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Division, Agricultural Research Service.

Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts

§ 318.60 Notice of quarantine.

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States, by means of sand, soil, or earth about the roots of plants, of immature stages of certain dangerous insects, including Phyllophaga spp. (White grubs), Phytalus sp., and Adoretus sp., and of several species of termites or white ants, new to and not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the aforementioned dangerous insects.

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided*, That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further*, That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further*, That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been (1) freed from sand, soil, and earth, (2) subsequently potted and established in sphagnum moss or other packing material approved under § 319.37–16 that had been stored under shelter and had not been previously used for growing or packing plants, (3) grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to prevent infestation through contact with sand, soil, or earth, and (4) certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c) (1), (2), and (3) of this section.

(d) As used in this section, the term *State, Territory, or District of the United States* means "Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

[24 FR 10777, Dec. 29, 1959, as amended at 66 FR 21054, Apr. 27, 2001]

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

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

Subpart—Preemption

SOURCE: 75 FR 17292, Apr. 6, 2010, unless otherwise noted.

§ 319.1 Preemption of State and local laws.

(a) Under section 436 of the Plant Protection Act (7 U.S.C. 7756), a State or political subdivision of a State may not regulate in foreign commerce any plant or plant product in order to control, eradicate, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed within the United States.

(b) Therefore, in accordance with section 436 of the Plant Protection Act, the regulations in this part preempt all State and local laws that are inconsistent with or exceed the regulations in this part.

Subpart—Requests To Amend The Regulations

§ 319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.

(a) *Definitions.*

Commodity. A plant, plant product, or other agricultural product being moved for trade or other purpose.

(b) *Procedures for submitting requests and supporting information.* Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or plant products that are not allowed importation under the conditions of this part must file a request with the Animal and Plant Health Inspection Service (APHIS) in order for APHIS to consider whether the new commodity can be safely imported into the United States. The initial request can be formal (e.g., a letter) or informal (e.g., made during a bilateral discussion between the United States and another country), and can be made by any person. Upon APHIS confirmation that granting a person's request would require amendments to the regulations in this part, the national plant protection organization of the country from which the commodity would be exported must provide APHIS with the information listed in paragraph (d) of this section before APHIS can proceed with its consideration of the request; requests that are not supported with this information in a timely manner will be considered incomplete and APHIS may not take further action on such requests until all required information is submitted.

(c) *Addresses.* The national plant protection organization of the country

from which commodities would be exported must submit the information listed in paragraph (d) of this section to: Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

(d) *Information.* The following information must be provided to APHIS in order for APHIS to consider a request to change the regulations in part 319:

(1) *Information about the party submitting the request.* The address, telephone and fax numbers, and e-mail addresses of the national plant protection organization of the country from which commodities would be exported; or, for requests that address a multi-country region, the address, telephone and fax numbers, and e-mail addresses of the exporting countries' national and regional plant protection plant protection organizations.

(2) *Information about the commodity proposed for importation into the United States.* (i) A description and/or map of the specific location(s) of the areas in the exporting country where the plants, plant parts, or plant products are produced;

(ii) The scientific name (including genus, species, and author names), synonyms, and taxonomic classification of the commodity;

(iii) Identification of the particular plant or plant part (*i.e.*, fruit, leaf, root, entire plant, etc.) and any associated plant part proposed for importation into the United States;

(iv) The proposed end use of the imported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.); and

(v) The months of the year when the commodity would be produced, harvested, and exported.

(3) *Shipping information:* (i) Detailed information as to the projected quantity and weight/Volume of the proposed importation, broken down according to varieties, where applicable, and;

(ii) Method of shipping in international commerce and under what conditions, including type of conveyance, and type, size, and capacity of packing boxes and/or shipping containers.

(4) *Description of pests and diseases associated with the commodity*[1] (i) Scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, virus, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop;

(ii) Plant part attacked by each pest, pest life stages associated with each plant part attacked, and location of pest (in, on, or with commodity); and

(iii) References.

(5) *Current strategies for risk mitigation or management.* (i) Overview of agronomic or horticultural management practices used in production of the commodity, including methods of pest risk mitigation or control programs; and

(ii) Identification of parties responsible for pest management and control.

(e) *Additional information.* None of the additional information listed in this paragraph need be provided at the same time as information required under paragraphs (a) through (d) of this section; it is required only upon request by APHIS. If APHIS determines that additional information is required in order to complete a pest risk analysis in accordance with international standards for pest risk analysis, we will notify the party submitting the request in writing what specific additional information is required. If this information is not provided, and is not available to APHIS from other sources, a request may be considered incomplete and APHIS may be unable to take further action on the request until the necessary additional information is submitted. The additional information may include one or more of the following types of information:

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail

[1] When a change is being sought to the conditions governing the importation of a commodity that is already authorized for importation into the United States, an update to or confirmation of previously submitted pest and disease information, rather than a new, complete submission of that information, may be appropriate. Persons seeking such a change may contact APHIS for a determination as to whether an update will be appropriate in a particular case.

address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

(2) *Additional information about the commodity:* (i) Common name(s) in English and the language(s) of the exporting country;

(ii) Cultivar, variety, or group description of the commodity;

(iii) Stage of maturity at which the crop is harvested and the method of harvest;

(iv) Indication of whether the crop is grown from certified seed or nursery stock, if applicable;

(v) If grown from certified seed or stock, indication of the origin of the stock or seed (country, State); and

(vi) Color photographs of plant, plant part, or plant product itself.

(3) *Information about the area where the commodity is grown:* (i) Unique characteristics of the production area in terms of pests or diseases;

(ii) Maps of the production regions, pest-free areas, etc.;

(iii) Length of time the commodity has been grown in the production area;

(iv) Status of growth of production area (*i.e.*, acreage expanding or stable); and

(v) Physical and climatological description of the growing area.

(4) *Information about post-harvest transit and processing:* (i) Complete description of the post-harvest processing methods used; and

(ii) Description of the movement of the commodity from the field to processing to exporting port (e.g., method of conveyance, shipping containers, transit routes, especially through different pest risk areas).

(5) *Shipping methods:* (i) Photographs of the boxes and containers used to transport the commodity; and

(ii) Identification of port(s) of export and import and expected months (seasons) of shipment, including intermediate ports-of-call and time at intermediate ports-of-call, if applicable.

(6) *Additional description of all pests and diseases associated with the commodity to be imported:* (i) Common name(s) of the pest in English and local language(s);

(ii) Geographic distribution of the pest in the country, if it is a quarantine pest and it follows the pathway;

(iii) Period of attack (e.g., attacks young fruit beginning immediately after blooming) and records of pest incidence (e.g., percentage of infested plants or infested fruit) over time (e.g., during the different phenological stages of the crops and/or times of the year);

(iv) Economic losses associated with pests of concern in the country;

(v) Pest biology or disease etiology or epidemiology; and

(vi) Photocopies of literature cited in support of the information above.

(7) *Current strategies for risk mitigation or management:* (i) Description of preharvest pest management practices (including target pests, treatments [e.g., pesticides], or other control methods) as well as evidence of efficacy of pest management treatments and other control methods;

(ii) Efficacy of post-harvest processing treatments in pest control;

(iii) Culling percentage and efficacy of culling in removing pests from the commodity; and

(iv) Description of quality assurance activities, efficacy, and efficiency of monitoring implementation.

(8) *Existing documentation:* Relevant pest risk analyses, environmental assessment(s), biological assessment(s), and economic information and analyses.

(f) *Availability of additional guidance.* Information related to the processing of requests to change the import regulations contained in this part may be found on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pra/.*

(Approved by the Office of Management and Budget under control number 0579–0261)

[71 FR 30567, May 30, 2006]

Subpart—Foreign Cotton and Covers

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754), and after the public hearing required thereunder, the

Administrator of the Animal and Plant Health Inspection Service hereby determines that the unrestricted importation into the United States from all foreign countries and localities of (1) any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and (2) secondhand burlap and other fabrics, shredded or otherwise, which have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (Pectinophora gossypiella (Saund.)), the golden nematode of potatoes Heterodera rostochiensis Wr.), the flag smut disease (Urocystis tritici Koern.), and other injurious plant diseases and insect pests, and said Administrator hereby further determines, that, in order to prevent the introduction into the United States of said plant diseases and insect pests, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the plants and products, including fabrics, specified above, except as permitted in the regulations supplemental hereto. Hereafter the plants and products specified above shall not be imported or offered for entry into the United States from any foreign country or locality except as permitted by said regulations, and the plants and products permitted by the regulations to be imported or offered for entry shall be subject to sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754). *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find the existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent the restrictions contained in any of such regulations, he or she shall publish such findings in the administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he or she may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

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

[24 FR 10788, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21054, Apr. 27, 2001; 71 FR 10605, Mar. 2, 2006]

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

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

REGULATIONS; GENERAL

§ 319.8–1 Definitions.

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

Approved. Approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.

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

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

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

Authorized. Authorized by the Deputy Administrator of the Plant Protection and Quarantine Programs.

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

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

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

Cotton. Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber, not including yarn, thread and cloth; cottonseed hulls, cake, meal, and other cottonseed products, except oil; waste; and all other unmanufactured parts of cotton plants.

Cottonseed. Cottonseed from which the lint has been removed.

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

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

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

Inspector. A properly identified employee of the U.S. Department of Agriculture or other person authorized to enforce the provisions of the Plant Protection Act.

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

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

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

Northwest Mexico. All of the State of Baja California, Mexico, and that part of the State of Sonora, Mexico, lying

between San Luis Mesa and the Colorado River.

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

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

Pink bollworm regulated area; generally infested pink bollworm regulated area. The pink bollworm regulated area consists of those States or parts thereof designated as regulated area in Administrative Instructions issued under § 301.52–2 of this chapter. The generally infested pink bollworm regulated area is that part of the regulated area designated as generally infested in the said Administrative Instructions.

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

Root crop. The underground crop portions of any plants.

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

Seed cotton. Cotton as it comes from the field.

Treatment. Procedures administratively approved by the Deputy Administrator of the Plant Protection and Quarantine Programs for destroying infestations or infections of insect pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

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

United States. Any of the States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands of the United States.

Utilization. Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.[1]

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21055, Apr. 27, 2001]

Conditions of Importation and Entry of Cotton and Covers

§ 319.8–2 Permit procedure.

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

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

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

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

(c) Applications for permits may be made orally or on forms provided for the purpose by the Plant Protection and Quarantine Programs, or may be made by a letter or telegram containing all the information required by this section.

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

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

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

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the importer, pending issuance of a permit, for a period not exceeding 20 days.

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

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

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

§ 319.8–3 Refusal and cancellation of permits.

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

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

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971; 70 FR 33324, June 7, 2005]

[3] Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.8–4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Protection and Quarantine Programs, a notice of such arrival, on a form provided for that purpose (Form PQ–368) and shall give such information as is called for by that form.

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

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

§ 319.8–5 Marking of containers.

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

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

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

§ 319.8–6 Cottonseed cake and cottonseed meal.

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

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33324, June 7, 2005]

§ 319.8–7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint, linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

§ 319.8–8 Lint, linters, and waste.

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

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

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

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs

to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

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

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

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

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

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

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

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

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

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

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

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

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not

produce cotton,[4] arriving at a northern port, subject to movement to an approved mill or plant.

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

§ 319.8–9 Hull fiber and gin trash.

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

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

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

§ 319.8–10 Covers.

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

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

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

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening,

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

and which arrive from a country named in § 319.59–2(a)(2) of this part, if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Plant Protection and Quarantine Programs similar to that described in § 319.8–8(a)(2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

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

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

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

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

SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

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

§ 319.8–11 From approved areas of Mexico.

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

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

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

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

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

[5] See § 319.8–1(p) for definition of "Approved areas of Mexico." These are within that part of Mexico not included in the "West Coast of Mexico" (§ 319.8–1(q)) or "Northwest Mexico" (§ 319.8–1(r)).

to the requirements in § 301.52 of this chapter.

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

§ 319.8–12 From the West Coast of Mexico.

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

(a) Compressed lint and linters.

(b) Uncompressed lint and linters for movement into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

(c) Compressed or uncompressed cotton waste for movement under bond to Fabens, Texas, for vacuum fumigation after which it will be released from further plant quarantine entry requirements.

(d) Cottonseed when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(e) Untreated, non-certified cottonseed contained in new bags for movement by special manifest to any destination in the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

(f) Cottonseed hulls when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(g) Any cotton products for movement through Mexican border ports in Texas directly into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

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

§ 319.8–13 From Northwest Mexico.

Contingent upon continued freedom of Northwest Mexico and of the West Coast of Mexico from infestations of the pink bollworm and other plant pest conditions that would increase risk of pest introduction into the United States with importations authorized under this section, entry of the following products may be authorized under permit subject to inspection upon arrival to determine freedom from hazardous plant pest conditions:

(a) Lint, linters, and waste.

(b) Cottonseed.

(c) Cottonseed hulls.

(d) Covers that have been used for cotton only.

§ 319.8–14 Mexican cotton and covers not otherwise enterable.

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

MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

(1) Inspectors are available to supervise the storage,

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

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

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

(d) Except as provided in § 319.8–23(a)(4), compressed lint, linters, and waste, uncompressed waste derived from cotton milled in a non-cotton-producing country,[6] and covers, arriving at a port in the north for entry for exportation, vacuum fumigation, or utilization in accordance with the requirements in this subpart, may be allowed movement in Customs custody for storage at a point in the north pending such exportation, or movement to an approved mill or plant for vacuum fumigation or utilization, when there are inspectors available to supervise such storage, if the bales are free of surface contamination, if they are kept segregated from other cotton and covers in a manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector. Such lint, linters, waste, and covers shall remain under Customs custody until released by the inspector.

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

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

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

§ 319.8–18 Samples.

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

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

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

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

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

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

§ 319.8–20 Importations by the Department of Agriculture.

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

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

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

§ 319.8–22 Ports of entry or export.

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

§ 319.8–23 Treatment.

(a)(1) Vacuum fumigation as required in this subpart must be conducted in accordance with part 305 of this chapter.

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

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

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 75 FR 4251, Jan. 26, 2010]

§ 319.8–24 Collection and disposal of waste.

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

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33324, June 7, 2005]

§ 319.8–25 Costs and charges.

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

§ 319.8–26 Material refused entry.

Any material refused entry for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in accordance with sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, or other expenses incidental to the safeguarding or disposal of material refused entry by the inspector, nor will the Department of Agriculture or the inspector assume responsibility for the value of material destroyed.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21055, Apr. 27, 2001]

Subpart—Sugarcane

§ 319.15 Notice of quarantine.

(a) The importation into the United States of sugarcane and its related products, including cuttings, canes, leaves, and bagasse, from all foreign countries and localities is prohibited, except for importations by the U.S. Department of Agriculture for scientific or experimental purposes and importations authorized under a permit issued by the Department specifying conditions under which the materials have been or are to be subjected to mitigate any pest risk.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21055, Apr. 27, 2001]

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

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

Subpart—Citrus Canker and Other Citrus Diseases

§ 319.19 Notice of quarantine.

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

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

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

(d) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae that are regulated articles under §§ 319.40–1 through 319.40–11 may be imported into the United States in accordance with §§ 319.40–1 through 319.40–11 and without restriction by this subpart.

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

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

Subpart—Corn Diseases

QUARANTINE

§ 319.24 Notice of quarantine.

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

(b) Except as otherwise provided in this subpart, the importation into the United States of raw or unmanufactured corn seed and all other portions of Indian corn or maize and related plants, including all species of teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca*, *Chionachne*, and *Sclerachne*, from southeastern Asia (including India, Indochina, and the People's Republic of China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Manchuria, Japan, and adjacent islands is prohibited. However, this prohibition does not apply to importations of such items by the U.S. Department of Agriculture for scientific or experimental purposes. And further, when the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

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

(d) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and

from all other parts of corn may be imported into the United States from New Zealand without further restriction.

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 66 FR 21055, Apr. 27, 2001]

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

Corn may be imported into Guam without further permit, other than the authorization contained in this section but subject to compliance with § 319.24–3. Such imports need not comply with the notice of arrival requirements of § 319.24–4 inasmuch as information equivalent to that in a notice of arrival is available to the inspector from another source. Section 319.24–5 shall not be applicable to importations of corn into Guam. Such importations shall be subject to inspection at the port of entry. Corn found upon inspection to contain disease infection will be subject to sterilization in accordance with methods selected by the inspector from administratively authorized procedures known to be effective under the conditions in which applied.

REGULATIONS GOVERNING ENTRY OF INDIAN CORN OR MAIZE

§ 319.24–1 Applications for permits for importation of corn.

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

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

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

§ 319.24–2 Issuance of permits.

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

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

§ 319.24–3 Marking as condition of entry.

Every bag or other container of corn offered for entry shall be plainly marked with such numbers or marks as will make it easily possible to associate the bags or containers with a particular importation.

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

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

§ 319.24–4 Notice of arrival of corn by permittee.

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

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

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

§ 319.24–5 Condition of entry.

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given

to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Protection and Quarantine Programs, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Protection and Quarantine Programs. Corn will be delivered to the permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value of the corn if such value is less than $5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and the satisfaction of an inspector of the Plant Protection and Quarantine Programs; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

Subpart—Citrus Fruit

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

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

§ 319.28 Notice of quarantine.

(a)(1) To prevent the introduction into the United States of citrus canker disease *Xanthomonas campestris* pv. *citri* (Hasse) Dye, the importation of all fruits and peel of all genera, species, and varieties of the subfamilies *Aurantioideae*, *Rutoideae*, and *Toddalioideae* of the botanical family *Rutaceae* from eastern and southeastern Asia (including India, Myanmar, Sri Lanka, Thailand, Indochina, and the People's Republic of China); the Malay Archipelago; the Philippine Islands; Oceania (except Australia and Tasmania); Japan and adjacent islands; the Republic of Korea; Mauritius; Seychelles; Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of citrus canker); Brazil; and Paraguay is prohibited.

(2) To prevent the introduction into the United States of sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins), the importation of fruits and peel of all species and varieties of the genus *Citrus*, including *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. hystrix* DC., *C. limon* (L.) Burm. f., *C. paradisi* Macf., *C. reticulata* Blanco, *C. sinensis* (L.) Osbeck, and *Fortunella margarita* (Lour.) Swingle, from Argentina, Brazil, Paraguay, and Uruguay is prohibited.

(3) To prevent the introduction into the United States of the bacterial disease "Cancrosis B," the importation of fruits and peel of all species and varieties of the genus *Citrus*, including those indicated in the previous paragraph, is prohibited from Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of Cancrosis B), Paraguay, and Uruguay.

(4) Seeds and processed peel of fruits designated in this section are excluded from this prohibition. Such seeds, however, are subject to the requirements of §§ 319.37 through 319.37–27.

(b) *Unshu oranges from Japan.* The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown in Japan and imported under permit into any area of the United States except for those areas specified in paragraph (b)(7) of this section: *Provided*, that each of the following safeguards is fully carried out:

(1) The Unshu oranges must be grown and packed in isolated, canker-free export areas established by the plant protection service of Japan. Only Unshu orange trees may be grown in these areas, which must be kept free of all citrus other than the propagative material of Unshu oranges. The export areas must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both Japan and the United States. The export areas must be surrounded by 400-meter-wide buffer zones.

The buffer zones must be kept free of all citrus other than the following 10 varieties: Buntan Hirado (*Citrus grandis*); Buntan Vietnam (*C. grandis*); Hassaku (*C. hassaku*); Hyuganatsu (*C. tamurana*); Kinkan (*Fortunella* spp. non *Fortunella hindsii*); Kiyomi tangor (hybrid); Orange Hyuga (*C. tamurana*); Ponkan (*C. reticulata*); Unshu (*C.* unshiu Marcovitch, Tanaka [*Citrus reticulata* Blanco var. *unshu,* Swingle]); and Yuzu (*C. junos*). The buffer zones must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both Japan and the United States.

