kiwi. The economic impact resulting from this proposed change on the level of U.S. consumption is not expected to be substantial.

Citrus From New Zealand

Although FAS statistics indicate that between 2001 and 2003, New Zealand supplied, on average, 0.006 percent of U.S. imports of oranges and lemons,[8] APHIS' PPQ has no records of these imports and citrus fruit from New Zealand are not currently admissible into the United States. New Zealand is a small producer/exporter of citrus, and the country's exports account for less than 1 percent of U.S. imports of citrus on average. Its total citrus production is

[3] FAOSTAT for production data. USDA/FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Trade Data: Harmonized Tariff Schedule for trade data.

[4] Source of Production Data: *http://apps.fao.org/faostat/agriculture/*. Production data for lemons include limes. Source of Trade Data: USDA/FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Harmonized Tariff Schedule 6 digits.

[5] Source of Production Data: *http://apps.fao.org/faostat/agriculture/*. Source of Trade Data: USDA/FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Harmonized Tariff Schedule 6 digits.

[6] The United States imported spinach from Israel for the first time in year 2000, but did not import any Israeli spinach in 2001, 2002, or 2003. Source: U.N. Trade Statistics, FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Trade Data: Harmonized Tariff Schedule (HS 6 Digit—070970) spinach fresh or chilled. Source of production data: *http://apps.fao.org/faostat/agriculture/*.

[7] Source: U.N. Trade Statistics, FAS Global Agricultural Trade System using data from the U.N. Statistical Office.

[8] Total citrus trade data here includes the following categories of fruits: Oranges (HS–6: 080510), mandarins (HS–6: 080520), lemons (HS–6: 080530), and grapefruits (HS–6: 080540).

less than 8 percent of U.S. imports of citrus as a whole. Because the United States would import such a small percentage of New Zealand citrus, even if we assume that New Zealand greatly increases its exports to the United States, it is unlikely to have a substantial economic impact.

Mangoes From the Philippines

The United States currently imports a very small amount of mangoes (18 tons per year on average) from the Philippines.[9] Because the Philippines is a significant producer of mangoes, allowing mangoes to be imported into Hawaii and Guam from additional production areas in the Philippines could result in mango exports from the Philippines capturing a larger share of those two markets. U.S. mango production is less than 1 percent of the amount the United States needs to satisfy its domestic consumption. Between 2001 and 2002, the United States imported approximately 100 times the amount of its domestic mango production, with most imports coming from Mexico. Thus, allowing imports from more islands in the Philippines would be a benefit to U.S. consumers in Guam and Hawaii. The economic impact of this proposed change on the level of U.S. consumption or its domestic production of mangoes is not expected to be significant.

Apples and Grapes From South Africa

Apples and grapes from South Africa can already be imported into the United States under permit. South Africa supplies 3 percent of U.S. imports of apples and a little less than 2 percent of U.S. imports of grapes.[10] With respect to grapes, South African exports alone cannot satisfy U.S. demand for domestic consumption. Even if South Africa directs all of its exports of grapes (880,590 tons) into the United States, it would be only enough to supply 22 percent of U.S. annual demand. The economic impact of this proposed change on the level of U.S. consumption and/or domestic production of apples and/or grapes is not expected to be significant.

Cichorium From Central and South America

There are no official data available for cichorium in any of the above countries, either on production or trade in Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, French Guiana, Guyana, Honduras, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, and Venezuela. Thus, we assume that these countries are very small producers of cichorium and that they are either not currently exporting cichorium or are exporting only small amounts. For these reasons, we cannot determine what the economic effects of this proposed rule would be, but they are not expected to be significant.

Summary

U.S. importation of commodities included in this proposed rule is not expected to have a significant economic impact on U.S. small entities. The different production season of the Southern Hemisphere, where many of the fruits and vegetables included in this proposed rule are produced, helps maintain a steady supply of fresh produce, complementing rather than competing with U.S. production of these commodities. For those commodities that are not principal U.S. products, the additional supply will help satisfy growing demand for these specialty crops. It does not appear that the changes proposed in this document would have a significant economic impact on a substantial number of economic entities. However, we invite public comment on this analysis.