(2) In Unshu orange export areas and buffer zones on Kyushu Island, Japan, trapping for the citrus fruit fly (*Bactrocera tsuneonis*) must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry, and Fisheries and the U.S. Department of Agriculture. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

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

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

(5) To be eligible for importation into Arizona, California, Florida, Hawaii, Louisiana, or Texas, each shipment of oranges grown on Honshu Island or Shikoku Island, Japan, must be fumigated with methyl bromide treated in accordance with part 305 of this chapter after harvest and prior to exportation to the United States. Fumigation will not be required for shipments of oranges grown on Honshu Island or Shikoku Island, Japan, that are to be imported into States other than Arizona, California, Florida, Hawaii, Louisiana, or Texas.

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

(i) The individual boxes in which the oranges are shipped must be stamped or printed with a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

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

(7) The Unshu oranges may be imported into the United States only through a port of entry identified in § 319.37–14 that is located in an area of the United States into which their importation is authorized. The following importation restrictions apply:

(i) Unshu oranges from Honshu Island or Shikoku Island, Japan, that have been fumigated in accordance with part 305 of this chapter may be imported into any area of the United States except American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(ii) Unshu oranges from Honshu Island or Shikoku Island, Japan, and from Kyushu Island, Japan (Prefectures of Fukuoka, Kumanmoto, Nagasaki, and Saga only), that have not been fumigated in accordance with part 305 of this chapter may be imported into any area of the United States except American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands.

(c) *Unshu oranges from the Republic of Korea.* The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu,* Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for those specified in paragraph (c)(4) of this section, *Provided,* that each of the following safeguards is fully carried out:

(1) Before packing, such oranges shall be given a surface sterilization in accordance with part 305 of this chapter.

(2) The packinghouse in which the surface sterilization treatment is applied and the fruit is packed must be registered with the national plant protection organization of the Republic of Korea.

(3) The Unshu oranges must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of Korea, which includes an additional declaration stating that the fruit was given a surface sterilization in accordance with 7 CFR part 305 and was inspected and found free of *Elsinoe australis*.

(4) The Unshu oranges may be imported into any area of the United States except American Samoa, Hawaii, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

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

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

(f) Importations allowed in paragraphs (b), (c), (d), and (e) of this section shall be subject to the permit and other requirements under the regulations in Subpart-Fruits and Vegetables of this part.

(g) 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.

(h) 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.

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

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

[32 FR 7959, June 2, 1967]

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.

Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products [1,2]

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

[1] 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).

[2] 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.

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

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

(b) The importer of any article denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, as prescribed by an inspector to prevent the introduction into the United States of plant pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the article, whether the article is a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the article.

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

[57 FR 43144, Sept. 18, 1992]

§ 319.37–1 Definitions.

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

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 plant pathogens or other plant pests.

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

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

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

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

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

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

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

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

[3] 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.

(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;* graft transmission of the pest to an indicator plant for *Chaenomeles, Cydonia, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* serology for *Dianthus, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* electron microscopy for *Dianthus* and *Prunus,* and nucleic acid probes for *Chaenomeles, Cydonia, Malus,* and *Pyrus.*

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

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

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

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

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

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Plant pest. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of these articles.

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act and related legislation, quarantines, and regulations.

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

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

Preclearance. Phytosanitary inspection and/or clearance in the country in which the articles were grown, performed by or under the regular supervision of APHIS.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, greenhouse, screenhouse, or premises.

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

Regulated plant. Any gymnosperm, angiosperm, fern, or fern ally. Gymnosperms include cycads, conifers, and gingko. Angiosperms include any flowering plant. Fern allies include club mosses, horsetails, whisk ferns, spike mosses, and quillworts.

Restricted article. Any regulated plant, root, bulb, seed, or other plant product for or capable of propagation, excluding any prohibited articles listed in §319.37–2(a) or (b) of this subpart, and excluding any articles regulated in §§319.8 through 319.24 or 319.41 through 319.74–4 and any articles regulated in part 360 of this chapter.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

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

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

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

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State Plant Regulatory Official. The official authorized by the State to sign agreements with Federal agencies involving operations of the State plant protection agency.

United States. All of the States.

[45 FR 31585, May 13, 1980, as amended at 50 FR 8706, Mar. 5, 1985; 56 FR 19790, Apr. 30, 1991; 57 FR 43145, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 60 FR 3077, Jan. 13, 1995; 60 FR 27674, May 25, 1995; 63 FR 13484, Mar. 20, 1998; 66 FR 21055, Apr. 27, 2001; 69 FR 21946, Apr. 23, 2004; 69 FR 61586, Oct. 20, 2004; 72 FR 43517, Aug. 6, 2007]

§319.37–2 Prohibited articles.

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

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Abelmoschus spp. (okra)	Africa	Cotton leaf curl agent.
	Brazil	Cotton Anthocyanosis agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
	Cote d'Ivoire, Nigeria	Okra mosaic virus.
	Iraq	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago	Okra mosaic agents.
Abies spp. (fir)	All except Canada	50 or more species of rusts including *Chrysomyxa abietis* (Wallr.) Ung. (a rust causing a serious needle disease); *Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Acacia spp. (acacia)	Australia and Oceania	*Uromycladium tepperianum* (Sacc.) McAlp. (Rust).
Acer spp. (maple) (except *Acer palmatum and Acer japonicum* meeting the conditions for importation in § 319.37–5(m).	Japan	*Xanthomonas acernea* (Ogawa) Burk.
	Europe, Japan	Maple mosaic or variegation diseases.
Actinidia spp. (Chinese gooseberry, kiwi)..	Japan and Taiwan	*Pucciniastrum actinidiae* Hiratusuka (Rust).
Adonidia spp	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Aeglopsis spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Aesculus spp. (horsechestnut)	Czech Republic, Germany, Romania, Slovakia, United Kingdom.	Horsechestnut variegation or yellow mosaic diseases.
Aiphanes spp. (coyure, ruffle, and spine palm).	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
Allagoptera arenaria	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Althaea spp. (althaea, hollyhock)	Africa	Cotton leaf curl agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
Arachis spp. (peanut) seed only (all other *Arachis* articles are included under Fabaceae).	India, Indonesia, Japan, People's Republic of China, Philippines, Taiwan, Thailand.	Peanut stripe virus.
	Burkina Faso, Cote d'Ivoire, Senegal India	Peanut clump virus. Indian peanut clump virus.
Areca spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Arenga spp. (sugarpalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Arikuryroba spp. (arikury palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Articles listed in § 319.37–2(b)	All except Canada	A diversity of diseases, insects, and other pests, including but not limited to: *Cactoblastis cactorum* (Berg); *Metamasius* spp.; *Opogona sacchari* (Bojer); *Chrysomyxa himalensis* Barclay (Spruce needle rust); *Aecidium mori* Barclay (Mulberry rust); *Pseudomonas lignicola* Westherd. & Buis. (Bacterial stain); *Pucciniastrum areolatum* (Fr.) Otth. (Cherry-spruce rust).
Atalantia spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Balsamocitrus spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Bambuseae (seeds, plants, and cuttings).	All	Various plant diseases, Including bamboo smut (*Ustilago shiraiana*)
Berberis spp. (barberry) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Berberis spp. (barberry) destined to an eradication State listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Berberis spp. (barberry) seed	All	*Puccinia graminis* Pers. (Black stem rust).
Bergera spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Blighia sapida (akee)	Cote d'Ivoire, Nigeria	Okra mosaic virus.
Borassus spp. (palmyra palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Brugmansia spp.	Colombia	Datura Columbia virus.
Calodendrum spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Caryota spp. (fishtail palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Castanea spp. (chestnut)	All	*Cryphonectria parasitica* (Murrill) Barr (chestnut blight); *Dryocosmus kuriphilus* Yasumatsu (gall wasp).
Cedrus spp. (cedar)	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker). *Fusarium fuliginosporum* Sibilia (Seedling disease).
Chaenomeles spp. (flowering quince) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those listed for *Chaenomeles* in § 319.37–5(b)(1).
Chrysalidocarpus spp. (butterfly palm).	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.

Chrysanthemum, spp. (chrysanthemum, includes *Dendranthema* spp.).	Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
Citrofortunella spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
xCitroncirus spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Citrus spp. seed not meeting the conditions for importation in § 319.37-5(w)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening); citrus variegated chlorosis.
Clausena spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Cocos spp. (other than *Cocos nucifera*).	All.	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Cocos nucifera (coconut) (including seed) (Coconut seed without husk or without milk may be imported into the United States in accordance with § 319.56–11).	All except from Jamaica or Costa Rica if meeting the conditions for importation in § 319.37–5(g).	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
Corypha spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Crocosmia spp. (montebretia)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli P.* Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Crocosmia spp. (montebretia), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
Cydonia spp. (quince) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those listed for *Cydonia* in § 319.37–5(b)(1).
Datura spp.	India	Datura distortion or enation mosaic virus.
Datura spp. (woody species)	(*See Brugmansia* spp.).	
Dendranthema spp. (chrysanthemum).	See *Chrysanthemum* spp.	See *Chrysanthemum* spp.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Dictyosperma spp. (Princesspalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Elaeis spp. (oil palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Erianthus spp. (plumegrass)	All	*Puccinia melanocephala* H. Syd. & P. Syd. (Sugarcane rust).
Eucalyptus spp. (eucalyptus)	Europe, Sri Lanka, and Uruguay	*Pestalotia disseminata* Thuem. (parasitic leaf fungus).
Euonymus spp. (euonymus)	Europe, Japan	*Euonymus* mosaic diseases.
Fabaceae (=Leguminosae) (herbaceous spp. only).	All except Canada	A diversity of diseases including but not limited to: African soybean dwarf agent, alfalfa enation virus, azuki bean mosaic virus, bean golden mosaic virus, cowpea mild mottle virus, French bean mosaic virus, groundnut chlorotic leaf streak virus, groundnut chlorotic spotting virus, groundnut rosette agents, groundnut witches broom MLO, horsegram yellow mosaic virus, Indonesian soybean dwarf virus, lima bean mosaic virus, lucerne Australian symptomless virus, lucerne vein yellowing virus, mung bean yellow mosaic virus, peanut stripe virus, red clover mottle virus, and soybean dwarf virus.
Fortunella spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Fragaria spp. (strawberry) not meeting the conditions for importation in § 319.37–5(h).	All except Canada	*Phytophthora fragariae* Hickman (Red stele disease).
Fraxinus spp. (ash)	All except for any county or municipal regional county in Canada not regulated because of the emerald ash borer.	*Agrilus planipennis* (emerald ash borer).
	Europe	*Pseudomonas savastanoi* var. *fraxini* (Brown) Dowson (Canker and dwarfing disease of ash).
Gaussia spp. (Ilumepalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Gladiolus spp. (gladiolus)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Gladiolus spp. (gladiolus), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
Gossypium spp. (cotton, cottontree).	All	A diversity of diseases including but not limited to: cotton leaf curl virus; cotton virescence agent; small leaf virus.
Hibiscus spp. (kenaf, hibiscus, rose mallow).	Africa	Cotton leaf curl agent.
	Brazil	Cotton anthocyanosis agent.
	India	Hibiscus leaf curl agent.
Howea spp. (sentry palm) not meeting the conditions in § 319.37–5(n).	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Hydrangea spp. (hydrangea)	Japan	*Aecidium hydrangeae-paniculatea* Dietel.
Hyophorbe spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
Ipomoea spp. (sweetpotato)	All except Canada	A diversity of diseases including but not limited to: sweetpotato witches broom (little leaf); and sweetpotato viruses of eastern Africa.
Jasminum spp. (jasmine)	Belgium, Germany, Great Britain	Jasmine variegation diseases.

	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
	Philippines	Sampaguita yellow ringspot mosaic diseases.
Juniperus spp. (juniper)	Austria, Finland, and Romania	*Stigmina deflectans* (Karst) Ellis (Needlecast disease).
	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Larix spp. (larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	*Lachnellula willkommii* (Harteg) Dennis (European larch canker).
	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Latania spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Leersia spp. (cutgrass) seed only (all other *Leersia* articles are included under *Poaceae*).	All	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.
Lens spp. seed (lentil)	South America	*Uromyces viciae-fabae* (Pers.) Schroet. (Rust).
Leptochloa spp. (sprangletop) seed only (all other *Leptochloa* articles are included under *Poaceae*).	All	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.
Leucanthemella serotina	Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
Ligustrum spp. (privet)	Europe	*Ligustrum* mosaic diseases.
Limonia spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Livistona spp. (fan palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Mahoberberis spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Mahoberberis spp. destined to an eradication State listed in § 301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Mahoberberis spp. seed	All	*Puccinia graminis* Pers. (Black stem rust).
Mahonia spp. (mahonia) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter.	All	*Puccinia graminis* Pers. (Black stem rust).
Mahonia spp. (mahonia) destined to an eradication State listed in § 301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Mahonia spp. seed	All	*Puccinia graminis* Pers. (Black stem rust).
Malus spp. (apple, crabapple) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those listed for *Malus* in § 319.37–5(b)(1).
Mangifera spp. (mango) seed only. (Prohibition not applicable to seeds imported into Guam, Hawaii, and the Northern Mariana Islands).	All except Guimaras Island (Republic of the Philippines) and North and South America (excluding Barbados, the British Virgin Islands, Dominica, French Guiana, Grenada, Guadeloupe, Martinique, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago).	*Sternochetus mangiferae* F. (mango seed weevil).
Manihot spp. (cassava)	All except Canada	A diversity of diseases, insects, and other pests including but not limited to: *Mononychellus tanajoa* (Bondar) (cassava mite); *Phenococcus manihotis* Matile-Ferrero (cassava mealybug); *Xanthomonas manihotis* (Arthand-Berthet) Starr (Bacterial blight); Cassava brown streak virus; Cassava latent virus; Cassava African mosaic virus; Cassava common mosaic virus.
Mascarena spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Microcitrus spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Morus spp. (mulberry)	India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.	Mulberry dwarf or mulberry mosaic diseases.

Murraya spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Nannorrhops spp. (mazaripalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Neodypsis spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
Nipponanthemum nipponicum	Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
Pelargonium spp. not meeting the conditions for importation in § 319.37–5(r).	All	Potato brown rot (*Ralstonia solanacearum* race 3 biovar 2).
Pelargonium spp. plants not meeting the conditions for importation in § 319.37–5(u).	Canary Islands (Spain)	*Helicoverpa armigera, Chrysodeixis chalcites,* and *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*).
Persea spp. (avocado) seed	Central and South America, and Mexico	*Heilipus lauri* Boh. (Avocado weevil); *Stenoma catenifer* Wals. (Avocado seed moth); *Conotrachelus* spp.
Philadelphus spp. (mock orange)	Europe	Elm mottle virus.
Phoenix spp. (date)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Picea spp. (spruce)	Europe, Japan, and Siberia	*Chrysomyxa ledi* (Alb. & Schw.) d By var. *rhododendri* (DC) Savile. (Rhododendron-spruce needle rust).
	Europe.	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Pinus spp. (pine) (2- or 3-leaved)	Europe and Japan	*Cronartium flaccidium* (Alb. & Schw.) Wint. (Rust causing serious stunting of hard pines.)
	Japan.	Gall-forming rust.
Plants (except bulbs, dormant herbaceous perennials, and seeds) not meeting the conditions for importation in § 319.37–5(v).	Israel	*Spodoptera littoralis* and other quarantine pests.

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

Severinia spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Solanum spp. (potato) (tuber bearing species only—Section Tuberarium), including potato tubers.	All except Canada (except Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road)..	Andean potato latent virus; Andean potato mottle virus; potato mop top virus; dulcamara mottle virus; tomato blackring virus; tobacco rattle virus; potato virus Y (tobacco veinal necrosis strain); potato purple top wilt agent; potato marginal flavescence agent; potato purple top roll agent; potato witches broom agent; stolbur agent; parastolbur agent; potato leaflet stunt agent; potato spindle tuber viroid; arracacha virus B; potato yellowing virus.
Solanum spp. true seed (tuber bearing species only—Section Tuberarium).	All except Canada, New Zealand, and the X region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37–5(o)).	Andean potato latent virus, potato virus T, tobacco ringspot virus (Andean potato calico strain); arracacha virus B; potato yellowing virus.
Solanum spp. not meeting the conditions for importation in § 319.37–5(r).	All	Potato brown rot (*Ralstonia solanacearum* race 3 biovar 2).
Sorbus spp. (mountain ash)	Czech Republic, Denmark, Germany, Slovakia	Mountain ash variegation or ringspot mosaic disease.
Swinglea spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Syringa spp. (lilac) not meeting the conditions for importation in § 319.37–5(i).	Europe	Elm mottle virus.
Theobroma spp. (cacao)	All	A diversity of diseases and pests including but not limited to: cocoa swollen shoot virus, cocoa mottle leaf virus, cocoa yellow mosaic virus, cocoa necrosis virus, *Crinipellis perniciosa* (Stahel) Singer (witches broom fungus), *Monilia roreri*—*Moniliophthora rorei* (CIF.) H.C. Evans *et al.* (watery pod rot), cocoa isolates of *Ceratocystis fimbriata* Ellis and Halst (wilts), *Trachysphaera fructigena* Tabor and Bunting (mealy pod agents of cushy gall disease), *Oncobasidum theobromae* Talbot and Keane (vascular streak die-back), *Xyleborus* spp. beetles and *Acrocercops cramella* (Snellen) (cocoa moth).
Toddalia spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Trachycarpus spp. (windmill palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Triphasia spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).
Ulmus spp. (elm) (including seeds).	Europe	Elm mottle virus.
Vaccinium spp. plants not meeting the conditions for importation in § 319.37–5(t).	Canada	Blueberry scorch carlavirus (strains BC–1 and BC–2).
Veitchia spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Vepris spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)..	All	*Candidatus* Liberibacter spp. (Huanglongbing disease of citrus, Citrus greening).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Vitis spp. (grape) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those specified for *Vitis* in § 319.37–5(b)(1).
Watsonia spp. (bugle lily)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Watsonia spp. (bugle lily), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
Zizania spp. (wild rice) seed only (all other *Zizania* articles are included under Poaceae).	All except Canada	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.

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

(1) *Rhododendron* spp. (rhododendron and azalea) or other genera or species of similar slow growth habit, other than artificially dwarfed plants meeting the conditions in §319.37–5(q):

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

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

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

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

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

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

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

(6)(i) Plants (other than stem cuttings, cactus cuttings, artificially dwarfed plants meeting the conditions in §319.37–5(q), and palms and plants whose growth habits simulate palms) exceeding 460 millimeters (approximately 18 inches) in length from soil line (top of rooting zone for plants produced by air layering) to the farthest terminal growing point and whose growth habits simulate the woody habits of trees and shrubs, including but not limited to cacti, cycads, yuccas, and dracaenas.

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

(7) Any tree or shrub of a type not listed above, other than an artificially dwarf plant meeting the conditions in §319.37–5(q), and:

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

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

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

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

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

(2) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or through any Federal plant inspection station listed in §319.37–14;

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

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

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

[45 FR 31585, May 13, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §319.37–2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 319.37–3 Permits.

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

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

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

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

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

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

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

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

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

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

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

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

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado, Michigan, New York, Washington, or West Virginia;

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

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

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada;

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

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

(18) Small lots of seed imported in accordance with § 319.37–4(d) of this subpart; and

(19) Articles (except seeds) of *Fraxinus* spp. (ash) from counties or municipal regional counties in Canada that are not regulated for emerald ash borer (EAB) but are within an EAB-regulated Province or Territory and are not prohibited under § 319.37–2(a).

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permits, Registrations, Imports and Manuals, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236) at least 30 days prior to arrival of the article at the port of entry. The completed application shall include the following information:[4]

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

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

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

(4) Intended United States port of entry;

[4] Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permits, Registrations, Imports and Manuals, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236, local offices which are listed in telephone directories.

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

(6) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the regulated article.[5]

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

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

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such article.[5]

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

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate must identify the genus of the article it accompanies. When the regulations in this subpart place restrictions on individual species or cultivars within a genus, the phytosanitary certificate must also identify the species or cultivar of the article it accompanies. Otherwise, identification of the species is strongly preferred, but not required. Intergeneric and interspecific hybrids must be designated by placing the multiplication sign "x" between the names of the parent taxa. If the hybrid is named, the multiplication sign may instead be placed before the name of an intergeneric hybrid or before the epithet in the name of an interspecific hybrid. Phytosanitary certificates are not required for the following restricted articles:

(1) Greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section. These plants must be accompanied by a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(2) Small lots of seed imported in accordance with paragraph (d) of this section.