This proposed rule contains certain reporting and recordkeeping requirements (see ''Paperwork Reduction Act'' below).

Executive Order 12988

This proposed rule would allow certain fruits and vegetables to be imported into the United States from certain parts of the world. If this proposed rule is adopted, State and local laws and regulations regarding the importation of fruits and vegetables under this rule would be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03–086–1. Please send a copy of your comments to: (1) Docket No. 03–086–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to allow a number of fruits and vegetables from certain countries of the world to be imported into the United States, under specified conditions. Before entering the United States, all of the fruits and vegetables would be subject to inspection and disinfection at the port of first arrival in the United States to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, would ensure that these items can be imported into the United States with a minimal risk of introducing exotic plant pests such as fruit flies.

Allowing these fruits and vegetables to be imported would necessitate the use of certain information collection activities, including the completion of import permits, phytosanitary certificates, and fruit fly monitoring records.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

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

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

[9] Trade Data: Harmonized Tariff Schedule (HS 6 Digit). Source of production data: *http://apps.fao.org/faostat/agriculture/*.

[10] Source: U.N. Trade Statistics, FAS Global Agricultural Trade System using data from the U.N. Statistical Office. Trade Data: Harmonized Tariff Schedule (HS 6 Digit). Source of production data: *http://apps.fao.org/faostat/agriculture/*.

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

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

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1.0796255 hours per response.

Respondents: Growers, shippers, national plant protection organizations.

Estimated annual number of respondents: 61,190.

Estimated annual number of responses per respondent: 1.83979.

Estimated annual number of responses: 112,577.

Estimated total annual burden on respondents: 121,541 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–1 would be amended by adding, in alphabetical order, a definition for *national plant protection organization (NPPO)* to read as follows:

§ 319.56–1 Definitions.

* * * * *

National plant protection organization (NPPO). Official service established by a government to discharge the functions specified by the International Plant Protection Convention.

* * * * *

3. In § 319.56–2, paragraph (c) would be revised to read as follows:

§ 319.56–2 Restrictions on entry of fruits and vegetables.

* * * * *

(c) *General permit for fruits and vegetables grown in Canada.* Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; provided, that:

(1) Consignments of *Allium* spp. consisting of the whole plant or above ground parts must be accompanied by a phytosanitary certificate issued by the NPPO of Canada with an additional declaration stating that the articles are free from *Acrolepipsis assectella* (Zeller).

(2) 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.

* * * * *

4. Section 319.56–2t would be amended as follows:

a. In the table in paragraph (a), by:

i. Revising the following entries to read as set forth below: Under Belize, for rambutan; under Bermuda, for longan; under Costa Rica, for rambutan; under El Salvador, for loroco and rambutan; under Grenada, for litchi and rambutan; under Guatemala, for eggplant and rambutan; under Honduras, for rambutan; under Mexico, for banana and rambutan; under Nicaragua, for loroco and rambutan; under Panama, for eggplant and rambutan; under Peru, for Swiss chard; under Sierra Leone, for cassava; and under South Africa, for pineapple.

ii. Removing the following entries: Under Argentina, for endive; under Bolivia, for Belgian endive; under Ecuador, for radicchio; under Honduras, for chicory; under Nicaragua, for radicchio; under Panama, for Belgian endive, chicory, and endive; under Peru, for radicchio; and under Republic of Korea, for chard.

iii. Adding, in alphabetical order, the following entries to read as set forth below: Under Argentina, for cichorium and grape; under Belize, for cichorium and eggplant; under Bolivia, for cichorium; under Chile, for cichorium; under Colombia, for cichorium; under Costa Rica, for cichorium and eggplant; under Ecuador, for cichorium; under El Salvador, for cichorium; under French Guinea, for cichorium; under Guatemala, for cichorium; under Honduras, for cichorium and eggplant; under Israel, for New Zealand spinach; under New Zealand, for citrus; under Nicaragua, for cichorium; under Panama, for cichorium; under Peru, for cichorium; under Republic of Korea, for Swiss chard; and under Suriname, for cichorium.

iv. Adding entries for Bahamas, Brazil, French Guiana, Guyana, Paraguay, Uruguay, and Venezuela to read as set forth below.

b. In paragraph (b), by adding new paragraphs (b)(2)(v), (b)(5)(vi), (b)(5)(vii), and (b)(6)(v) to read as set forth below.

§ 319.56–2t Administrative instructions: Conditions governing the entry of certain fruits and vegetables.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)	Additional restriction(s) (see paragraph (b) of this section)
Argentina				
*	*	*	*	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	*	*	*	*
	Grape	*Vitis* spp	Fruit	(b)(1)(ii).

Country/locality	Common name	Botanical name	Plant part(s)	Additional restriction(s) (see paragraph (b) of this section)
*	* *	*	* *	*
Bahamas	Citrus	*Citrus* spp	Fruit	(b)(5)(vi), (b)(6)(i).
*	* *	*	* *	*
Belize				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
	Eggplant	*Solanum melongena*	Fruit	(b)(3).
*	* *	*	* *	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	* *	*	* *	*
Bermuda				
*	* *	*	* *	*
	Longan	*Dimocarpus longan*	Fruit or cluster.	
*	* *	*	* *	*
Bolivia	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
Brazil	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
Chile.				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
Colombia	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
Costa Rica				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
	Eggplant	*Solanum melongena*	Fruit	(b)(3).
*	* *	*	* *	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	* *	*	* *	*
Ecuador				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
El Salvador				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
	Loroco	*Fernaldia* spp	Flower and leaf.	
*	* *	*	* *	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	* *	*	* *	*
French Guiana	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
Grenada				
*	* *	*	* *	*
	Litchi	*Litchi chinensis*	Fruit or cluster.	
*	* *	*	* *	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restriction(s) (see paragraph (b) of this section)
*	*	*	*	*
Guatemala				
*	*	*	*	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	*	*	*	*
	Eggplant	*Solanum melongena*	Fruit	(b)(3).
*	*	*	*	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	*	*	*	*
Guyana	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	*	*	*	*
Honduras				
*	*	*	*	*
	Cichorium	*Cichorium* spp	Leaf, stems, and roots.	
*	*	*	*	*
	Eggplant	*Solanum melongena*	Fruit	(b)(3).
*	*	*	*	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	*	*	*	*
Israel				
*	*	*	*	*
	New Zealand spinach	*Tetragonia tetragonioides*	Leaves.	
*	*	*	*	*
Mexico				
*	*	*	*	*
	Banana	*Musa* spp	Flower and leaf.	
*	*	*	*	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	*	*	*	*
New Zealand				
*	*	*	*	*
	Citrus	*Citrus* spp	Fruit	(b)(3), (b)(5)(vii).
*	*	*	*	*
Nicaragua	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	*	*	*	*
	Loroco	*Fernaldia* spp	Flower and leaf.	
*	*	*	*	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
*	*	*	*	*
Panama				
*	*	*	*	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	*	*	*	*
	Eggplant	*Solanum melongena*	Fruit	(b)(3).
*	*	*	*	*
	Rambutan	*Nephelium lappaceum*	Fruit or cluster	(b)(2)(i), (b)(5)(iii)
*	*	*	*	*
Paraguay	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restriction(s) (see paragraph (b) of this section)
Peru				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
	Swiss chard	*Beta vulgaris. subsp. cicla.*	Leaf and stem.	
*	* *	*	* *	*
Republic of Korea				
*	* *	*	* *	*
	Swiss chard	*Beta vulgaris* subsp. *subsp. cicla*.	Leaf and stem.	
*	* *	*	* *	*
Sierra Leone	Cassava	*Manihot esculenta*	Leaf and root.	
*	* *	*	* *	*
South Africa				
*	* *	*	* *	*
	Pineapple	*Ananas* spp	Fruit	(b)(2)(v).
*	* *	*	* *	*
Suriname				
*	* *	*	* *	*
	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*
Uruguay	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
Venezuela	Cichorium	*Cichorium* spp	Leaves, stems, and roots.	
*	* *	*	* *	*

(b) * * *

(2) * * *

(v) Prohibited entry into Puerto Rico, Virgin Islands, Northern Mariana Islands, Hawaii, and Guam. Cartons in which commodity is packed must be stamped ''For distribution in the continental United States only.''