(3) Seeds from Canada imported in accordance with paragraph (e) of this section. Each carton of seed must be labeled as required by paragraph (e)(2)(ii) of this section. Each shipment of seed must be accompanied by the documents in paragraphs (e)(2)(iii)(A) and (e)(2)(iii)(B) of this section, as necessary.

(4) Bulbs from the Netherlands accompanied by a special certificate that lists a serial number, the scientific name of the bulb, the country of its origin, and a date on which the special certificate expires. The serial number must refer to a phytosanitary certificate issued, held, and retrievable upon request by the national plant protection organization of the Netherlands. The expiration date must be 6 weeks after the issuance of the phytosanitary certificate held by the national plant protection organization of the Netherlands. Shipments of bulbs from the Netherlands accompanied by this certificate may be imported into the United States without preclearance by APHIS.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in part 305 of this chapter that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* With the exception of *Fraxinus* spp. (ash) plants, a greenhouse-grown restricted plant may be imported from Canada if the Plant Health and Production Division of the Canadian Food Inspection Agency (CFIA) signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation, and provided that the following conditions are met:

(1) The Plant Health and Production Division of CFIA shall:

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

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

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

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency." The Plant Health and Production Division, CFIA, shall also ensure that the label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

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

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Health and Production Division of CFIA in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants; keep the records for at least 1 year after the plants are shipped to the United States; and make the records available for review and copying upon request by either the Plant Health and Production Division of CFIA or an authorized representative of the Secretary of Agriculture;

(ii) Apply to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States a label issued by CFIA that includes the identification number assigned to the grower by the Plant Health and Production

Division, CFIA, and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food inspection Agency."; and

(iii) Use pest control practices approved by Plant Protection and Quarantine and the Plant Health and Production Division of CFIA to exclude pests from the greenhouses.

(d) *Small lots of seed.* Lots of seed may be imported without a phytosanitary certificate required by paragraph (a) of this section under the following conditions:

(1) The importation of the seed is authorized by a written permit issued in accordance with §319.37–3.

(2) The seed is not of any prohibited genera listed in §319.37–2; is not of any noxious weed species listed in part 360 of this chapter; does not require an additional declaration on a phytosanitary certificate in accordance with §319.37–5; does not require treatment in accordance with §319.37–6; is not restricted under the regulations in parts 330 and 340 of this chapter; and meets the requirements of part 361 of this chapter.

(3) The seed meets the following packaging and shipping requirements:

(i) Each seed packet is clearly labeled with the name of the collector/shipper, the country of origin, and the scientific name at least to the genus, and preferably to the species, level;

(ii) There are a maximum of 50 seeds of 1 taxon (taxonomic category such as genus, species, cultivar, etc.) per packet; or a maximum weight not to exceed 10 grams of seed of 1 taxon per packet;

(iii) There are a maximum of 50 seed packets per shipment;

(iv) The seeds are free from pesticides;

(v) The seeds are securely packaged in packets or envelopes and sealed to prevent spillage;

(vi) The shipment is free from soil, plant material other than seed, other foreign matter or debris, seeds in the fruit or seed pod, and living organisms such as parasitic plants, pathogens, insects, snails, mites; and

(vii) At the time of importation, the shipment is sent to either the Plant Germplasm Quarantine Center in Beltsville, MD, or a port of entry listed in §319.37–14(b) and designated by an asterisk.

(e) *Certain seeds from Canada.* Seeds imported from Canada may be imported without a phytosanitary certificate if the following conditions are met:

(1) The Canadian Food Inspection Agency shall:

(i) Establish and administer a seed export program under which Canadian exporters of seed may operate;

(ii) Assign a unique identification number to each exporting establishment enrolled in and approved by the seed inspection program;

(iii) Provide APHIS with a current list of the establishments participating in its seed export program and their names, locations, telephone numbers, and establishment identification numbers at the start of the shipping season, and provide regular updates to that list throughout the shipping season;

(iv) Enter into an agreement with APHIS that specifies the documents that must accompany shipments of seeds under the seed export program:

(A) Agricultural and vegetable seeds, as listed in the Federal Seed Act regulations in part 361 of this chapter, must be accompanied by a document certifying that the relevant provisions of the Federal Seed Act have been followed;

(B) Other seeds must be accompanied by a document certifying that the seeds have been inspected.

(2) Each seed exporter participating in the seed export program shall enter into an agreement with the Canadian Food Inspection Agency in which the exporter agrees to:

(i) Practice any and all safeguards the Canadian Food Inspection Agency may prescribe in order to ensure that seed exported to the United States is free of plant pests and that seed that does not meet the requirements for exportation to the United States is separated from seed that does;

(ii) Include an export certification document with each shipment indicating the common name of the seed, the country of origin of the seed, the establishment identification number

assigned to the exporting establishment under the Canadian Food Inspection Agency's seed export program, and the lot number in addition to all other information required to be present by § 361.3 of this chapter.

(iii) Include other shipping documents as required with each shipment:

(A) Shipments of agricultural and vegetable seeds, as listed in the Federal Seed Act, must be accompanied by a document certifying that the relevant provisions of the Federal Seed Act regulations in part 361 of this chapter have been followed, as agreed upon by the Canadian Food Inspection Agency and APHIS;

(B) Shipments of other seeds must be accompanied by a document certifying that the seeds have been inspected, as agreed upon by the Canadian Food Inspection Agency and APHIS.

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§ 319.37–5 Special foreign inspection and certification requirements.

(a) Any restricted article (except seeds; unrooted cuttings; articles collected from the wild; and articles solely for food, analytical, or manufacturing purposes) from a country listed below, shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown on land which has been sampled and microscopically inspected by the plant protection service of the country in which grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens:

Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Azores, Belarus, Belgium, Bolivia, Bulgaria, Canada (only that portion comprising Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road), Channel Islands, Chile, Colombia, Costa Rica, Crete, Croatia, Cyprus, Czech Republic, Denmark (including Faeroe Islands), Ecuador, Egypt, Estonia, Finland, France, Georgia, Germany, Great Britain, Greece, Guernsey, Hungary, Iceland, India, Ireland, Italy, Japan, Jersey, Jordan, Latvia, Lebanon, Lithuania, Luxembourg, Kazakhstan, Kyrgyzstan, Malta, Mexico, Republic of Moldova, Morocco, the Netherlands, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, the Philippines, Poland, Portugal, Russian Federation, Serbia and Montenegro, South Africa, Spain (including Canary Islands), Slovakia, Slovenia, Sweden, Switzerland, Tajikistan, Tunisia, Turkmenistan, Ukraine, Uzbekistan, and Venezuela.

(b)(1) Any of the following restricted articles (except seeds) at the time of arrival at the port of first arrival in the United States must be accompanied by a phytosanitary certificate of inspection which contains an additional declaration that the article was grown in a nursery in Belgium, Canada, France, Germany, Great Britain, or The Netherlands and that the article was found by the plant protection service of the country in which the article was grown to be free of the following injurious plant diseases listed in paragraph (b)(3) of this section: For *Chaenomeles* spp. (flowering quince) and *Cydonia* spp. (quince), diseases (i), (ii), (iv), (xviii), (xix), (xx), and (xxi); for *Malus* spp. (apple, crabapple), diseases (i), (ii), (iii), (vi), (vii), (xxii), and (xxiii); for *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), diseases (i), (ix) through (xvii), and (xxii); and for *Pyrus* spp. (pear), diseases (i), (ii), (iv), (v), (xviii), (xix), (xx), (xxi) and (xxii); and for *Vitis* spp. (grape) from Canada, diseases (xiv) through (xvii) and (xxiv) through (xliii). The determination by the plant protection service that the article is free of these diseases will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified diseases. An accurate additional declaration on the phytosanitary certificate of inspection by the plant protection service that a disease does not occur in the country in which the article was grown may be used in lieu of visual examination and indexing of the parent stock

for that disease and inspection of the nursery.

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

(3) List of diseases.

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

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

(iii) Apple proliferation agent.

(iv) Pear blister canker virus.

(v) Pear bud drop virus.

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

(vii) Apple green crinkle virus.

(viii) Apple chat fruit virus.

(ix) Plum pox (=Sharka) virus.

(x) Cherry leaf roll virus.

(xi) Cherry rusty mottle (European) agent.

(xii) Apricot chlorotic leaf roll agent.

(xiii) Plum bark split virus.

(xiv) Arabis mosaic virus and its strains.

(xv) Raspberry ringspot virus and its strains.

(xvi) Tomato blackring virus and its strains.

(xvii) Strawberry latent ringspot virus and its strains.

(xviii) Quince sooty ringspot agent.

(xix) Quince yellow blotch agent.

(xx) Quince stunt agent.

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

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

(xxiii) Apple ringspot virus.

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

(xxv) Grapevine asteroid mosaic agent.

(xxvi) Grapevine Bratislava mosaic virus.

(xxvii) Grapevine chasselas latent agent.

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

(xxix) Grapevine leaf roll agent.

(xxx) Grapevine little leaf agent.

(xxxi) Grapevine stem pitting agent.

(xxxii) Grapevine vein mosaic agent.

(xxxiii) Grapevine vein necrosis agent.

(xxxiv) Flavescence-doree agent.

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

(xxxvi) Grapevine infectious necrosis bacterium.

(xxxvii) Grapevine yellows disease bacterium.

(xxxviii) *Xanthomonas ampelina* Panagopoulas.

(xxxix) *Peyronellaea glomerata* Ciferri.

(xl) *Pseudopeziza tracheiphila* Muller-Thur-gau.

(xli) *Rhacodiella vitis* Sterenberg.

(xlii) *Rosellinia necatrix* Prill.

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

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum, includes *Dendranthema* spp.), *Leucanthemella serotina*, or *Nipponanthemum nipponicum*, from any foreign place except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude shall, at the time of arrival at the port

of first arrival in United States, be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate of inspection must contain a declaration that such article was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust of chrysanthemum (caused by the rust fungus Puccinia horiana P. Henn.) based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation.

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

(e) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Canada, shall be grown under postentry quarantine conditions specified in §319.37–7 unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was found by the plant protection service of Canada to be free of *Rubus* stunt agent based on visual examination and indexing of the parent stock.[6]

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

(g) Any seed of *Cocos nucifera* (coconut) at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such seed was found by the plant protection service of Costa Rica or of Jamacia to be of Malayan dwarf variety or Maypan variety (=F_1 hybrid, Malayan Dwarf×Panama Tall) (which are resistant to lethal yellowing disease) based on visual examination of the parent stock.

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

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

[6] Such testing is done under a Raspberry Plant Certification Program of Canada.

parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in:

(1) Fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least 3 meters from the nearest nonindexed *Syringa* spp. (lilac), or

(2) Soil that has been sampled and microscopically inspected by the plant protection service of the Netherlands within 12 months preceding issuance of the phytosanitary certificate and that has been found free of the plant parasitic nematodes capable of transmitting European nepoviruses, including, but not limited to, the Arabis mosaic nepovirus.

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

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

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

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

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

(l) Any restricted article of *Gladiolus*, *Watsonia* or *Crocosmia* spp. from Luxembourg or Spain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

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

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

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

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

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

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

(1) The *Solanum* spp. true seed was produced by *Solanum* plants that were

propagated from plantlets from the United States;

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

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

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

(q) Any artificially dwarfed plant imported into the United States, except for plants that are less than 2 years old, must have been grown and handled in accordance with the requirements of this paragraph and must be accompanied by a phytosanitary certificate of inspection that was issued by the government of the country where the plants were grown.

(1) Any growing media, including soil, must be removed from the artificially dwarfed plants prior to shipment to the United States unless the plants are to be imported in accordance with § 319.37–8.

(2) The artificially dwarfed plants must be grown in accordance with the following requirements and the phytosanitary certificate required by this paragraph must contain declarations that those requirements have been met:

(i) The artificially dwarfed plants must be grown for at least 2 years in a greenhouse or screenhouse in a nursery registered with the government of the country where the plants were grown;

(ii) The greenhouse or screenhouse in which the artificially dwarfed plants are grown must have screening with openings of not more than 1.6 mm on all vents and openings, and all entryways must be equipped with automatic closing doors;

(iii) The artificially dwarfed plants must be grown in pots containing only sterile growing media during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery;

(iv) The artificially dwarfed plants must be grown on benches at least 50 cm above the ground during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery; and

(v) The plants and the greenhouse or screenhouse and nursery where they are grown must be inspected for any evidence of pests and found free of pests of quarantine significance to the United States at least once every 12 months by the plant protection service of the country where the plants are grown.

(r) Any restricted article of *Pelargonium* spp. or *Solanum* spp. presented for importation into the United States may not be imported unless it meets the requirements of this paragraph (r). Seeds are not subject to the requirements of this paragraph (r).

(1) Any restricted article of *Pelargonium* spp. or *Solanum* spp. imported from Canada under the provisions of the greenhouse-grown restricted plant program as described in § 319.37–4(c) must be presented for importation at the port of first arrival in the United States with a certificate of inspection in the form of a label in accordance with § 319.37–4(c)(1)(iv).

(2) (i) For any article of *Pelargonium* spp. or *Solanum* spp. that does not meet the requirements of paragraph (r)(1) of this section and is from a country where *Ralstonia solanacearum* race 3 biovar 2 is not known to occur, the phytosanitary certificate of inspection required by § 319.37–4 must contain an additional declaration that states

"*Ralstonia solanacearum* race 3 biovar 2 is not known to occur in the country or area of origin"; *Provided*, that this additional declaration is not required on the phytosanitary certificate of inspection accompanying articles of *Solanum* spp. from Canada that do not meet the requirements of paragraph (r)(1) of this section.

(ii) For any article of *Pelargonium* spp. or *Solanum* spp. that does not meet the requirements of paragraph (r)(1) of this section and is from an area that has been established as free of *Ralstonia solanacearum* race 3 biovar 2 in accordance with International Standards for Phytosanitary Measures Publication No. 4, "Requirements for the Establishment of Pest Free Areas," which is incorporated by reference at §300.5 of this chapter, the phytosanitary certificate required by §319.37–4 must contain an additional declaration that states "This article is from an area that has been established as free of *Ralstonia solanacearum* race 3 biovar 2."

(3) Any article of *Pelargonium* spp. or *Solanum* spp. that is from a country or area where *Ralstonia solanacearum* race 3 biovar 2 is known to occur must meet the following requirements:

(i) The national plant protection organization of the country in which the articles are produced (the NPPO) must have entered into a bilateral workplan with APHIS. This bilateral workplan must set out conditions for monitoring the production of articles of *Pelargonium* spp. and *Solanum* spp., for enforcement of the requirements of this paragraph (r)(3), and for the establishment of a trust fund as provided for in paragraph (r)(3)(xv) of this section.

(ii) The production site where the articles of *Pelargonium* spp. and *Solanum* spp. intended for export to the United States are produced must be registered with and certified by both APHIS and the NPPO. As part of the certification process, production sites must be initially approved and thereafter visited at least once a year by APHIS and the NPPO to verify compliance with the requirements of this paragraph (r)(3).

(iii) The production site must conduct ongoing testing for *R. solanacearum* race 3 biovar 2. Only articles of *Pelargonium* spp. and *Solanum* spp. from a group of articles that has been tested according to an APHIS-approved testing protocol with negative results for the presence of *R. solanacearum* race 3 biovar 2 may be used in production and export. Records of the testing must be kept for two growing seasons and made available to representatives of APHIS and of the NPPO. All testing procedures must be approved by APHIS.

(iv) Each greenhouse on the production site must be constructed in a manner that ensures that runoff water from areas surrounding the greenhouses cannot enter the greenhouses. The greenhouses must be surrounded by a 1-meter buffer that is sloped so that water drains away from the greenhouses.

(v) Dicotyledonous weeds must be controlled both within each greenhouse on the production site and around it. The greenhouses on the production site and the 1-meter buffer surrounding them must be free of dicotyledonous weeds.

(vi) All equipment that comes in contact with articles of *Pelargonium* spp. or *Solanum* spp. within the production site must be adequately sanitized so that *R. solanacearum* race 3 biovar 2 cannot be transmitted between plants or enter from outside the production site via the equipment.

(vii) Production site personnel must adequately sanitize their clothing and shoes and wash their hands before entering the production site to prevent the entry of *R. solanacearum* race 3 biovar 2 into the production site.

(viii) Growing media for articles of *Pelargonium* spp. and *Solanum* spp. must be free of *R. solanacearum* race 3 biovar 2. Growing media and containers for articles of *Pelargonium* spp. and *Solanum* spp. must not come in contact with growing media that could transmit *R. solanacearum* race 3 biovar 2 and must be grown in an APHIS-approved growing medium.

(ix) Water used in maintenance of the plants at the production site must be free of *R. solanacearum* race 3 biovar 2. The production site must either derive the water from an APHIS-approved source or treat the water with an APHIS-approved treatment before use.

(x) Growing media at the production site must not come in direct contact

with any water source, such as an emitter or a hose end. If a drip irrigation system is used, backflow devices must be installed to prevent any *R. solanacearum* race 3 biovar 2 that may be present from spreading to the rest of the production site through the irrigation system. Ebb and flow irrigation may not be used.

(xi) Production site personnel must be educated regarding the various pathways through which *R. solanacearum* race 3 biovar 2 can be introduced into a production site and must be trained to recognize symptoms of *R. solanacearum* race 3 biovar 2 infection in articles of *Pelargonium* spp. or *Solanum* spp. in the production site.

(xii) Articles of *Pelargonium* spp. or *Solanum* spp. produced for export within an approved production site must be handled and packed in a manner adequate to prevent the introduction of *R. solanacearum* race 3 biovar 2. The articles must be labeled with information indicating the production site from which the articles originated.

(xiii) If *R. solanacearum* race 3 biovar 2 is found in the production site or in consignments from the production site, the production site will be ineligible to export articles of *Pelargonium* spp. or *Solanum* spp. to the United States. A production site may be reinstated if a reinspection reveals that the production site is free of *R. solanacearum* race 3 biovar 2 and all problems in the production site have been addressed and corrected to the satisfaction of APHIS.

(xiv) The phytosanitary certificate of inspection required by §319.37–4 that accompanies these articles must contain an additional declaration that states "These articles have been produced in accordance with the requirements in 7 CFR 319.37–5(r)(3)."

(xv) The government of the country in which the articles are produced must enter into a trust fund agreement with APHIS before each growing season. The government of the country in which the articles are produced or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (r)(3) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (r)(3) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of the country in which the articles are produced or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of the country in which the articles are produced or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of the country in which the articles are produced or its designated representative or held on account until needed.

(s) Any restricted article (except seeds) of *Pinus* spp. from Canada may be imported into the United States only if it meets the following requirements, as well as all other applicable requirements of this subpart, to prevent the introduction of pine shoot beetle (*Tomicus piniperda*):

(1) *From noninfested Canadian Provinces to all areas of the United States.* Restricted articles that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the Canadian Food Inspection Agency (CFIA), may be imported into any area of the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the restricted articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin;

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the restricted articles or, if applicable, on

the outer covering, packaging, or container; and

(iii) If the restricted articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the restricted articles are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by the pine shoot beetle.

(2) *From infested or partially infested Canadian Provinces to U.S. infested areas.* Restricted articles that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for and will be moved only through areas in the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may be imported into the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin; and

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the restricted articles or, if applicable, on the outer covering, packaging, or container.

(3) *From infested or partially infested Canadian Provinces to or through U.S. noninfested areas.* Restricted articles that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for or will be moved through an area in the United States that is not quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may be imported into the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the restricted articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin. The treatment section of the phytosanitary certificate of inspection must indicate that the restricted articles have been treated with methyl bromide to kill the pine shoot beetle (*Tomicus piniperda*) in accordance with the applicable provisions of part 305 of this chapter; or alternatively, in lieu of methyl bromide treatment, the phytosanitary certificate of inspection must contain one of the following additional declarations:

(A) "These restricted articles were grown on a plantation that has a program to control or eradicate pine shoot beetle (*Tomicus piniperda*) and have been inspected and are considered to be free from pine shoot beetle (*Tomicus piniperda*)"; or

(B) "These restricted articles originated in an area where pine shoot beetle (*Tomicus piniperda*) is not considered to be present, as determined by the CFIA"; or

(C) "These restricted articles have been 100 percent inspected and found to be free from pine shoot beetle (*Tomicus piniperda*)"; or

(D) "Based on inspection, the restricted articles are no greater than 36 inches high with a bole diameter at soil level of 1 inch or less."