* * * * *

(5) * * *

(vi) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the fruit is from an area where citrus canker (*Xanthomonas citri* (Hasse) Dowson) is not known to occur.

(vii) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin and with an additional declaration stating that the fruit is free from *Cnephasia jactatana, Coscinoptycha improbana, Ctenopseustis obliquana, Epiphyas postvittana, Pezothrips kellyanus,* and *Planotortrix excessana;* must undergo a port of entry inspection with a biometric sampling of 100 percent of 30 boxes selected randomly from each shipment; and the randomly selected boxes must be examined for hitchhiking pests.

(6) * * *

(v) Grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), and tangelo (*Citrus reticulata*) only.

* * * * *

5. In § 319.56–2x, the table in paragraph (a) would be amended as follows:

a. By revising the following entries to read as set forth below: Under China, for litchi and longan; under India, for litchi; under Israel, for litchi; and under Taiwan, for litchi.

b. By removing, under El Salvador, the entry for garden bean and by adding, in alphabetical order, the following entries to read as set forth below: Under Argentina, for grape; under Chile, for lemons; and under El Salvador, for green bean.

c. By adding, in alphabetical order, entries for Italy and the Republic of South Africa to read as set forth below.

§ 319.56–2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina.			
*	* *	*	* *
	Grape	*Vitis* spp	Fruit. (Treatment for *Anastrepha* spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).

Country/locality	Common name	Botanical name	Plant part(s)
* *	* *	*	* *
Chile	Lemon	*Citrus limon*	Fruit.
* *	* *	*	* *
China	Litchi	*Litchi chinensis*	Fruit or cluster. (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.")
	Longan	*Dimocarpus longan*	Fruit or cluster.
* *	* *	*	* *
El Salvador	Green bean	*Phaseolus vulgaris*	Pod or shelled.
* *	* *	*	* *
India	Litchi	*Litchi chinensis*	Fruit or cluster. (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.			
* *	* *	*	* *
	Litchi	*Litchi chinensis*	Fruit or cluster. (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.")
* *	* *	*	* *
Italy	Kiwi	*Actinidia deliciosa*	Fruit.
* *	* *	*	* *
Republic of South Africa	Apple	*Malus domestica*	Fruit.
	Grape	*Vitis spp*	Fruit.
* *	* *	*	* *
Taiwan.			
* *	* *	*	* *
	Litchi	*Litchi chinensis*	Fruit or cluster. (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.")
* *	* *	*	* *

* * * * *

6. In § 319.56–2dd, paragraph (d) would be amended as follows:

a. By revising the introductory text of the paragraph to read as set forth below.

b. By redesignating paragraphs (d)(1), (d)(2), and (d)(3) as paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii), respectively, and by adding an introductory paragraph heading to paragraph (d)(1) to read as set forth below.

c. In newly redesignated paragraph (d)(1)(iii), in the first sentence, by adding the words ''with treatment in accordance with this paragraph (d)(1)'' after the word ''Chile''.

d. By adding a new paragraph (d)(2) to read as set forth below.

§ 319.56–2dd Administrative instructions: conditions governing the entry of tomatoes.

* * * * *

(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 with treatment in accordance with paragraph (d)(1) of this section or if produced in accordance with the systems approach described in paragraph (d)(2) of this section.

(1) *With treatment.* * * *

* * * * *

(2) *Systems approach.* The tomatoes may be imported without fumigation for *Tuta absoluta, Rhagoletis tomatis*, and Mediterranean fruit fly (Medfly, *Ceratitis capitata*) if they meet the following conditions:

(i) The tomatoes must be grown in approved production sites that are registered with SAG. Initial approval of the production sites will be completed jointly by SAG and APHIS. SAG will visit and inspect the production sites monthly, starting 2 months before harvest and continue until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(ii) Tomato production sites must consist of pest exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 mm (or less) screening.

(iii) The tomatoes must originate from a Medfly free area (see § 319.56-2(j)) of Chile or an area where Medfly trapping occurs. Production sites in areas where Medfly is known to occur must contain traps for both Medfly and *Rhagoletis tomatis* in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. Production sites in all other areas do not require trapping for Medfly. The trapping protocol for the detection of Medfly in infested areas is as follows:

(A) McPhail traps with an approved protein bait must be used within registered greenhouses. Traps must be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least two traps per greenhouse.

(B) Medfly traps with trimedlure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap/10 ha and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near a greenhouse. Traps must be set for at least 2 months before export and trapping and continue to the end of the harvest season.

(C) Medfly prevalence levels in the surrounding areas must be 0.7 Medflies per trap per week or lower. If levels exceed this before harvest, the production site will be prohibited from shipping under the systems approach. If the levels exceed this after the 2 months prior to harvest, the production site would be prohibited from shipping under the systems approach until APHIS and the NPPO of Chile agree that the pest risk has been mitigated.

(iv) Registered production sites must contain traps for *Rhagoletis tomatis* in accordance with the following provisions:

(A) McPhail traps with an approved protein bait must be used within registered greenhouses. Traps must be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least two traps per greenhouse. Traps inside greenhouses will use the same bait for Medfly and *Rhagoletis tomatis* because the bait used for *R. tomatis* is sufficient for attracting both types of fruit fly within the confines of a greenhouse; therefore, it is unnecessary to repeat this trapping protocol in production sites in areas where Medfly is known to occur.

(B) McPhail traps, with an approved protein bait must be placed inside a 500 meter buffer zone at a density of 1 trap/10 ha surrounding the production site. At least one of the traps must be near a greenhouse. Traps must be set for at least 2 months before export until the end of the harvest season and must be checked at least every 7 days. In areas where Medfly trapping is required, traps located outside of greenhouses must contain different baits for Medfly and *Rhagoletis tomatis*. There is only one approved bait for *R. tomatis* and the bait is not strong enough to lure Medfly when used outside greenhouses; therefore, separate traps must be used for each type of fruit fly present in the area surrounding the greenhouses.

(C) If within 30 days of harvest a single *Rhagoletis tomatis* is captured inside the greenhouse or in a consignment or if two *R. tomatis* are captured or detected in the buffer zone, shipments from the production site would be suspended until APHIS and SAG determine that risk mitigation is achieved.

(v) Registered production sites must conduct regular inspections for *Tuta absoluta* throughout the harvest season and find these areas free of *T. absoluta* evidence (e.g., eggs or larvae). If within 30 days of harvest, two *Tuta absoluta* are captured inside the greenhouse or a single *T. absoluta* is found inside the fruit or in a consignment, shipments from the production site would be suspended until APHIS and SAG determine that risk mitigation is achieved.

(vi) SAG will ensure that populations of *Liriomyza huidobrensis* inside greenhouses are well managed by doing inspections during the monthly visits specifically for *L. huidobrensis* mines in the leaves and for visible external pupae or adults. If *L. huidobrensis* is found to be generally infesting the production site, shipments from the production site would be suspended until APHIS and SAG agree that risk mitigation is achieved.

(vii) All traps must be placed at least 2 months prior to harvest and be maintained throughout the harvest season and be monitored and serviced weekly.

(viii) SAG must maintain records of trap placement, checking of traps, and of any *Rhagoletis tomatis* or *Tuta absoluta* captures for 1 year for APHIS review. SAG must maintain an APHIS approved quality control program to monitor or audit the trapping program. APHIS must be notified when a production site is removed from or added to the program.

(ix) The tomatoes must be packed within 24 hours of harvest in a pest exclusionary packinghouse. The tomatoes must be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin for transit to the United States. These safeguards must remain intact until arrival in the United States.