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the articles or, if applicable, on the outer covering, packaging, or container.

(iii) If the restricted articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the restricted articles must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(t) For any *Vaccinium* spp. plants from Canada, the phytosanitary certificate of inspection required by § 319.37–4 must contain an additional declaration that such article was produced in an approved certification program and found by the national plant protection organization of Canada to be free of the BC–1 and BC–2 strains of blueberry scorch carlavirus.

(u) *Special foreign inspection and certification requirements for Pelargonium spp. plants from the Canary Islands.* *Pelargonium* spp. plants from the Canary Islands may only be imported into the United States in accordance with the requirements of this section, to prevent the plant pests *Helicoverpa armigera*, *Chrysodeixis chalcites*, and *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*) from entering the United States.

(1) *Phytosanitary certificate.* The phytosanitary certificate of inspection required by § 319.37–4 that accompanies *Pelargonium* spp. plants from the Canary Islands must contain additional declarations that the plants were produced in an approved Spanish (Canary Island) production site, that the production site is operated by a grower participating in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain, and that the plants were grown under conditions specified by APHIS as described in this paragraph § 319.37–5(u) to prevent infestation with *Helicoverpa armigera*, *Chrysodeixis chalcites*, and *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*).

(2) *Grower registration and agreement.* Persons in the Canary Islands who produce *Pelargonium* spp. plants for export to the United States must:

(i) Be registered and approved by the national plant protection organization of Spain; and

(ii) Enter into an agreement with the national plant protection organization of Spain whereby the producer agrees to participate in and follow the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain.

(3) *Growing requirements.* Growers in the Canary Islands who produce *Pelargonium* spp. plants for export to the United States must meet the following requirements for inclusion in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain:

(i) *Pelargonium* spp. plants destined for export to the United States must be produced in a production site devoted solely to production of such plants.

(ii) The production sites in which such plants are produced must be registered with the national plant protection organization of Spain. Such production sites must employ safeguards agreed on by APHIS and the national plant protection organization of Spain, including, but not limited to, prescribed mesh screen size (if the production site is a screenhouse) and automatically closing doors, to ensure the exclusion of *H. armigera*.

(iii) Each production site in which plants destined for export to the United States are grown must have at least one blacklight trap for 1 year following any of the following events:

(A) The construction of the production site;

(B) The entry of the production site into the approved plants export program;

(C) The replacement of the covering of the production site; or

(D) The detection and repair of a break or tear in the plastic or screening in the production site.

(4) *Inspections.* Inspections undertaken in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain will include, but may not be limited to, the following:

(i) The national plant protection organization of Spain will inspect the plants and the production site during the growing season and during packing.

(ii) Packing materials and shipping containers for the plants must be inspected and approved by APHIS to ensure that they do not introduce pests of concern to the plants.

(iii) Either APHIS or the national plant protection organization of Spain will inspect the production site of the plants to ensure that they meet standards of sanitation agreed upon by APHIS and the national plant protection organization of Spain.

(iv) Inspectors from both APHIS and the national plant protection organization of Spain will have access to the production site as necessary to ensure that growers are employing the proper safeguards against infestation of *H. armigera*, *C. chalcites*, and *S. circumflexa* and that those safeguards are correctly implemented.

(v) The national plant protection organization of Spain will provide APHIS with access to the list of registered and approved growers at least annually.

(5) *Ineligibility for participation.* (i) Growers will be ineligible for participation in the export program for *Pelargonium* spp. plants established by the national plant protection organization of Spain and their production sites will lose approved status if:

(A) Live *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*), or any other moth of the family Noctuidae, are found in a production site;

(B) Live *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*), or any other moth of the family *Noctuidae*, are found in a shipment of plants; or

(C) Growers violate the requirements set out in this section and by the export program established by the national plant protection organization of Spain.

(ii) A grower may be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. Reapproval will only be granted upon concurrence from the national plant protection organization of Spain and APHIS.

(6) *Termination.* APHIS may terminate the entire program if there are repeated violations of procedural or biological requirements.

(7) *Trust fund.* The government of Spain must enter into a trust fund agreement with APHIS before each growing season. The government of Spain or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (u) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (u) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of Spain or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of Spain or its designated representative or held on account until needed.

(v) *Special foreign inspection and certification requirements for plants from Israel.* Plants from Israel, except bulbs, dormant perennials, and seeds, may only be imported into the United States in accordance with the regulations in this section, to prevent *Spodoptera littoralis* and other quarantine pests found in Israel from entering the United States.

(1) *Phytosanitary certificate.* The phytosanitary certificate of inspection required by §319.37–4 that accompanies plants from Israel at the time of arrival at the port of first arrival in the United States must contain additional declarations that the plants were produced in an approved Israeli production site, that the production site is operated by a grower participating in the export program for plants established by the national plant protection organization of Israel, and that the plants were grown under conditions specified by APHIS as described in this paragraph §319.37–5(v) to prevent infestation or contamination with *Spodoptera littoralis* or other quarantine pests.

(2) *Grower registration and agreement.* Persons in Israel who produce plants for export to the United States must:

(i) Be registered and approved by the national plant protection organization of Israel; and

(ii) Enter into an agreement with the national plant protection organization of Israel whereby the producer agrees to participate in and follow the export program for plants established by the national plant protection organization of Israel.

(3) *Growing requirements.* Growers in Israel who produce plants for export to the United States must meet the following requirements for inclusion in the export program for plants established by the national plant protection organization of Israel:

(i) Plants destined for export to the United States must come from a production site devoted solely to production of such plants.

(ii) The production sites in which such plants are produced must be registered with the national plant protection organization of Israel. These production sites must employ safeguards agreed on by APHIS and the national plant protection organization of Israel to prevent the entry of *S. littoralis,* including, but not limited to, insect-proof screening over openings and double or airlock-type doors. Any rips or tears in the insect-proof screening must be repaired immediately.

(iii) Each production site in which plants destined for export to the United States are grown must have at least one blacklight trap for 1 year following any of the following events:

(A) The construction of the production site;

(B) The entry of the production site into the approved plants export program;

(C) The replacement of the covering of the production site; or

(D) The detection and repair of a break or tear in the plastic or screening in the production site.

(4) *Inspections.* Inspections undertaken in the export program for plants established by the national plant protection organization of Israel will include, but may not be limited to, the following:

(i) The national plant protection organization of Israel will inspect the plants and the production site weekly to ensure that no quarantine pests are present.

(ii) Plants must be inspected to ensure that they are free of quarantine pests before being allowed into the screened area of the production site.

(iii) The national plant protection organization of Israel will inspect the plants to ensure that no quarantine pests are present prior to export.

(iv) Packing materials and shipping containers for the plants must be inspected and approved by APHIS to ensure that they do not introduce pests of concern to the plants.

(v) Either APHIS or the national plant protection organization of Israel will inspect the production site of the plants to ensure that they meet standards of sanitation approved by APHIS.

(vi) Inspectors from both APHIS and the national plant protection organization of Israel will have access to the production site as necessary to ensure that growers are employing the safeguards and procedures prescribed by the program and that those safeguards and procedures are correctly implemented.

(vii) The national plant protection organization of Israel will provide APHIS with access to the list of registered and approved growers at least annually.

(5) *Ineligibility for participation.* (i) Growers will be ineligible for participation in the export program for plants established by the national plant protection organization of Israel and their production sites will lose approved status if:

(A) Live *Spodoptera littoralis* are found in a production site;

(B) Live *Spodoptera littoralis* are found at port inspection two times during the shipping season in shipments from the same grower; or

(C) Growers violate the requirements set out in this section and by the export program established by the national plant protection organization of Israel.

(ii) A grower may be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. Reapproval will only be granted upon concurrence from the national plant protection organization of Israel and APHIS.

(6) *Termination.* APHIS may terminate the entire program if there are repeated violations of procedural or biological requirements.

(7) *Trust fund.* The government of Israel must enter into a trust fund agreement with APHIS before each growing season. The government of Israel or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (v) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (v) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of Israel or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of Israel or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of Israel or its designated representative or held on account until needed.

(w) Seed of the genera *Aeglopsis*, *Atalantia*, *Balsamocitrus*, *Bergera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Citrus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from Argentina, Bangladesh, Belize, Bhutan, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, China, Comoros, Cuba, the Dominican Republic, Ethiopia, Eritrea, India, Indonesia, Jamaica, Japan, Kenya, Laos, Madagascar, Malawi, Malaysia, Mauritius, Mexico, Myanmar, Nepal, Pakistan, Papua New Guinea, Philippines, Réunion, Rwanda, Saint Helena, Saudi Arabia, Somalia, South Africa, Sri Lanka, Swaziland, Taiwan, Tanzania, Thailand, Timor-Leste, Vietnam, Yemen, and Zimbabwe is prohibited importation into the United States. Except for those countries listed in paragraph (x) of this section, seed of these genera from all other countries may be imported into the United States only if the phytosanitary certificate required by §319.37-4 contains an additional declaration that neither citrus greening nor citrus variegated chlorosis is known to occur in the country where the seed was produced.

(x) Seed of the genus *Citrus* from Costa Rica and Paraguay is prohibited importation into the United States. Seed of the genera *Aeglopsis*, *Balsamocitrus*, *Bergera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from Costa Rica and Paraguay may be imported into the United States only if the phytosanitary certificate required by §319.37-4 contains an additional declaration that citrus greening is not known to occur in the country where the seed was produced.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0176, 0579–0221, 0579–0246, 0579–0257, and 0579–0279)

[45 FR 31585, May 13, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §319.37–5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov

§319.37–6 Specific treatment and other requirements.

(a) The following seeds and bulbs may be imported into the United States from designated countries and localities only if they have been treated for the specified pests in accordance with part 305 of this chapter. Seeds and bulbs treated prior to importation outside the United States must be treated in accordance with §319.37–13(c). An inspector may require treatment within the United States of articles that have been treated prior to importation outside the United States if such treatment is determined to be necessary:

Seed/bulb	Country/locality	Pest(s) for which treatment is required
Abelmoschus spp. (okra) seeds.	All	*Pectinophora gossypiella* (Saunders) (pink bollworm).
Allium sativum (garlic) bulbs.	Algeria, Armenia, Austria, Azerbaijan, Belarus, Croatia, Czech Republic, Egypt, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Kazakhstan, Kyrgyzstan, Republic of Moldova, Morocco, Portugal, Serbia and Montenegro, Slovakia, Slovenia, Republic of South Africa, Spain, Switzerland, Syria, Russian Federation, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.	*Brachycerus* spp. and *Dyspessa ulula* (Bkh.).
Castanea seeds	All except Canada and Mexico	*Curculio elephas* (Cyllenhal), *C. nucum* L., *Cydia (Laspeyresia) splendana* Hubner, *Pammene fusciana* L. (*Hemimene juliana* (Curtis)) and other insect pests of chestnut and acorn.
Guizotia abyssinica (niger) seeds.	All (see paragraph (c) of this section)	*Cuscuta* spp., and other noxious weeds listed in 7 CFR 360.200.
Hibiscus spp. (hibiscus, rose mallow) seeds.	All, with the exception of kenaf seed (*Hibiscus cannabinus*) from Mexico that is to be imported into pink bollworm generally infested areas listed in § 301.52–2a of this chapter.	*Pectinophora gossypiella* (Saunders) (pink bollworm).
Lathyrus spp. (sweet pea, peavine) seeds.	All except North America and Central America	Insects of the family Bruchidae.
Lens spp. (lentil) seeds	All except North America and Central America	Insects of the family Bruchidae.
Quercus seeds	All except Canada and Mexico	*Curculio elephas* (Cyllenhal), *C. nucum* L., *Cydia (Laspeyresia) splendana* Hubner, *Pammene fusciana* L. (*Hemimene juliana* (Curtis)) and other insect pests of chestnut and acorn.
Rutaceae, seeds of all species in the family.	Afghanistan, Andaman Islands, Caroline Islands, Fiji Islands, Home Island in Cocos (Keeling) Islands, Hong Kong, Ivory Coast, Kampuchea, Korea, Mozambique, Oman, Rodriquez Island, Seychelles, Thursday Island, United Arab Emirates, and Zaire.	*Xanthomonas citri* subsp. *citri* (citrus canker).
Vicia spp. (fava bean, vetch) seeds.	All except North America and Central America	Insects of the family Bruchidae.

(b) Seeds and bulbs that are treated within the United States must be treated at the time of importation into the United States.

(c) Seeds of *Guizotia abyssinica* (niger seed) that are treated prior to shipment to the United States must be treated at a facility that is approved by APHIS[8] and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of this section and allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in § 319.37–13(c).

(d) Shipments of kenaf (*Hibiscus cannabinus*) seed from Mexico that are imported into pink bollworm generally infested areas listed in § 301.52–2a shall be subject to inspection, and shall immediately, upon release, be subject to the domestic pink bollworm quarantine regulations in §§ 301.52 through 301.52–10, "Subpart—Pink Bollworm," of this chapter.

[72 FR 43521, Aug. 6, 2007, as amended at 75 FR 17294, Apr. 6, 2010; 75 FR 68952, Nov. 10, 2010]

§ 319.37–7 Postentry quarantine.

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

[8] Criteria for the approval of heat treatment facilities are contained in part 305 of this chapter.

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

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

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

Restricted Article (excluding seeds)	*Foreign Country(ies) or Locality(ies) from which imported*
Abelmoschus spp. (okra).	All except Africa, Bangladesh, Brazil, Canada, India, Iraq, Papua New Guinea, Sri Lanka, and Trinidad and Tobago.
Acacia spp. (acacia)	All except Australia, Canada, and Oceania.
Acer spp. (maple)	All except Canada, Europe, and Japan.
Actinidia spp. (Chinese gooseberry, kiwi).	All except Australia, Canada, Japan, New Zealand, and Taiwan.
Aesculus spp. (horsechestnut).	All except Canada, Czech Republic, Germany, Romania, Slovakia, United Kingdom.
Althaea spp. (althaea, hollyhock).	All except Africa, Bangladesh, Canada, India, and Sri Lanka.
Berberis spp. (barberry) destined to any State except the eradication States listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All.
Blighia sapida (akee) ...	All except Canada, Cote d'Ivoire, and Nigeria.
Bromeliaceae (bromeliads) destined to Hawaii.	All.
Brugmansia spp.	All except Canada and Colombia.
Cedrus spp. (cedar)	All except Canada and Europe.
Chaenomeles spp. (flowering quince) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
Chrysanthemum spp. (chrysanthemum, includes *Dendranthema* spp.) meeting the conditions in § 319.37–5(c).	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
Crataegus monogyna Jacq. (hawthorne, thorneapple, red haw).	Europe.
Crocosmia spp. (montebretia) (except bulbs) not meeting the conditions for importation in § 319.37–5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
Cydonia spp. (quince) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
Datura spp.	All except Canada and India.
Datura spp. (woody species).	(See *Brugmansia* spp.)
Dendranthema spp. (chrysanthemum).	See *Chrysanthemum* spp.
Dianthus spp. (carnation, sweet-william).	Great Britain, unless exempted from postentry quarantine conditions pursuant to § 319.37–5(d), and all other countries and localities except Canada.
Eucalyptus spp	All except Canada, Europe, Sri Lanka, and Uruguay.
Euonymus spp. (euonymus).	All except Canada, Japan, and Europe.
Fruit and nut articles listed by common name in paragraph (b) of this section.	All except Canada.
Gladiolus spp. (gladiolus) (except bulbs) not meeting the condition for importation in § 319.37–5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
Hibiscus spp. (kenaf, hibiscus, rose mallow).	All except Africa, Brazil, Canada, and India.
Humulus spp. (hops) ...	All.
Hydrangea spp. (hydrangea).	All except Canada and Japan.
Jasminum spp. jasmine).	All except Canada, Belgium, Germany, Great Britain, India, and the Philippines.

Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported
Juniperus spp. (juniper)	All except Canada and Europe.
Larix spp. (larch)	All except Canada, Japan, and Europe.
Leucanthemella serotina.	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
Ligustrum spp. (privet)	All except Canada and Europe.
Mahoberberis spp. destined to any State except the eradication States listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All.
Mahonia spp. (mahonia) destined to any State except the eradication States listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All.
Malus spp. (apple, crabapple) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
Mespilus germanica (medlar).	Countries listed in § 319.37–5(b) except Canada.
Morus spp. (mulberry)	All except Canada, India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.
Nipponanthemum nipponicum.	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
Nut and fruit articles (see fruit and nut articles).	
Passiflora spp. (passion fruit, granadilla).	All except Canada.
Philadelphus spp. (mock orange).	All except Canada and Europe.
Picea spp. (spruce)	All except Canada, Europe, Japan, and Siberia.
Pinus spp. (pine) (2-or-3 leaved).	All except Canada, Europe, and Japan.
Populus spp. (aspen, cottonwood, poplar).	All except Canada and Europe.
Prunus spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
Pseudolarix spp. (golden larch).	All except Canada, Japan, and Europe.
Pseudotsuga spp. (Douglas fir).	All except Canada and Europe.
Pyrus spp. (pear) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
Quercus spp. (oak)	All except Canada and Japan.
Ribes spp.	All except Canada, Europe, and New Zealand.
Rosa spp. (rose)	All except Australia, Bulgaria, Canada, Italy, and New Zealand.
Rubus spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry).	All unless exempted from postentry quarantine conditions pursuant to § 319.37–5(e).
Salix spp. (willow)	All of Europe (except Belgium, Germany, Great Britain, and the Netherlands).
Sorbus spp. (mountain ash).	All except Canada, Czech Republic, Denmark, Germany, and Slovakia.

Restricted Article (excluding seeds)	*Foreign Country(ies) or Locality(ies) from which imported*
Syringa spp. (lilac)	The Netherlands, if the articles meet the conditions for importation in §319.37–5(i), and all other places except Canada and Europe.
Ulmus spp. (elm)	All except Canada and Europe.
Watsonia spp. (bugle lily) (except bulbs) not meeting the conditions for importation in §319.37–5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.

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

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

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

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph: All U.S. States and Territories, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands.

(ii) [Reserved]

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

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

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

(iii) Provide the services of State inspectors to: inspect sites to be used for postentry quarantine; report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the site is of adequate size to contain the number of plants proposed for importation, including potential increase if increase is allowed; inspect plants for evidence of exotic pests at least once

during the first year and once during the second year for plants required to be grown in postentry quarantine for 2 years, and at least once for plants required to be grown in quarantine for less than 2 years; and monitor and enforce compliance with the requirements of this section during the use of the sites for postentry quarantine;

(iv) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any evidence of plant pests that are not known to exist in the United States and that are found at a postentry quarantine site by State inspectors; recommend to Plant Protection and Quarantine safeguards or mitigation measures to control the pests; and supervise the application of safeguards or mitigation measures approved by Plant Protection and Quarantine; and

(v) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any propagation or increase in the number of plants that occurs during postentry quarantine.

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

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

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

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

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

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

(1) To grow such article or increase therefrom only on specified premises owned, rented, or otherwise in possession of the importer, within a space of dimensions designated by an inspector, and to move, propagate, or allow propagation of the article or increase therefrom or parts thereof only with the written permission of the coordinator, Postentry Quarantine Unit, USDA, APHIS, PPQ, Building 580, BARC-East, Beltsville, MD 20705;

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

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

(4) To keep the article separated from any other plant or plant product by no less than 3 meters (approximately 10 feet) unless such other plant or plant product is of the same genus as the article, entered postentry quarantine with the article, and arrived together with the article in a single shipment from a foreign region;

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

(6) To notify an inspector, orally or in writing, within 30 days of the time the importer or the person in charge of the growing site finds any abnormality of the article, or the article dies or is killed by the importer, the person in charge of the growing site, or any other person; to retain the abnormal or dead article for at least 60 days following that date of notification; and to give the abnormal or dead article to an inspector upon request;

(7) To grow the article or increase therefrom in postentry quarantine for a period of 2 years unless specified otherwise in the following:

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

(ii) To grow the article or increase therefrom only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 6 months after importation for an article of *Chrysanthemum* spp., *Dendranthema* spp, *Leucanthemella serotina*, and *Nipponanthemum nipponicum*, for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william), and for a period of 9 months after importation for an article of *Hydrangea* spp.