(x) During the time the packinghouse is in use for exporting fruit to the United States, the packinghouse may only accept fruit from registered approved production sites.

(xi) SAG is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by SAG with an additional declaration, ''These tomatoes were grown in an approved production site in Chile.'' The shipping box must be labeled with the identity of the production site.

* * * * *

7. Section 319.56–2ii would be amended as follows:

a. By revising paragraph (a) to read as set forth below.

b. In paragraph (d), by adding a new sentence at the end of the paragraph to read as set forth below.

c. By revising paragraph (e) to read as set forth below.

§ 319.56–2ii Administrative instructions: conditions governing the entry of mangoes from the Philippines.

* * * * *

(a) Mangoes grown on the island of Guimaras, which the Administrator has determined meet the criteria set forth in § 319.56–2(e)(4) and § 319.56–2(f) with regard to the mango seed weevil (*Sternochetus mangiferae*), are eligible for importation into all areas of the United States. Mangoes from all other areas of the Philippines except Palawan are eligible for importation into Hawaii and Guam only. Mangoes from Palawan are not eligible for importation into the United States.

* * * * *

(d) * * * Shipments originating from approved areas other than Guimaras must be labeled ''For distribution in Guam and Hawaii only.

(e) *Phytosanitary certificate.* Mangoes originating from all approved areas must be accompanied by a phytosanitary certificate issued by the Republic of the Philippines Department of Agriculture that contains an additional declaration stating that the mangoes have been treated for fruit flies of the genus *Bactrocera* in accordance with paragraph (b) of this section. Phytosanitary certificates accompanying

shipments of mangoes originating from the island of Guimaras must also contain an additional declaration stating that the mangoes were grown on the island of Guimaras.

* * * * *

Done in Washington, DC, this 16th day of December 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E5–7690 Filed 12–21–05; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV05–948–1 PRA]

Irish Potatoes Grown in Colorado; Relaxation of Handling Regulation for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on a relaxation of the minimum grade requirement for certain potatoes handled under the Colorado potato marketing order, Area No. 2. The Colorado Potato Administrative Committee, Area No. 2 (Committee), the agency responsible for local administration of the marketing order, recommended this rule as a replacement for a previously issued proposed rule. This rule would change the minimum grade from U.S. No. 1 to U.S. Commercial for varieties of long, red-skinned, yellow fleshed potatoes produced in Area No. 2 measuring from 1½ inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter. The proposed change is intended to provide potato handlers with more marketing flexibility, growers with increased returns, and consumers with a greater supply of small specialty potatoes.

DATES: Comments must be received by January 6, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*; or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposal replaces a proposed rule published in the **Federal Register** on May 6, 2005 (70 FR 23942). The comment period for that proposal, which ended on July 5, 2005, was reopened until September 12, 2005, in a document published on August 22, 2005 (70 FR 48903). Five comments were subsequently received that addressed the substance of the proposed rule. In addition to new information obtained by the Committee, these comments were considered in the preparation of this proposed rule.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would relax the minimum grade requirement from U.S. No. 1 to U.S. Commercial for all varieties of long, red-skinned, yellow fleshed potatoes produced in Colorado Area No. 2 measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter. This change to the original proposal was recommended by the Committee on October 20, 2005, with 12 members in favor and one opposed. The member voting against the change felt that the minimum grade for all small potatoes should continue to be U.S. No. 1. This member is opposed to having grading exceptions for any variety of potato. The Committee believes that this change would facilitate the marketing of Area No. 2 Colorado potatoes and improve grower returns. The Committee recommended this rule as a replacement for a previously issued proposed rule.

Section 948.22 authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the production area. Section 948.21 further authorizes the modification, suspension, or termination of regulations issued pursuant to § 948.22.

Section 948.40 provides that whenever the handling of potatoes is regulated pursuant to §§ 948.20 through 948.24, such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Grade regulations specific to the handling of potatoes grown in Area No. 2 are contained in § 948.386 of the order's handling regulations. Section 948.4 of the order defines the counties