(iii) To grow the article or increase therefrom, if an article of *Humulus* spp. (hops), a meristem culture of the imported plant will be observed for 6 months, and the original plant will be destroyed after the meristem culture is established. After the 6-month observation, the meristem culture-generated plant must remain in postentry quarantine for an additional year.

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

(f) *Inspector-ordered disposal, movement, or safeguarding of restricted articles; costs and charges, civil and criminal liabilities*—(1) *Growing at unauthorized sites.* If an inspector determines that any article subject to the postentry quarantine growing requirements of this section, or any increase therefrom, is being grown at an unauthorized site, the inspector may file an emergency action notification (PPQ form 523) with the owner of the article or the person who owns or is in possession of the site on which the article is being grown. The person named in the form 523 must, within the time specified in form 523, sign a postentry quarantine growing agreement, destroy, ship to a point outside the United States, move to an authorized postentry quarantine site, and/or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, as prescribed by an inspector to prevent the introduction of plant pests into the United States. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

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

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

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

(4) *Civil and criminal liabilities.* Any person who moves an article subject to postentry quarantine growing requirements from the site specified for that article in an authorized postentry quarantine growing agreement, or who otherwise handles such an article contrary to the requirements of this section, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 7734, or other applicable Federal statutes.

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

[45 FR 31585, May 13, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §319.37–7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 319.37–8 Growing media.

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

(b)(1) A restricted article from Canada may be imported in any growing medium, except as restricted in paragraph (b)(2) of this section.

(2) A restricted article from Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road may only be imported in an approved growing medium if the phytosanitary certificate accompanying it contains an additional declaration that that the plants were grown in a manner to prevent infestation by potato cyst nematodes (*Globodera rostochiensis* and *G. pallida*).

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

(d) Epiphytic plants (including orchid plants) established solely on tree fern slabs, coconut husks, coconut fiber, new clay pots, or new wooden baskets may be imported on such growing media. New wooden baskets must meet all applicable requirements in §§319.40–1 through 319.40–11.

(e) A restricted article of any of the following groups of plants may be imported established in an approved growing medium listed in this paragraph if the restricted article meets the conditions of this paragraph and is

accompanied by a phytosanitary certificate issued by the plant protection service of the country in which the restricted article was grown that declares that the restricted article meets the conditions of this paragraph:

Alstroemeria
Ananas[10]
Anthurium
Artificially dwarfed (penjing) plants from the People's Republic of China of the following plant species: *Buxus sinica, Ehretia microphylla, Podocarpus macrophyllus, Sageretia thea,* and *Serissa foetida.*
Begonia
Gloxinia (=*Sinningia*)
Nidularium[11]
Peperomia
Phalaenopsis spp. from Taiwan
Polypodiophyta (=*Filicales*) (ferns)
Rhipsalidopsis spp. from the Netherlands and Denmark
Rhododendron from Europe
Saintpaulia
Schlumbergera spp. from the Netherlands and Denmark.

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

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

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

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

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

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

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

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

(v) Watered only with rainwater that has been boiled or pasteurized, with

[10] These articles are bromeliads, and if imported into Hawaii, bromeliads are subject to postentry quarantine in accordance with § 319.7–7.

[11] See footnote 10.

clean well water, or with potable water;

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

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

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

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

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

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

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

(xi) Plants of the species *Buxus sinica*, *Ehretia microphylla*, *Podocarpus macrophyllus*, *Sageretia thea*, and *Serissa foetida* from the People's Republic of China must also meet the following conditions:

(A) *Propagative cuttings*. The propagative materials used to produce the artificially dwarfed (penjing) plants may enter an approved greenhouse only as seeds, tissue cultures, unrooted cuttings, or rooted cuttings with no growing media. Rooted cuttings may not be established or grown in soil at any time. Rooted cuttings may be established in a greenhouse or outside the greenhouse on raised benches (46 cm in height) in pots containing only APHIS approved growing media.

(B) *Inspection and treatment*. When any cuttings are introduced into the greenhouse, they must be free of growing media, inspected, and found free of plant pests and then treated with a pesticide dip approved by the Animal and Plant Quarantine Service of the People's Republic of China that will control mites, scale insects, whiteflies, thrips, and fungi. The artificially dwarfed (penjing) plants must be propagated from mother plants that have been visually inspected by an APHIS inspector or an inspector of the Animal and Plant Quarantine Service of the People's Republic of China and found free of the following pests:

(*1*) For *Buxus sinica: Guignardia miribelii*, *Macrophoma ehretia*, *Meliola buxicola*, and *Puccinia buxi*.

(*2*) For *Ehretia microphylla: Macrophoma ehretia*, *Phakopsora ehretiae*, *Pseudocercosporella ehretiae*, *Pseudocercospora ehretiae-thyrsiflora*, *Uncinula ehretiae*, *Uredo ehretiae*, and *Uredo garanbiensis*.

(*3*) For *Podocarpus macrophyllus: Pestalosphaeria jinggangensis*, *Pestalotia diospyri*, *Phellinus noxius*, and *Sphaerella podocarpi*.

(*4*) For *Sageretia thea: Aecidium sageretiae*.

(*5*) For *Serissa foetida: Melampsora serissicola*.

(C) *Growing*. The artificially dwarfed (penjing) plants must be grown in an approved greenhouse for at least 6 months immediately prior to export.

(D) *Additional treatments*. While in the greenhouse, plants must be treated with appropriate pesticides at least once every 10 days or as needed for three months before shipping to maintain a pest-free condition.

(f) A restricted article of *Hyacinthus* spp. (hyacinth) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic

horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

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

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

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

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

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

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

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

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

(vii) Grown only in a coldroom where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

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

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

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

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

(g) *Pest risk evaluation standards for plants established in growing media.* The Animal and Plant Health Inspection Service will conduct a pest risk assessment based on pest risk analysis guidelines established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization in response to each request to allow the importation of additional taxa of plants in growing media. These guidelines are available upon request by writing to USDA, APHIS, PPQ, Center for Plant Health Science and Technology, Plant Epidemiology and Risk Assessment Laboratory, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606.

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[45 FR 31585, May 13, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §319.37–8, see the List of CFR Sections Affected, which appears in the

Finding Aids section of the printed volume and at www.fdsys.gov.

§ 319.37–9 Approved packing material.

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

Baked or expanded clay pellets.
Buckwheat hulls.
Coral sand from Bermuda, if the article packed in such sand is accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of Bermuda that such sand was free from soil.
Excelsior.
Exfoliated vermiculite.
Ground cork.
Ground peat.
Ground rubber.
Paper.
Perlite.
Polymer stabilized cellulose.
Quarry gravel.
Rock wool.
Sawdust.
Shavings—wood or cork.
Sphagnum moss.
Stockosorb superabsorbent polymer
Vegetable fiber when free of pulp, including coconut fiber and Osmunda fiber, but excluding sugarcane fiber and cotton fiber.
Volcanic rock.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43151, Sept. 18, 1992; 60 FR 3078, Jan. 13, 1995; 68 FR 50047, Aug. 20, 2003]

§ 319.37–10 Marking and identity.

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

(1) General nature and quantity of the contents,

(2) Country and locality where grown,

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

(4) Name and address of consignee,

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

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

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

(1) General nature and quantity of the contents,

(2) Country and locality where grown,

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

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

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

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

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983; 72 FR 43522, Aug. 6, 2007]

§ 319.37–11 Arrival notification.

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

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

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

§ 319.37–12 Prohibited articles accompanying restricted articles.

A restricted article for importation into the United States shall not be

packed in the same container as an article prohibited importation into the United States by this part.

[45 FR 31585, May 13, 1980, as amended at 72 FR 43522, Aug. 6, 2007]

§ 319.37–13 Treatment and costs and charges for inspection and treatment; treatments applied outside the United States.

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

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

(c) Any treatment performed outside the United States must be monitored and certified by an APHIS inspector or an official from the plant protection service of the exporting country. If monitored and certified by an official of the plant protection service of the exporting country, then a phytosanitary certificate must be issued with the following declaration: "The consignment of (*fill in botanical name*) has been treated in accordance with 7 CFR part 305." During the entire interval between treatment and export, the consignment must be stored and handled in a manner that prevents any infestation by pests and Federal noxious weeds.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43148, 43151, Sept. 18, 1992; 60 FR 3077, Jan. 13, 1995; 61 FR 51210, Oct. 1, 1996; 68 FR 50047, Aug. 20, 2003; 70 FR 33324, June 7, 2005; 75 FR 4251, Jan. 26, 2010]

§ 319.37–14 Ports of entry.

Any restricted article required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (6) of this subpart, if not precleared, may be imported or offered for importation only at a USDA plant inspection station listed below. Ports of entry through which restricted articles must pass before arriving at these USDA plant inspection stations are listed in the second column. Any other restricted article that is not required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (6) of this subpart may be imported or offered for importation at any Customs designated port of entry indicated in 19 CFR 101.3(b)(1). Exceptions may be listed in § 330.104 of this chapter. Articles that are required to be imported under a written permit that are also precleared in the country of export are not required to enter at an inspection station and may enter through any Customs port of entry. Exceptions may be listed in § 330.104 of this chapter.

[11] Provisions relating to costs for other services of an inspector are contained in part 354.

LIST OF USDA PLANT INSPECTION STATIONS

State	Port of entry	Federal plant inspection station
Arizona	Nogales	Plant Inspection Station, 9 North Grand Avenue, Room 120, Nogales, AZ 85621.
California	Long Beach, Los Angeles, San Pedro.	Los Angeles Inspection Station, 11840 S. La Cienega Blvd., Hawthorne, CA 90250.
	San Diego, San Ysidro	Plant Inspection Station, 9777 Via de la Amistad, Room 140, San Diego, CA 92154.
	Oakland, San Francisco	Plant Inspection Station, 389 Oyster Point Blvd., Suite 2, South San Francisco, CA 94080.
Florida	Miami, (Note: Restricted articles may be moved from Fort Lauderdale to Miami under U.S. Customs bond).	Plant Inspection Station, 3500 NW., 62nd Avenue, Miami, FL 33122. Mailing address: P.O. Box 660520, Miami, FL 33266.
	Orlando	Plant Inspection Station, 9317 Tradeport Drive, Orlando, FL 32827.
Georgia	Atlanta	Hartsfield Perishable Complex, 1270 Woolman Place, Atlanta, GA 30354.
Guam	Agana	905 East Sunset Blvd., Tiyan, Barringada, GU 96913. Mailing address: P.O. Box 8769, Tamuning, GU 96931.
Hawaii	Honolulu (Airport)	Honolulu Inspection Station, Honolulu International Airport, 300 Rodgers Blvd., #57, Honolulu, HI 96819–1897.
Louisiana	New Orleans	Plant Inspection Station, 900 East Airline Service Road A, Kenner, LA 70063.
Maryland	Baltimore	(Only niger seed may be imported into the Port of Baltimore, after which it may be moved for treatment at a local treatment facility).
New Jersey	Elizabeth, New York (Maritime), Newark.	Frances Krim Memorial Inspection Station, 2500 Brunswick Avenue, Building G, Linden, NJ 07036.
New York	Jamaica (JFK)	Plant Inspection Station, 230–59 International Airport Centers Boulevard, Building C, Suite 100, Room 109, Jamaica, NY 11413.
Puerto Rico	San Juan	Plant Inspection Station, 150 Central Sector, Building C–2, Warehouse 3, Carolina, PR 00979.
Texas	Houston	Plant Inspection Station, 19581 Lee Road, Humble, TX 77338.
	Los Indios	Plant Inspection Station, P.O. Drawer Box 393, 100 Los Indios Boulevard, Los Indios, TX 78567.
Washington	Seattle	835 S. 192nd Street, Suite 1600, Sea-Tac, WA 98148.

[72 FR 43522, Aug. 6, 2007]

Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles

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

§ 319.40–1 Definitions.

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

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

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

Certificate. A certificate of inspection relating to a regulated article, which is issued by an official authorized by the national government of the country in which the regulated article was produced or grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the regulated article, which certifies that the regulated article has been inspected, is believed to be free of plant pests, and is believed to be eligible for importation pursuant to the laws and regulations of the United States, and which may contain any specific additional declarations required under this subpart.

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

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

Fines. Small particles or fragments of wood, slightly larger than sawdust, that result from chipping, sawing, or processing wood.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Regulated article. The following articles, if they are unprocessed or have received only primary processing: logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips; wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; and litter.

Regulated wood packaging material. Wood packaging material other than manufactured wood materials, loose wood packing materials, and wood pieces less than 6 mm thick in any dimension, that are used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

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

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

Statement of origin and movement. A signed, accurate statement certifying

the area or areas where the regulated articles originated and, if applicable, the area or areas they were moved through prior to importation. The statement may be printed directly on the documentation accompanying the shipment of regulated articles, or it may be provided on a separate document. The statement does not require the signature of a public officer of a national plant protection organization; exporters may sign the document.

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

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

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

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

Wood packaging material. Wood or wood products (excluding paper products) used in supporting, protecting or carrying a commodity (includes dunnage).

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998; 65 FR 21127, Apr. 20, 2000; 69 FR 55732, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 70 FR 33324, June 7, 2005; 72 FR 30467, June 1, 2007]

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

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

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

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

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

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

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

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

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

(d) *Regulated articles imported for experimental, scientific or educational purposes.* Any regulated article may be imported without further restriction under this subpart if:

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

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

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

(e) *Designation of additional regulated articles.* An inspector may designate any article as a regulated article by

giving written notice of the designation to the owner or person in possession or control of the article. APHIS will implement rulemaking to add articles designated as regulated articles to the definition of regulated article in § 319.40–1 if importation of the article appears to present a recurring significant risk of introducing plant pests. Inspectors may designate an article as a regulated article after determining that:

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

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

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

(f) In addition to meeting the requirements of this subpart, bark and bark products and logs and pulpwood with bark attached, as well as cut trees (*e.g.*, Christmas trees), imported from Canada are subject to the inspection and certification requirements for gypsy moth in § 319.77–4 of this part.

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

[60 FR 27674, May 25, 1995, as amended at 63 FR 13485, Mar. 20, 1998; 64 FR 45866, Aug. 23, 1999; 69 FR 52418, Aug. 26, 2004; 69 FR 61587, Oct. 20, 2004; 71 FR 40878, July 19, 2006; 72 FR 39501, July 18, 2007]

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

(a) *Canada and Mexico.* (1) The following articles may be imported into the United States under general permit:

(i) From Canada: Regulated articles, other than the following:

(A) Regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae, and;

(B) Regulated articles of pine (*Pinus* spp.) that are not completely free of bark from Provinces in Canada that are considered to be infested or partially infested with pine shoot beetle (*Tomicus pinniperda*), as determined by the Canadian Food Inspection Agency, and that are moving to a United States facility operating under a compliance agreement for specified handling or processing under the provisions of § 319.40–8.

(C) Regulated articles of *Fraxinus* spp. (ash), which are subject to the requirements in § 319.40–5(n).

(ii) From States in Mexico adjacent to the United States: Commercial and noncommercial shipments of mesquite wood for cooking; commercial and noncommercial shipments of unmanufactured wood for firewood; and small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal purposes.

(2) Commercial shipments allowed in paragraph (a)(1) of this section are subject to the inspection and other requirements in § 319.40–9 and must be accompanied by an importer document stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

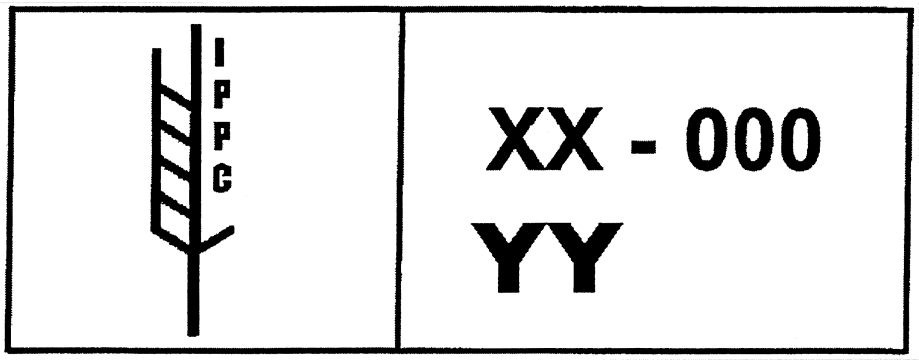
(3) Noncommercial shipments allowed in paragraph (a)(1) of this section are subject to inspection and other requirements of § 319.40–9 and must be accompanied by an importer document or oral declaration stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

(b) *Regulated wood packaging material.* Regulated wood packaging material, whether in actual use as packing for regulated or nonregulated articles or imported as cargo, may be imported into the United States under a general permit in accordance with the following conditions:

(1) The wood packaging material must have been treated in accordance with part 305 of this chapter.

(2) *Marking.* The wood packaging material must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark that indicates that the article meets the requirements of this paragraph. The mark must be approved by the International Plant Protection Convention in its International Standards for Phytosanitary Measures to certify that wood packaging material has been subjected to an approved measure, and must include a unique graphic symbol,

the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the producer of the wood packaging material, and an abbreviation disclosing the type of treatment (*e.g.*, HT for heat treatment or MB for methyl bromide fumigation). The currently approved format for the mark is as follows, where XX would be replaced by the country code, 000 by the producer number, and YY by the treatment type (HT or MB):



(3) *Immediate reexport of regulated wood packaging material without required mark.* An inspector at the port of first arrival may order the immediate reexport of regulated wood packaging material that is imported without the mark required by paragraph (b)(2) of this section, in addition to or in lieu of any port of first arrival procedures required by § 319.40–9 of this part.

(4) *Exception for Department of Defense.* Regulated wood packaging material used by the Department of Defense (DOD) of the U.S. Government to package nonregulated articles, including commercial shipments pursuant to a DOD contract, may be imported into the United States without the mark required by paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0049 and 0579–0225.)

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

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

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

(Approved by the Office of Management and Budget under control numbers 0579–0049 and 0579–0257)

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998; 69 FR 52418, Aug. 26, 2004; 69 FR 55732, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 71 FR 57386, Sept. 29, 2006; 72 FR 30462, 30467, June 1, 2007; 75 FR 4251, Jan. 26, 2010]

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

(a) *Application procedure.* A written application for a permit[1] must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations Permit Unit, 4700 River Road Unit 136, Riverdale, MD 20737–1236. The completed application must include the following information:

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

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

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

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

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

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

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

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

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

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

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

(b) *Review of application and issuance of permit.* After receipt and review of the application, APHIS shall determine whether it appears that the regulated article at the time of importation will meet either the specific importation requirements in § 319.40–5 or the universal importation requirements in § 319.40–6.

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

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

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

(ii) If this review reveals that the regulated article may be imported under conditions that would reduce the plant pest risk to an insignificant

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

level, APHIS may implement rulemaking to add the additional conditions to this subpart, and after the regulations are effective, may issue a permit for importation of the regulated article.

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

(c) *Permit does not guarantee eligibility for import.* Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of first arrival determines that no remedial measures are necessary pursuant to the Plant Protection Act with respect to the regulated article.[2]

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

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

[60 FR 27674, May 25, 1995, as amended at 66 FR 21056, Apr. 27, 2001; 69 FR 52418, Aug. 26, 2004]

§ 319.40–5 Importation and entry requirements for specified articles.

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

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

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

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

(C) The logs and any regulated wood packaging material to be used with the logs during shipment to the United States must be fumigated in accordance with part 305 of this chapter within 45 days following the date the trees are felled and prior to arrival of the logs in the United States, in the holds or in sealable containers. Fumigation must be conducted in the same sealable container or hold in which the logs and regulated wood packaging material are exported to the United States.

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(D) During shipment to the United States, no other regulated article is permitted on the means of conveyance with the logs, unless the logs and the other regulated articles are in separate holds or separate sealed containers, or, if the logs and other regulated articles are mixed in a hold or sealed container, the other regulated articles either have been heat treated with moisture reduction in accordance with part 305 of this chapter, or have been fumigated in the hold or sealable container in accordance with paragraph (b)(1)(i)(C) of this section.

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

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

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

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

(A) Logs or any products generated from logs, including lumber, must be heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

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

(C) Sawdust, wood chips, and waste generated by sawing or processing the logs must be disposed of by burning, heat treatment in accordance with part 305 of this chapter, heat treatment with moisture reduction in accordance with part 305 of this chapter, or other processing that will destroy any plant pests associated with the sawdust, wood chips, and waste. Composting and use of the sawdust, wood chips, and waste as mulch are prohibited unless composting and use as mulch are preceded by fumigation in accordance with part 305 of this chapter, heat treatment in accordance with part 305 of this chapter, or heat treatment with moisture reduction in accordance with part 305 of this chapter. Wood chips, sawdust, and waste may be moved in enclosed trucks for processing at another facility operating under a compliance agreement in accordance with § 319.40–8.

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

(i) During shipment to the United States, no other regulated article (other than regulated wood packaging material) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers; *Except for* mixed shipments of logs and raw lumber fumigated in accordance with part 305 of this chapter and moved in accordance with paragraph (b)(1)(i)(D) of this section. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40–8 that requires the raw lumber to be heat treated in accordance with part 305 of this chapter or heat treated with moisture reduction in accordance with part 305 of this chapter before any cutting, planing, or sawing of the raw lumber, and within 30 days from the time the lumber is released from the port of first arrival.

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

(2) *Not debarked.* Tropical hardwood logs that have not been debarked may be imported if fumigated in accordance with part 305 of this chapter prior to arrival in the United States.

(3) *Not debarked; small lots.* Tropical hardwood logs that have not been debarked may be imported into the United States, other than into Hawaii, Puerto Rico, or the Virgin Islands of the United States, if imported in a lot of 15 or fewer logs and subject to the inspection and other requirements of § 319.40–9.

(d) *Temperate hardwoods.* Temperate hardwood logs and lumber (with or without bark) from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported if fumigated in accordance with part 305 of this chapter prior to arrival in the United States and subject to the inspection and other requirements of § 319.40–9.

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

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

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

(f) Cross-ties (railroad ties) from all places, except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer, may be imported if completely free of bark and accompanied by an importer document stating that the cross-ties will be pressure treated with a preservative within 30 days following the date of importation at a U.S. facility under compliance agreement. Cross-ties (railroad ties) may also be imported if heat treated in accordance with part 305 of this chapter.

(g) through (k) [Reserved]

(l) *Cross-ties (railroad ties) and pine and fir lumber from Mexican States adjacent to the United States/Mexico border.*[3] Cross-ties (railroad ties) 8 inches or less at maximum thickness and lumber derived from pine and fir may be imported from Mexican States adjacent to the United States/Mexico border into the United States if they:

(1) Originate from Mexican States adjacent to the United States/Mexico border;

(2) Are 100 percent free of bark; and

(3) Are fumigated in accordance with part 305 of this chapter prior to arrival in the United States.

(m) *Regulated articles of pine (Pinus spp.) that are not completely free of bark from Canada*—(1) *Cut pine Christmas trees.* Cut pine Christmas trees from Canada may be imported into the United States only if they meet the following requirements, as well as all other applicable requirements of this subpart:

(i) *From noninfested Canadian Provinces to all areas of the United States.* Cut pine Christmas trees that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the Canadian Food Inspection Agency (CFIA), may be imported into any area of the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Canadian Province where the cut pine Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the cut pine Christmas trees originated in and were moved only through areas of Canada not considered to be infested with pine shoot beetle, as determined by the CFIA;

(B) The U.S. destination (including county and State) is plainly indicated on the cut pine Christmas trees or on the outer covering or container; and

(C) If the cut pine Christmas trees are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in § 301.50–3 of

[3] Cross-ties (railroad ties) may also be imported in accordance with paragraph (f) of this section, or may be imported if heat treated in accordance with § 319.40–7(c).

this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, then the cut pine Christmas trees are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(ii) *From infested or partially infested Canadian Provinces to U.S. infested areas.* Cut pine Christmas trees that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for and will be moved only through areas in the United States that are quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Canadian Province where the cut pine Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the cut pine Christmas trees originated in and were moved through one or more Canadian Provinces considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA; and

(B) The U.S. destination (including county and State) is plainly indicated on the cut pine Christmas trees or on the outer covering or container.

(iii) *From infested or partially infested Canadian Provinces to or through U.S. noninfested areas.* Cut pine Christmas trees that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA, and are destined for or will be moved through an area in the United States that is not quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a certificate that specifies the Canadian Province where the Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and indicates in the treatment section of the certificate that the Christmas trees have been treated with methyl bromide to kill the pine shoot beetle; or, alternatively, in lieu of methyl bromide treatment, the certificate contains one of the following additional declarations:

(*1*) "These regulated articles were grown on a plantation that has a program to control or eradicate pine shoot beetle (*Tomicus piniperda*) and have been inspected and are considered to be free from pine shoot beetle (*Tomicus piniperda*)"; or

(*2*) "These regulated articles originated in an area where pine shoot beetle (*Tomicus piniperda*) is not considered to be present, as determined by the CFIA"; or

(*3*) "These regulated articles have been 100 percent inspected and found to be free from pine shoot beetle (*Tomicus piniperda*)"; and

(B) The U.S. destination (including county and State) is plainly indicated on the Christmas trees or on the outer covering or container; and

(C) If the Christmas trees are to be moved through an area of the United States that is quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the Christmas trees are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(2) *Other pine articles.* Regulated articles from Canada (other than cut pine Christmas trees) that consist of pine bark, including, but not limited to, chips, nuggets, mulch, and compost, as well as pine products with pine bark attached, including, but not limited to, logs, lumber, pulpwood, stumps, and raw pine materials for wreaths and garlands, may be imported into the United States only if they meet one of the following requirements, as well as all

other applicable requirements of this subpart:

(i) *From Canadian noninfested Provinces to all areas of the United States.* Regulated articles that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA, may be imported into any area of the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Province where the regulated articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the regulated articles originated in and were only moved through Provinces of Canada not considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA;

(B) The U.S. destination (including county and State) is plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container; and

(C) If the regulated articles are to be moved through an area of the United States that is quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the regulated articles are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(ii) *From Canadian infested Provinces or partially infested Provinces to U.S. infested areas.* Regulated articles that originated in or were moved through a Canadian infested or partially infested Province, as determined by the CFIA, and are destined for and will be moved only through areas in the United States that are quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the county or municipal regional county and Province where the articles originated, and if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin, and also states that the regulated articles originated in and were moved through one or more Provinces of Canada considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA; and

(B) The U.S. destination (including county and State) is plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(iii) *From noninfested areas in partially infested Canadian Provinces to or through U.S. noninfested areas.* Regulated articles that originated in a noninfested area county or municipal regional county of a partially infested Canadian Province, as determined by the CFIA, and were moved through Canadian noninfested areas only, and are destined for or will be moved through any area in the United States that is not quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may only be imported into the United States if one of the following sets of conditions is met:

(A) The regulated articles are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The certificate also must contain the following additional declaration: "These regulated articles originated in and were moved only through areas where pine shoot beetle (*Tomicus piniperda*) is not present, as determined by the CFIA." In addition, the U.S. destination (including county and State) must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container. If the regulated articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en

route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the regulated articles must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle; or

(B) The regulated articles are consigned to a designated U.S. facility that operates under a compliance agreement with APHIS in accordance with §319.40–8 for specified handling or processing of the articles. The name and address of the U.S. facility (including county and State) receiving the regulated articles must be plainly indicated on the articles or, if applicable, on the outer covering, packaging, or container. If the regulated articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, then the regulated articles also must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(iv) *From Canadian infested Provinces or infested areas of partially infested Provinces to or through U.S. noninfested areas.* (A) Regulated articles that originated in or were moved through either a Canadian Province considered to be infested with pine shoot beetle or an infested area within a partially infested Canadian Province, as determined by the CFIA, and that are destined for or will be moved through any area in the United States not quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, may only be imported into the United States if one of the following sets of conditions provided is met:

(*1*) The regulated articles are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The treatment section of the certificate must indicate that the regulated articles have been treated with methyl bromide to kill the pine shoot beetle in accordance with part 305. In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(*2*) The regulated articles consist of pine bark and are accompanied by a certificate that specifies both the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The additional declaration section must state, "The pine bark in this shipment has been ground into pieces less than or equal to 1 inch in diameter." In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(*3*) The regulated articles are shipped from a CFIA-approved facility that processes only regulated articles that originated in areas in Canada or the United States not considered to be infested with pine shoot beetle. The facility must be inspected by the CFIA at least twice a year to verify its compliance with CFIA handling and processing procedures, and the CFIA must provide APHIS with a current list of approved facilities at least annually. The name and address (including the county or municipal regional county and Province) of the CFIA-approved facility that shipped the articles, as well as the U.S. destination (including county and State) must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(*4*) The pine products are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated

articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The treatment section of the certificate must indicate that the regulated articles have been treated in accordance with 7 CFR part 305. In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, package, or container.

(*5*) The regulated articles, consisting of logs with bark attached, are consigned to a U.S. facility that operates under a compliance agreement with APHIS in accordance with §319.40–8 for specified handling or processing of the regulated articles. The logs must be transported by as direct a route as reasonably possible and not off-loaded en route to the U.S. facility. The logs must be accompanied by a statement of origin and movement that specifies the county or municipal regional county and Province where the logs originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. In addition, the name and address (including county and State) of the U.S. facility receiving the logs must be plainly indicated on the regulated articles or, if applicable, on the outer covering or container.

(*6*) The regulated articles, consisting of pine bark, are shipped from a CFIA-approved facility for use as a fuel at a cogeneration facility in the United States approved by APHIS. The pine bark must be transported by as direct a route as reasonably possible and not off-loaded en route to the U.S. cogeneration facility. The Canadian facility from which the pine bark is shipped must be inspected by the CFIA at least twice a year to verify that the facility is following handling and processing procedures that adequately safeguard the pine bark for shipment to the U.S. cogeneration facility. CFIA must provide APHIS with a current list of approved facilities at least annually. The name and address (including the county or municipal regional county and Province) of the CFIA-approved facility that shipped the pine bark, as well as the name and address of the U.S. cogeneration facility receiving the shipment (including county and State) must be plainly indicated on the outer covering, packaging, or container of the pine bark.

(B) If the regulated articles in paragraphs (i)(2)(iv)(1) through (5) of this section are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50–3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the regulated articles must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(n) *Regulated articles of the genus Fraxinus from Canada.* Except for articles prohibited under paragraph (n)(4) of this section, regulated articles of the genus *Fraxinus* (ash) from Canada may be imported in accordance with this paragraph (n) and subject to the certification requirements in §319.40–2(a) and the inspection and other requirements in §319.40–9. Articles being moved from counties or municipal regional counties in Canada not regulated for the emerald ash borer (EAB) may not transit an EAB-regulated area in Canada en route to the United States unless they are moving directly through the EAB-regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the regulated area between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the emerald ash borer.

(l) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that

originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated by the Canadian Government for the emerald ash borer require a permit issued under § 319.40–2(a) and must be accompanied by a certificate bearing an additional declaration that the articles in the shipment were:

(i) Debarked, and vascular cambium removed to a depth of 1.27 cm (½ inch) during the debarking process; or

(ii) Heat treated in accordance with part 305 of this chapter. The phytosanitary certificate accompanying such articles must describe the treatment method employed.

(2) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer require a permit issued under § 319.40–2(a) and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(3) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originated in a county or municipal regional county free of the emerald ash borer.

(4) The importation of ash wood chips or bark chips larger than 1 inch diameter in any two dimensions that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer is prohibited.

(5) Ash wood chips or bark 1 inch or less in diameter that originate in an area regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a) and a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

(6) Ash wood chips or bark chips that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a), and a valid certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(7) Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originates in a Province or Territory free of the emerald ash borer.

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[60 FR 27674, May 25, 1995, as amended at 63 FR 69542, Dec. 17, 1998; 64 FR 59604, Nov. 3, 1999; 69 FR 52418, Aug. 26, 2004; 69 FR 55733, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 70 FR 33325, June 7, 2005; 72 FR 30467, June 1, 2007; 75 FR 4251, Jan. 26, 2010]

§ 319.40–6 Universal importation options.

(a) *Logs.* Logs may be imported if prior to importation the logs have been debarked in accordance with § 319.40–7(b) and heat treated in accordance with part 305 of this chapter. During the entire interval between treatment and export, the logs must be stored and handled in a manner which excludes any access to the logs by plant pests.

(b) *Lumber*—(1) *Heat treated or heat treated with moisture reduction.* Lumber that prior to importation has been heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter , may be imported in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the lumber, unless the lumber and the other regulated articles

are in separate holds or separate sealed containers, or, if the lumber and other regulated articles are mixed in a hold or sealed container, all the regulated articles have been heat treated in accordance with part 305 of this chapter , or heat treated with moisture reduction in accordance with part 305 of this chapter. Lumber on the vessel's deck must be in a sealed container, unless it has been heat treated with moisture reduction in accordance with part 305 of this chapter

(ii) If lumber has been heat treated in accordance with part 305 of this chapter , that fact must be stated on the importer document, or by a permanent marking on each piece of lumber in the form of the letters "HT" or the words "Heat Treated." If lumber has been heat treated with moisture reduction in accordance with part 305 of this chapter, that fact must be stated on the importer document, or by a permanent marking, on each piece of lumber or on the cover of bundles of lumber, in the form of the letters "KD" or the words "Kiln Dried."

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with §319.40–8 that requires the raw lumber to be heat treated in accordance with part 305 of this chapter or heat treated with moisture reduction in accordance with part 305 of this chapter , within 30 days from the time the lumber is released from the port of first arrival. Heat treatment must be completed before any cutting, planing, or sawing of the raw lumber.

(c) *Wood chips and bark chips*—(1) *From Chile (pine) and South America (eucalyptus).* Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs and wood chips from South America that are derived from temperate species of *Eucalyptus* may be imported in accordance with paragraph (c)(2) of this section or in accordance with the following requirements:

(i) The wood chips must be accompanied by a certificate stating that the wood chips meet the requirements in paragraphs (c)(1)(i)(A) through (c)(1)(i)(C) of this section.

(A) The wood chips were treated with a surface pesticide treatment in accordance with part 305 of this chapter within 24 hours after the log was chipped and were retreated with a surface pesticide treatment in accordance with part 305 of this chapter if more than 30 days elapsed between the date of the first treatment and the date of export to the United States.

(B) The wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and the logs used to make the wood chips were debarked in accordance with §319.40–7(b) before being chipped.

(C) No more than 45 days elapsed from the time the trees used to make the wood chips were felled to the time the wood chips were exported.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips. Wood chips on the vessel's deck must be in a sealed container.

(iii) The wood chips must be consigned to a facility in the United States that operates under a compliance agreement in accordance with §319.40–8. The following requirements apply upon arrival of the wood chips in the United States:

(A) Upon arrival in the United States, the wood chips must be unloaded by a conveyor that is covered to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips

must have a procedure in place to retrieve any chips that fall during unloading.

(B) If the wood chips must be transported after arrival, the chips must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance or from being blown off the means of conveyance by wind.

(C) The wood chips must be stored at the facility on a paved surface and must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area must not be adjacent to wooded areas.

(D) The wood chips must be processed within 45 days of arrival at the facility. Any fines or unusable wood chips must be disposed of by burning within 45 days of arrival at the facility.

(2) *From locations other than certain places in Asia.* Wood chips and bark chips from any place except places in Asia that are east of 60° east longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(i) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(B) Fumigated with methyl bromide in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; *Except that:* If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(iii) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(iv) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with §319.40–8. The wood chips or bark chips must be burned, heat treated in accordance with part 305 of this chapter, heat treated with moisture reduction in accordance with part 305 of this chapter, or otherwise processed in a manner that will destroy any plant pests associated with the wood chips or bark chips within 30 days of arrival at the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(d) *Wood mulch, humus, compost, and litter.* Wood mulch, humus, compost, and litter may be imported if accompanied by an importer document stating that the wood mulch, humus, compost, or litter was fumigated in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with §319.40–7(d).

(e) *Cork and bark.* Cork and cork bark, cinnamon bark, and other bark to be used for food, manufacture of medicine, or chemical extraction may be imported if free from rot at the time

of importation and subject to the inspection and other requirements of § 319.40–9.

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[60 FR 27679, May 25, 1995; 60 FR 30157, June 7, 1995, as amended at 65 FR 21127, Apr. 20, 2000; 69 FR 2295, Jan. 15, 2004; 69 FR 52418, Aug. 26, 2004; 75 FR 4252, Jan. 26, 2010]

§ 319.40–7 Treatments and safeguards.

(a) *Certification of treatments or safeguards.* If APHIS determines that a document required for the importation of regulated articles is inaccurate, the regulated articles which are the subject of the certificate or other document shall be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of regulated articles in accordance with this subpart from a country in which an inaccurate certificate is issued, and APHIS may determine not to allow the importation of any or all regulated articles from any such country, until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

(b) *Debarking.* Except for raw lumber, no more than 2 percent of the surface of all regulated articles in a lot may retain bark, with no single regulated article retaining bark on more than 5 percent of its surface. For raw lumber, debarking must remove 100 percent of the bark.

(c) *Treatments.* Treatment of regulated articles under this subpart must be conducted in accordance with part 305 of this chapter.

(d) *Preservatives.* All preservative treatments that use a preservative product that is registered by the United States Environmental Protection Agency are authorized for treatment of regulated articles imported in accordance with this subpart. Preservative treatments must be performed in accordance with label directions approved by the United States Environmental Protection Agency.

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[60 FR 27674, May 25, 1999, as amended at 64 FR 59604, Nov. 3, 1999; 65 FR 21128, Apr. 20, 2000; 67 FR 8465, Feb. 25, 2002; 69 FR 2295, Jan. 15, 2004; 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005; 75 FR 4252, Jan. 26, 2010]

§ 319.40–8 Processing at facilities operating under compliance agreements.

(a) Any person who operates a facility in which imported regulated articles are processed may enter into a compliance agreement to facilitate the importation of regulated articles under this subpart. The compliance agreement shall specify the requirements necessary to prevent spread of plant pests from the facility, requirements to ensure the processing method effectively destroys plant pests, and the requirements for the application of chemical materials in accordance with part 305 of this chapter. The compliance agreement shall also state that inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and of this subpart. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny

the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person whose compliance agreement has been canceled requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

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

[60 FR 27674, May 25, 1995, as amended at 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005]

§ 319.40–9 Inspection and other requirements at port of first arrival.

(a) *Procedures for all regulated articles.* (1) All imported regulated articles shall be inspected at the port of first arrival. If the inspector finds signs of plant pests on or in the regulated article, or finds that the regulated article may have been associated with other articles infested with plant pests, the regulated article shall be cleaned or treated as required by an inspector, and the regulated article and any products of the regulated article shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(2) Regulated articles shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(3) If an inspector finds that an imported regulated article is so infested with a plant pest that, in the judgment of the inspector, the regulated article cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(4) No person shall move any imported regulated article from the port of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the regulated article:

(i) Is in compliance with all applicable regulations and has been inspected and found to be apparently free of plant pests;[4] or,

(ii) Has been inspected and the inspector requires reinspection, cleaning, or treatment of the regulated article at a place other than the port of first arrival.

(b) *Notice of arrival; visual examination of regulated articles at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of regulated articles imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in any specific permit issued by APHIS[5]. This notice may be in writing or by telephone. The notice must include the number of any specific permit issued for the regulated articles; the name, if any, of the means of conveyance carrying the regulated articles; the type and quantity of the regulated articles; the expected date of arrival; the country of origin of the regulated articles; the name and the number, if any, of the dock or area where the regulated articles are to be unloaded; and the name of the importer or broker at the port of arrival.

(2) Imported regulated articles which have been debarked in accordance with § 319.40–7(b) and can be safely and practically inspected will be visually examined for plant pests by an inspector at the port of first arrival. If plant pests are found on or in the regulated articles or if the regulated article cannot be safely and practically inspected, the regulated articles must be treated in accordance with part 305 of this chapter.

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[4] Certain regulated articles may also be subject to "Subpart—Fruits and Vegetables," or to the noxious weed regulations under part 360 of this chapter, or to Endangered Species Act regulations under parts 355 and 356 of this chapter and 50 CFR parts 17 and 23.

[5] A list of APHIS Officers in Charge may be obtained from the Administrator, c/o Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737.

(c) *Marking and identity of regulated articles.* Any regulated article, at the time of importation shall bear on the outer container (if in a container), on the regulated article (if not in a container), or on a document accompanying the regulated article the following information:

(1) General nature and quantity of the regulated articles;

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

(3) Name and address of the person importing the regulated article;

(4) Name and address of consignee of the regulated article;

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

(6) Number of the permit (if one was issued) authorizing the importation of the regulated article into the United States.

(d) *Sampling for plant pests at port of first arrival.* Any imported regulated article may be sampled for plant pests at the port of first arrival. If an inspector finds it necessary to order treatment of a regulated article at the port of first arrival, any sampling will be done prior to treatment.

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[60 FR 27674, May 25, 1995, as amended at 66 FR 21056, Apr. 27, 2001; 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005; 72 FR 39501, July 18, 2007]

§ 319.40–10 Costs and charges.

The services of an inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[6] The inspector may require the importer to furnish any labor, chemicals, packing materials, or other supplies required in handling regulated articles under this subpart. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50111, Sept. 18, 1998; 69 FR 52418, Aug. 26, 2004; 69 FR 55733, Sept. 16, 2004]

§ 319.40–11 Plant pest risk assessment standards.

When evaluating a request to import a regulated article not allowed importation under this subpart, or a request to import a regulated article under conditions other than those prescribed by this subpart, APHIS will conduct the following analysis to determine the plant pest risks associated with each requested importation in order to determine whether or not to issue a permit under this subpart or to propose regulations establishing conditions for the importation into the United States of the regulated article.

(a) *Collecting commodity information.* (1) APHIS will evaluate the application for information describing the regulated article and the origin, processing, treatment, and handling of the regulated article; and

(2) APHIS will evaluate history of past plant pest interceptions or introductions (including data from foreign countries) associated with the regulated article.

(b) *Cataloging quarantine pests.* For the regulated article specified in an application, APHIS will determine what plant pests or potential plant pests are associated with the type of tree from which the regulated article was derived, in the country and locality from which the regulated article is to be exported. A plant pest that meets one of the following criteria is a quarantine pest and will be further evaluated in accordance with paragraph (c) of this section:

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

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

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

[6] Provisions relating to costs for other services of an inspector, including services related to extra inspection and separation of cargo from packing material for shipments that arrive without meeting the requirements of this subpart as required, are contained in part 354 of this chapter.

greater damage potential in the United States;

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

(5) Non-indigenous or native plant pest that may be able to vector another plant pest that meets one of the criteria in paragraphs (b)(1) through (4) of this section.

(c) *Determining which quarantine pests to assess.* (1) APHIS will divide quarantine pests identified in paragraph (b) of this section into groups depending upon where the plant pest is most likely to be found. The plant pests would be grouped as follows:

(i) Plant pests found on the bark;

(ii) Plant pests found under the bark; and

(iii) Plant pests found in the wood.

(2) APHIS will subdivide each of the groups in paragraph (c)(1) of this section into associated taxa.

(3) APHIS will rank the plant pests in each group in paragraph (c)(2) of this section according to plant pest risk, based on the available biological information and demonstrated plant pest importance.

(4) APHIS will identify any plant pests ranked in paragraph (c)(3) of this section for which plant pest risk assessments have previously been performed in accordance with this section. APHIS will conduct individual plant pest risk assessments for the remaining plant pests, starting with the highest ranked plant pest(s) in each group.

(5) The number of plant pests in each group to be evaluated through individual plant pest risk assessment will be based on biological similarities of members of the group as they relate to measures taken in connection with the importation of the regulated article to mitigate the plant pest risk associated with the regulated article. For example, if the plant pest risk assessment for the highest ranked plant pest indicates a need for a mitigation measure that would result in the same reduction of risk for other plant pests ranked in the group, the other members need not be subjected to individual plant pest risk assessment.

(d) *Conducting individual plant pest risk assessments.* APHIS will evaluate each of the plant pests identified in paragraph (c)(4) of this section by:

(1) Estimation of the probability of the plant pest being on, with, or in the regulated article at the time of importation;

(2) Estimation of the probability of the plant pest surviving in transit on the regulated article and entering the United States undetected;

(3) Estimation of the probability of the plant pest colonizing once it has entered into the United States;

(4) Estimation of the probability of the plant pest spreading beyond any colonized area; and

(5) Estimation of the damage to plants that could be expected upon introduction and dissemination within the United States of the plant pest.

(e) *Estimating unmitigated overall plant pest risk.* APHIS will develop an estimation of the overall plant pest risk associated with importing the regulated article based on compilation of individual plant pest risk assessments performed in accordance with paragraph (d) of this section.

(f) *Evaluating available requirements to determine whether they would allow safe importation of the regulated article.* The requirements of this subpart, and any other requirements relevant to the regulated article and plant pests involved, will be compared with the individual plant pest risk assessments in order to determine whether particular conditions on the importation of the regulated article would reduce the plant pest risk to an insignificant level. If APHIS determines that the imposition of particular conditions on the importation of the regulated article could reduce the plant pest risk to an insignificant level, and determines that sufficient APHIS resources are available to implement or ensure implementation of the conditions, APHIS will implement rulemaking to allow importation of the requested regulated article under the conditions identified by the plant pest risk assessment process.

Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

QUARANTINE

§ 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (Ostrinia nubilalis Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) To prevent the introduction of these plant pests, the following articles may not be imported into the United States except in accordance with this subpart: The raw or unmanufactured stalk and all other parts of Indian corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum* sudanensis), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001]

§ 319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part 319, disposition may be made in accordance with § 330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in § 319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section and without other restriction under this subpart, but such importations are subject to the requirements of § 319.37–4(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of § 319.56–3.

[24 FR 10788, Dec. 29, 1959, as amended at 72 FR 39501, July 18, 2007]

§ 319.41b Administrative instructions prescribing conditions for entry of broomstraw without treatment.

Broomstraw, sometimes referred to as "combed stalkless", when consisting of individual straws entirely free from stems, stalks, stubs of stalks, and leaves, may be imported from all countries without seasonal limitation through ports of entry designated in the permit, provided it is bundled and baled to prevent breakage and scattering and to facilitate inspection, in the following manner:

(a) The broomstraw shall be assembled into bundles with the base of the

individual straws at the same end, no alternating of layers being permitted.

(b) Each bundle shall be securely tied to prevent breakage.

(c) Individual bundles shall be compacted, grouped into bales, and so arranged that the butt of each bundle is exposed on the outside of the bale.

(d) Each bale shall be securely bound to prevent shifting or loosening of the bundles in transit.

(e) Broomstraw found upon inspection at the port of entry to contain stems, stalks, stubs of stalks, or leaves shall be sterilized under the supervision of an inspector. Broomstraw contaminated in the aforesaid manner, from countries other than those on the North or South American Continents or the West Indies, shall be considered as broomcorn and shall be subject to compliance with § 319.41–3(b).

[25 FR 12809, Dec. 14, 1960]

RULES AND REGULATIONS

§ 319.41–1 Plant products permitted entry.[1]

Except as restricted from certain countries and localities by special quarantines and other orders now in force,[2] and by such as may hereafter be promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41–5:

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,[3] and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

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

(d) Immature, dehusked "baby" sweet corn may be imported from Zambia in accordance with § 319.56–2f(a).

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 71 FR 29769, May 24, 2006]

§ 319.41–2 Application for permits.

(a) Persons contemplating the importation of any of the articles specified in § 319.41–1(b), shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of arrival, and the name and address of the importer in the United States to whom the permit should be sent. Unless otherwise stated in the permit, all permits

[1] Except as provided in § 319.41–6 the regulations in this subpart do not authorize importations through the mails.

[2] The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Except as provided for in paragraph (c) for corn seed from New Zealand, seed and all other portions in the raw or unmanufactured state of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), jobs-tears (Coix), Polytoca, Chionachne, Sclerachne, and Trilobachne, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

(c) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction. (§ 319.24.).

[3] A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

will be valid from date of issuance until revoked.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the risk and expense of the importer for a period not exceeding 20 days pending the receipt of the permit.

(c) Applications may be made by telegraph, in which case the information required above must be given.

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

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

§ 319.41–3 Issuance of permits.

(a) On approval by the Deputy Administrator of the Plant Protection and Quarantine Programs of the application mentioned in § 319.41–2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, New York, and Norfolk, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b)(2), permits will be issued for ports where the Plant Protection and Quarantine Programs maintains an inspection service and for such other ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41–1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

[24 FR 10788, Dec. 29, 1959, as amended at 33 FR 11811, Aug. 21, 1968; 36 FR 24917, Dec. 24, 1971]

§ 319.41–4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the U.S. Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

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

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

§ 319.41–5 Condition of entry.

(a) The entry of the articles covered by § 319.41–1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Protection and Quarantine Programs, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or treatment in accordance with part 305 of

this chapter, as the inspector may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment in accordance with part 305 of this chapter, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment in accordance with part 305 of this chapter is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value, if such value be less than $5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

(c) Should a shipment requiring sterilization or other treatment in accordance with part 305 of this chapter under the provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment in accordance with part 305 of this chapter are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment in accordance with part 305 of this chapter are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in §319.41–1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment in accordance with part 305 of this chapter as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such treatment of the included stems as in the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in §319.41–1 (b)(2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment in accordance with part 305 of this chapter or may refuse entry.

[24 FR 10788, Dec. 29, 1959, as amended at 75 FR 4252, Jan. 26, 2010]

§319.41–6 Importations by mail.

In addition to entries by freight or express provided for in §319.41–5, importations are permitted by mail of (a) mature corn on the cob from the countries specified in §319.41–1(b)(2), (b) clean shelled corn and clean seed of the other plants covered by §319.41: *Provided,* That a permit has been issued for the importation: *Provided further,* That each shipment is accompanied from the foreign mailing point by a special mailing tag, which will direct the package to a Plant Protection and Quarantine Programs inspection station for inspection in accordance with §319.41–5 before release to the mails for delivery to the importer. These special mailing tags will be furnished on request to the importer for transmission to his foreign shipper.

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

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

Subpart—Rice

QUARANTINE

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, (1) that injurious fungous diseases of rice, including downy mildew (Sclerospora macrospora), leaf smut (Entyloma oryzae), blight (Oospora oryzetorum), and glume blotch (Melanomma glumarum), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of seed or paddy rice, rice straw, and rice hulls, and (2) that the unrestricted importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) To prevent the introduction into the United States of the plant pests and diseases indicated above, the Secretary has determined that it is necessary to prohibit the importation into the United States of seed or paddy rice from all foreign locations except the Republic of Mexico and to restrict the importation of seed or paddy rice, rice straw, and rice hulls from the Republic of Mexico and all other foreign locations, except as otherwise provided in this subpart.

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001]

§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port of entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55–6 and 319.55–7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

RULES AND REGULATIONS

§ 319.55–1 Definitions.

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Protection and Quarantine Programs of the United States Department of Agriculture.

§ 319.55–2 Application for permit.

(a) Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any country, may be made to the Plant Protection and Quarantine Programs, indicating in the application the locality where the desired material has been grown, the port of first arrival, and the name and address of the importer in

the United States to whom the permit should be sent, if other than the applicant.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days, pending the receipt of the permit.

(c) Application may be mader by telegraph, in which case the information required above must be furnished.

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

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

§ 319.55–3 Ports of entry.

(a) For importations of seed or paddy rice from the Republic of Mexico, permits will be issued for entry through Mexican border ports and such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(b) For importations of rice straw and rice hulls from all foreign countries, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(c) Pending development of adequate treating facilities in Guam, seed or paddy rice, rice straw, and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(d) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for treatment are available, or it shall be refused entry.

§ 319.55–4 Issuance of permits.

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

§ 319.55–5 Notice of arrival by permittee.

Immediately upon the arrival of a shipment at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel and the designation of the dock where the shipment is to be landed.

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

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

§ 319.55–6 Inspection and disinfection at port of arrival.

(a) *Paddy rice.* All importations of seed or paddy rice from Mexico shall be subject, as a condition of entry, to such inspection or disinfection in accordance with part 305 of this chapter, or both, at the port of arrival, as shall be required by the inspector, and to the delivery to the collector of customs by the inspector of a written notice that the seed or paddy rice has been inspected and found to be apparently free from plant diseases and insect pests or that the required treatment has been given. Should any shipment of such seed or paddy rice be found to be so infested with insect pests or infected with plant diseases that, in the judgment of the inspector, it cannot be cleaned by disinfection or other treatment in accordance with part 305 of this chapter, the entire shipment may be refused entry.

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and to treatment in accordance with part

305 of this chapter at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Protection and Quarantine Programs and, as a further condition of entry, in order to permit effective treatment, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(c) *General.* (1) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(2) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

[24 FR 10788, Dec. 29, 1959, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.55–7 Importations by mail.

Sections 319.55–2 to 319.55–6, inclusive, provide for importations otherwise than through the mails. Importations of seed or paddy rice from Mexico, and of rice straw and rice hulls from all foreign countries and localities, may be made by mail, *Provided* (a) That a permit has been issued for the importation in accordance with §§ 319.55–2, 319.55–4, and (b) That each shipment is accompanied from the foreign mailing point by a special mailing tag directing the package to a Plant Protection and Quarantine Programs inspection station for inspection and, if necessary, for treatment, before being released to the mails for delivery to the importer, unless entry is refused in accordance with the provisions of § 319.55–6. The special mailing tags will be furnished on request to the importer for transmission in advance to his foreign shipper.

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

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

Subpart—Fruits and Vegetables

SOURCE: 72 FR 39501, July 18, 2007, unless otherwise noted.

§ 319.56–1 Notice of quarantine.

(a) Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to prohibit the importation into the United States of fruits and vegetables and associated plants and portions of plants except as provided in this part.

§ 319.56–2 Definitions.

Above ground parts. Any plant parts, such as stems, leaves, fruit, or inflorescence (flowers), that grow solely above the soil surface.

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

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

Commercial consignment. A lot of fruits or vegetables that an inspector identifies as having been imported for sale and distribution. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Commodity. A type of plant, plant product, or other regulated article being moved for trade or other purpose.

Consignment. A quantity of plants, plant products, and/or other articles, including fruits or vegetables, being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more commodities or lots).

Country of origin. Country where the plants from which the plant products are derived were grown.

Cucurbits. Any plants in the family Cucurbitaceae.

Field. A plot of land with defined boundaries within a place of production on which a commodity is grown.

Frozen fruit or vegetable. Any variety of raw fruit or vegetable preserved by commercially acceptable freezing methods in such a way that the commodity remains at −6.7 °C (20 °F) or below for at least 48 hours prior to release.

Fruits and vegetables. A commodity class for fresh parts of plants intended for consumption or processing and not for planting.

Import and importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

Lot. A number of units of a single commodity, identifiable by its homogeneity of composition and origin, forming all or part of a consignment.

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

Noncommercial consignment. A lot of fruits or vegetables that an inspector identifies as having been imported for personal use and not for sale.

Permit. A written, oral, or electronically transmitted authorization to import fruits or vegetables in accordance with this subpart.

Phytosanitary certificate. A document, including electronic versions, that is related to a consignment and that:

(1) Is patterned after the model certificate of the International Plant Protection Convention (IPPC), a multilateral convention on plant protection under the authority of the Food and Agriculture Organization of the United Nations (FAO);

(2) Is issued by an official of a foreign national plant protection organization in one of the five official languages of the FAO;

(3) Is addressed to the plant protection service of the United States (Animal and Plant Health Inspection Service);

(4) Describes the consignment;

(5) Certifies the place of origin for all contents of the consignment;

(6) Certifies that the consignment has been inspected and/or tested according to appropriate official procedures and is considered to be free from quarantine pests of the United States;

(7) Contains any additional declarations required by this subpart; and

(8) Certifies that the consignment conforms with the phytosanitary requirements of the United States and is considered eligible for importation pursuant to the laws and regulations of the United States.

Phytosanitary measure. Any legislation, regulation, or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests.

Place of production. Any premises or collection of fields operated as a single production or farming unit. This may include a production site that is separately managed for phytosanitary purposes.

Plant litter and debris. Discarded or decaying organic matter; detached

leaves, twigs, or stems that do not add commercial value to the product.

Port of first arrival. The first port within the United States where a consignment is offered for consumption entry or offered for entry for immediate transportation in bond.

Portions of plants. Stalks or stems, including the pediculus, pedicel, peduncle, raceme, or panicle, that are normally attached to fruits or vegetables.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, or premises.

Quarantine pest. A pest of potential economic importance to the area endangered by it and not yet present there, or present but not widely distributed there and being officially controlled.

United States. All of the States of the United States, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States.

West Indies. The foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles (including Hispaniola), and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela).

[72 FR 39501, July 18, 2007, as amended at 73 FR 10972, Feb. 29, 2008]

§ 319.56–3 General requirements for all imported fruits and vegetables.

All fruits and vegetables that are allowed importation under this subpart must be imported in accordance with the following requirements, except as specifically provided otherwise in this subpart.

(a) *Freedom from unauthorized plant parts.* All fruits and vegetables imported under this subpart, whether in commercial or noncommercial consignments, must be free from plant litter or debris and free of any portions of plants that are specifically prohibited in the regulations in this subpart.

(b) *Permit.* (1) All fruits and vegetables imported under this subpart, whether commercial or noncommercial consignments, must be imported under permit issued by APHIS, must be imported under the conditions specified in the permit, and must be imported in accordance with all applicable regulations in this part; *except* for:

(i) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, except certain acorns and chestnuts subject to § 319.56–11 of this subpart;

(ii) Fruits and vegetables grown in Canada (except potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road, which are prohibited importation into the United States); and

(iii) Fruits and vegetables, except mangoes, grown in the British Virgin Islands that are imported into the U.S. Virgin Islands.

(2) *Applying for a permit.* Permit applications must be submitted in writing or electronically as provided in this paragraph and must be submitted in advance of the proposed importation. Applications must state the country or locality of origin of the fruits or vegetables, the anticipated port of first arrival, the name and address of the importer in the United States, and the identity (scientific name preferred) and quantity of the fruit or vegetable. Use of PPQ Form 587 or Internet application is preferred.

(i) *By mail.* Persons who wish to apply by mail for a permit to import fruits or vegetables into the United States must submit their application to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Services, 4700 River Road Unit 136, Riverdale, MD 20737–1236.

(ii) *Via the Internet.* Persons who wish to apply for a permit to import fruits or vegetables into the United States via the internet must do so using APHIS Plant Protection and Quarantine's permit Web site at *http://*

www.aphis.usda.gov/plant_health/permits/index.shtml.

(iii) *By fax*. Persons who wish to apply by fax for a permit to import fruits or vegetables into the United States must do so by faxing their application to: Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Services, (301) 734–5786.

(3) *Issuance of permits*. If APHIS approves a permit application, APHIS will issue a permit specifying the conditions applicable to the importation of the fruit or vegetable.

(4) *Issuance of oral permits*. Oral permits may be issued at ports of entry for noncommercial consignments if the commodity is admissible with inspection only. Oral permits may be issued for commercial consignments of fruits and vegetables that are not accompanied by a written permit upon arrival in the United States if all applicable entry requirements are met and proof of application for a written permit is supplied to an inspector.

(5) *Amendment, denial, or withdrawal of permits*. The Administrator may amend, deny, or withdraw a permit at any time if he or she determines that conditions exist that present an unacceptable risk of the fruit or vegetable introducing quarantine pests or noxious weeds into the United States. If the withdrawal is oral, the withdrawal of the permit and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow.

(6) *Appeals*. Any person whose permit has been amended, denied, or withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the decision. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully amended, denied, or withdrawn. The Administrator will grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person who has filed an appeal requests a hearing, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. The permit withdrawal will remain in effect pending resolution of the appeal or the hearing.

(c) *Ports of entry*. (1) Fruits and vegetables must be imported into specific ports if so required by this subpart or by part 305 of this chapter, or if so required by a permit issued under paragraph (b) of this section for the importation of the particular fruit or vegetable. If a permit issued for the importation of fruits or vegetables names specific port(s) where the fruits or vegetables must be imported, the fruits and vegetables may only be imported into the port(s) named in the permit. If a permit issued for the importation of fruits or vegetables does not name specific port(s) where the fruits or vegetables must be imported, the fruits and vegetables may be imported into any port referenced in paragraph (c)(2) of this section.

(2) Fruits and vegetables imported under this subpart may be imported into any port listed in 19 CFR 101.3(b)(1), except as otherwise provided by part 319 or by a permit issued in accordance with part 319, and except as provided in §330.104 of this chapter. Fruits and vegetables that are to be cold treated at ports in the United States may only be imported into specific ports as provided in part 305 of this chapter.

(d) *Inspection, treatment, and other requirements*. All imported fruits or vegetables are subject to inspection, are subject to such disinfection at the port of first arrival as may be required by an inspector, and are subject to reinspection at other locations at the option of an inspector. If an inspector finds plants or portions of plants, or a plant pest or noxious weed, or evidence of a plant pest or noxious weed on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests or noxious weeds, the owner or agent of the owner of the fruit or vegetable must clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable is also subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place until all

applicable requirements of this subpart have been accomplished.

(1) *Notice of arrival; assembly for inspection.* Any person importing fruits and vegetables into the United States must offer those agricultural products for inspection and entry at the port of first arrival. The owner or agent must assemble the fruits and vegetables for inspection at the port of first arrival, or at any other place designated by an inspector, and in a manner designated by the inspector. All fruits and vegetables must be accurately disclosed and made available to an inspector for examination. The owner or the agent must provide an inspector with the name and address of the consignee and must make full disclosure of the type, quantity, and country and locality of origin of all fruits and vegetables in the consignment, either orally for noncommercial consignments or on an invoice or similar document for commercial consignments.

(2) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited, or is not accompanied by required documentation, or is so infested with a plant pest or noxious weed that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot or consignment may be refused entry into the United States.

(3) *Release for movement.* No person may move a fruit or vegetable from the port of first arrival unless an inspector has either:

(i) Released it;

(ii) Ordered treatment at the port of first arrival and, after treatment, released the fruit or vegetable;

(iii) Authorized movement of the fruit or vegetable to another location for treatment, further inspection, or destruction; or

(iv) Ordered the fruit or vegetable to be reexported.

(4) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, recall, destruction, or other action with regard to imported fruits or vegetables while the consignment is in foreign commerce, the inspector will issue an emergency action notification (PPQ Form 523) to the owner of the fruits or vegetables or to the owner's agent. The owner must, within the time and in the manner specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed to prevent the introduction of plant pests or noxious weeds into the United States.

(e) *Costs and charges.* APHIS will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.[1] The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, destruction, or other measures ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

(f) *APHIS not responsible for damage.* APHIS assumes no responsibility for any damage to fruits or vegetables that results from the application of treatments or other measures required under this subpart (or under part 305 of this chapter) to protect against the introduction of plant pests into the United States.

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[72 FR 39501, July 18, 2007, as amended at 73 FR 10972, Feb. 29, 2008; 75 FR 4252, Jan. 26, 2010]

§ 319.56–4 Approval of certain fruits and vegetables for importation.

(a) *Determination by the Administrator.* The Administrator has determined that the application of one or more of the designated phytosanitary measures cited in paragraph (b) of this section to certain imported fruits and vegetables mitigates the risk posed by those commodities, and that such fruits and vegetables may be imported into the United States subject to one or more of

[1] Provisions relating to costs for other services of an inspector are contained in part 354 of this chapter.

those measures, as provided in paragraphs (c) and (d) of this section. The name and origin of all fruits and vegetables authorized importation under this section, as well as the applicable requirements for their importation, may be found on the Internet at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/fv.pdf*. Commodities that require phytosanitary measures other than one or more of the designated phytosanitary measures cited in paragraph (b) of this section may only be imported in accordance with applicable requirements in §319.56–3 and commodity-specific requirements contained elsewhere in this subpart.

(b) *Designated phytosanitary measures.* (1) Fruits or vegetables are subject to inspection upon arrival in the United States and comply with all applicable provisions of §319.56–3.

(2) The fruits or vegetables are imported from a pest-free area in the country of origin and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin.

(3) The fruits or vegetables are treated in accordance with part 305 of this chapter.

(4) The fruits or vegetables are inspected in the country of origin by an inspector or an official of the national plant protection organization of the exporting country, and have been found free of one or more specific quarantine pests identified by risk analysis as likely to follow the import pathway.

(5) The fruits or vegetables are imported as commercial consignments only.

(c) *Fruits and vegetables authorized importation under this section.* (1) *Previously approved fruits and vegetables.* Fruits and vegetables that were authorized importation under this subpart either directly by permit or by specific regulation as of August 17, 2007 and that were subject only to one or more of the designated phytosanitary measures cited in paragraph (b) of this section and the general requirements of §319.56–3, may continue to be imported into the United States under the same requirements that applied before August 17, 2007, except as provided in paragraph (d) of this section.

(2) *Other fruits and vegetables.* Fruits and vegetables that do not meet the criteria in paragraph (c)(1) of this section may be authorized importation under this section as follows:

(i) *Pest risk analysis.* The risk posed by the particular fruit or vegetable from a specified country or other region has been evaluated and publicly communicated as follows:

(A) *Availability of pest risk analysis.* APHIS published in the FEDERAL REGISTER, for 60 days public comment, a notice announcing the availability of a pest risk analysis that evaluated the risks associated with the importation of the particular fruit or vegetable.

(B) *Determination of risk; factors considered.* The Administrator determined, and announced in the notice referred to in the previous paragraph, that, based on the information available, the application of one or more of the designated phytosanitary measures described in paragraph (b) of this section is sufficient to mitigate the risk that plant pests or noxious weeds could be introduced into or disseminated within the United States via the imported fruit or vegetable. In order for the Administrator to make the determination described in this paragraph, he or she must conclude based on the information presented in the risk analysis for the fruit or vegetable that the risk posed by each quarantine pest associated with the fruit or vegetable in the country or other region of origin is mitigated by one or more of the following factors:

(*1*) *Inspection.* A quarantine pest is associated with the commodity in the country or region of origin, but the pest can be easily detected via inspection;

(*2*) *Pest freedom.* No quarantine pests are known to be associated with the fruit or vegetable in the country or region of origin, or a quarantine pest is associated with the commodity in the country or region of origin but the commodity originates from an area in the country or region that meets the requirements of §319.56–5 for freedom from that pest;

(*3*) *Effectiveness of treatment.* A quarantine pest is associated with the fruit

or vegetable in the country or region of origin, but the risk posed by the pest can be reduced by applying an approved post-harvest treatment to the fruit or vegetable.

(*4*) *Pre-export inspection.* A quarantine pest is associated with the commodity in the country or region of origin, but the commodity is subject to pre-export inspection, and the commodity is to be accompanied by a phytosanitary certificate that contains an additional declaration that the commodity has been inspected and found free of such pests in the country or region of origin.

(*5*) *Commercial consignments.* A quarantine pest is associated with the fruit or vegetable in the country or region of origin, but the risk posed by the pest can be reduced by commercial practices.

(ii) *Issuance of import permits.* The Administrator will announce his or her decision in a subsequent FEDERAL REGISTER notice. If appropriate, APHIS would begin issuing permits for importation of the fruit or vegetable subject to requirements specified in the notice because:

(A) No comments were received on the pest risk analysis;

(B) The comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or

(C) Changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

(d) *Amendment of import requirements.* If, after August 17, 2007, the Administrator determines that one or more of the designated phytosanitary measures is not sufficient to mitigate the risk posed by any of the fruits and vegetables that are authorized importation into the United States under this section, APHIS will prohibit or further restrict importation of the fruit or vegetable. APHIS may also publish a notice in the FEDERAL REGISTER advising the public of its finding. The notice will specify the amended import requirements, provide an effective date for the change, and will invite public comment on the subject.

(Approved by the Office of Management and Budget under control number 0579–0293)

§ 319.56–5 Pest-free areas.

As provided elsewhere in this subpart, certain fruits and vegetables may be imported into the United States provided that the fruits or vegetables originate from an area that is free of a specific pest or pests. In some cases, fruits or vegetables may only be imported if the area of export is free of all quarantine pests that attack the fruit or vegetable. In other cases, fruits and vegetables may be imported if the area of export is free of one or more quarantine pests that attack the fruit or vegetable, and provided that the risk posed by the remaining quarantine pests that attack the fruit or vegetable is mitigated by other specific phytosanitary measures contained in the regulations in this subpart.

(a) *Application of international standard for pest free areas.* APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standard for Phytosanitary Measures No. 4, "Requirements for the establishment of pest free areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in §300.5 of this chapter.

(b) *Survey protocols.* APHIS must approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

(c) *Determination of pest freedom.* (1) For an area to be considered free of a specified pest for the purposes of this subpart, the Administrator must determine, and announce in a notice or rule published in the FEDERAL REGISTER for 60 days public comment, that the area meets the criteria of paragraphs (a) and (b) of this section.

(2) The Administrator will announce his or her decision in a subsequent

FEDERAL REGISTER notice. If appropriate, APHIS would begin issuing permits for importation of the fruit or vegetable from a pest-free area because:

(i) No comments were received on the notice or

(ii) The comments on the notice did not affect the overall conclusions of the notice and the Administrator's determination of risk.

(d) *Decertification of pest-free areas; reinstatement.* If a pest is detected in an area that is designated as free of that pest, APHIS would publish in the FEDERAL REGISTER a notice announcing that the pest-free status of the area in question has been withdrawn, and that imports of host crops for the pest in question are subject to application of an approved treatment for the pest. If a treatment for the pest is not available, importation of the host crops would be prohibited. In order for a decertified pest-free area to be reinstated, it would have to meet the criteria of paragraphs (a) and (b) of this section.

(e) *General requirements for fruits and vegetables imported from pest-free areas.*

(1) *Labeling.* Each box of fruits or vegetables that is imported into the United States from a pest-free area under this subpart must be clearly labeled with:

(i) The name of the orchard or grove of origin, or the name of the grower; and

(ii) The name of the municipality and State in which the fruits or vegetables were produced; and

(iii) The type and amount of fruit the box contains.

(2) *Phytosanitary certificate.* A phytosanitary certificate must accompany the imported fruits or vegetables, and must contain an additional declaration that the fruits originate from a pest-free area that meets the requirements of paragraphs (a) and (b) of this section.

(3) *Safeguarding.* If fruits or vegetables are moved from a pest-free area into or through an area that is not free of that pest, the fruits or vegetables must be safeguarded during the time they are present in a non-pest-free area by being covered with insect-proof mesh screens or plastic tarpaulins, including while in transit to the packinghouse and while awaiting packaging. If fruits or vegetables are moved through an area that is not free of that pest during transit to a port, they must be packed in insect-proof cartons or containers or be covered by insect-proof mesh or plastic tarpaulins during transit to the port and subsequent export to the United States. These safeguards described in this section must be intact upon arrival in the United States.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0316 and 0579–0293)

§ 319.56–6 Trust fund agreements.

If APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of fruits or vegetables and APHIS services are to be funded by the national plant protection organization (NPPO) of the exporting country or a private export group, then the NPPO or the private export group must enter into a trust fund agreement with APHIS that is in effect at the time the fruits or vegetables are exported. Under the agreement, the NPPO of the exporting country or the private export group must pay in advance all estimated costs that APHIS expects to incur in providing inspection services in the exporting country. These costs will include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing services. The agreement must require the NPPO of the exporting country or region or a private export group to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. The agreement must further specify that, if the deposit is not sufficient to meet all costs incurred by APHIS, the NPPO of the exporting country or a private export group must deposit with APHIS, before the services will be completed, a certified or cashier's check for the amount of the remaining costs, as determined by APHIS. After a final audit at the conclusion of each shipping season, any

overpayment of funds would be returned to the NPPO of the exporting country or region or a private export group, or held on account.

§ 319.56–7 Territorial applicability and exceptions.

(a) The regulations in this subpart apply to importations of fruits and vegetables into any area of the United States, except as provided in this section.

(b) *Importations of fruits and vegetables into Guam.* (1) The following fruits and vegetables may be imported into Guam without treatment, except as may be required under § 319.56–3(d), and in accordance with all the requirements of this subpart as modified by this section:

(i) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(ii) All fruits and vegetables from Palau and the Federated States of Micronesia (FSM), except *Artocarpus* spp. (breadfruit, jackfruit, and chempedak), citrus, curacao apple, guava, Malay or mountain apple (*Syzygium* spp.), mango, and papaya, and except dasheen from the Yap district of FSM and from Palau, and bitter melon (*Momordica charantia*) from Palau. The excepted products are approved for entry into Guam after treatment in accordance with part 305 of this chapter.

(iii) *Allium* (without tops), artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons from Japan and Korea.

(iv) Leafy vegetables, celery, and potatoes from the Philippine Islands.

(v) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops) from Australia.

(vi) Arrowroot, asparagus, bean sprouts, broccoli, cabbage, carrots (without tops), cassava, cauliflower, celery, chives, cow-cabbage, dasheen, garlic, gingerroot, horseradish, kale, kudzu, leek, lettuce, onions, Portuguese cabbage, turnip, udo, water chestnut, watercress, waterlily root, and yam bean root from Taiwan.

(vii) Lettuce from Papua New Guinea.

(viii) Carrots (without tops), celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits from New Zealand.

(ix) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(x) Green corn on the cob.

(xi) All other fruits and vegetables approved for entry into any other part or port of the United States, and except any which are specifically designated in this subpart as not approved.

(2) An inspector in Guam may accept an oral application and issue an oral permit for products listed in paragraph (a) of this section, which is deemed to fulfill the requirements of § 319.56–3(b) of this subpart. The inspector may waive the documentation required in § 319.56–3 for such products whenever the inspector finds that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(3) The provisions of § 319.56–11 do not apply to chestnuts and acorns imported into Guam, which are enterable into Guam without permit or other restriction under this subpart. If chestnuts or acorns imported under this paragraph are found infected, infested, or contaminated with any plant pest and are not subject to disposal under this subpart, disposition may be made in accordance with § 330.106 of this chapter.

(4) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting § 319.56–3(a).

(c) *Importation of fruits and vegetables into the U.S. Virgin Islands.* (1) Fruits and vegetables grown in the British Virgin Islands may be imported into the U.S. Virgin Islands in accordance with § 319.56–3, except that:

(i) Such fruits and vegetables are exempt from the permit requirements of § 319.56–3(b); and

(ii) Mangoes grown in the British Virgin Islands are prohibited entry into the U.S. Virgin Islands.

(2) Okra produced in the West Indies may be imported into the U.S. Virgin Islands without treatment but are subject to inspection at the port of arrival.

[72 FR 39501, July 18, 2007, as amended at 75 4252, Jan. 26, 2010]

§§ 319.56–8—319.56–9 [Reserved]

§ 319.56–10 Importation of fruits and vegetables from Canada.

(a) *General permit for fruits and vegetables grown in Canada.* Fruits and vegetables grown in Canada and offered for entry into the United States will be subject to the inspection, treatment, and other requirements of § 319.56–3(d), but may otherwise 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 national plant protection organization 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.

(b) [Reserved]

(Approved by the Office of Management and Budget under control number 0579–0316)

§ 319.56–11 Importation of dried, cured, or processed fruits, vegetables, nuts, and legumes.

(a) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit, phytosanitary certificate, or other compliance with this subpart, except as specifically provided otherwise in this section or elsewhere in this part.

(b) *Acorns and chestnuts.* (1) *From countries other than Canada and Mexico; treatment required.* Acorns and chestnuts intended for purposes other than propagation, except those grown in and shipped from Canada and Mexico, must be imported into the United States under permit, and subject to all the requirements of § 319.56–3, and must be treated in accordance with part 305 of this chapter.[2]

(2) *From Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes other than propagation may be imported in accordance with paragraph (a) of this section.

(3) *For propagation.* Acorns and chestnuts from any country may be imported for propagation only in accordance with the applicable requirements in §§ 319.37 through 319.37–14 of this part.

(c) *Macadamia nuts.* Macadamia nuts in the husk or shell are prohibited importation into the United States unless the macadamia nuts were produced in, and imported from, St. Eustatius.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.56–12 Importation of frozen fruits and vegetables.

Frozen fruits and vegetables may be imported into the United States in accordance with § 319.56–3. Such fruits and vegetables must be held in accordance with the requirements for importing frozen fruits and vegetables in part 305 of this chapter.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.56–13 Fruits and vegetables allowed importation subject to specified conditions.

(a) The following fruits and vegetables may be imported in accordance with § 319.56–3 and any additional requirements specified in paragraph (b) of this section.

[2] Acorns and chestnuts imported into Guam are subject to the requirements of § 319.56–7(b).

Country/locality of origin	Common name	Botanical name	Plant part(s)	Additional requirements
Algeria	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Angola	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Antigua and Barbuda.	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Argentina	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Australia (Tasmania only).	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Austria	Asparagus, white	*Asparagus officinalis*	Shoot	(b)(4)(iii).
Bahamas	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Barbados	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Belgium	Apricot	*Prunus armeniaca*	Fruit	(b)(5)(xi).
	Fig	*Ficus carica*	Fruit	(b)(5)(xi).
	Nectarine	*Prunus persica* var. *nucipersica*	Fruit	(b)(5)(xi).
	Peach	*Prunus persica*	Fruit	(b)(5)(xi).
	Plum	*Prunus domestica*	Fruit	(b)(5)(xi).
Belize	Papaya	*Carica papaya*	Fruit	(b)(1)(i), (b)(2)(iii).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
Benin	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Bolivia	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Brazil	Cantaloupe	*Cucumis melo* var. *cantaloupensis*	Fruit	(b)(1)(v), (b)(3).
	Cassava	*Manihot esculenta*	Fruit	(b)(2)(vii).
	Honeydew melon	*Cucumis melo*	Fruit	(b)(1)(v), (b)(3).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Watermelon	*Citrullus lanatus* var. *lanatus*	Fruit	(b)(1)(v), (b)(3).
Burkina Faso	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Cameroon	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Cayman Islands	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Chile	African horned cucumber.	*Cucumis metuliferus*	Fruit	(b)(2)(i).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
China	Litchi	*Litchi chinensis*	Fruit	(b)(2)(v).
Columbia	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Yellow pitaya	*Selinicereus megalanthus*	Fruit	(b)(5)(xiii).
Congo, Democratic Republic of.	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Cook Islands	Ginger	*Zingiber officinalis*	Root	(b)(2)(ii).
	Banana	*Musa* spp.	Fruit	(b)(4)(i).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi), (b)(5)(vi).
Costa Rica	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
Cote d'Ivoire	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Dominica	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Dominican Republic	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Papaya	*Carica papaya*	Fruit	(b)(2)(iii), (b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(iii), (b)(2)(vi).
Ecuador	Pineapple	*Ananas comosus*	Fruit	(b)(2)(iii), (b)(2)(vi).
Egypt	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
El Salvador	Fennel	*Foeniculum vulgare*	Leaf and stem	(b)(2)(i).
	German chamomile	*Matricaria recutita* and *Matricaria chamomilla*.	Flower and leaf	(b)(2)(i).
	Oregano or sweet marjoram.	*Origanum* spp.	Leaf and stem	(b)(2)(i).
	Parsley	*Petroselinum crispum*	Leaf and stem	(b)(2)(i).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
	Rosemary	*Rosmarinus officinalis*	Leaf and stem	(b)(2)(i).
	Waterlily or lotus	*Nelumbo nucifera*	Roots without soil	(b)(2)(i).
	Yam-bean or jicama.	*Pachyrhizus* spp.	Roots without soil	(b)(2)(i).
Fiji	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi), (b)(5)(vi).

Country/locality of origin	Common name	Botanical name	Plant part(s)	Additional requirements
France	Bean	*Glycine max* (Soybean); *Phaseolus coccineus*, (Scarlet or french runner bean); *Phaseolus lunatus* (lima bean); *Phaseolus vulgaris* (green bean, kidney bean, navy bean, pinto bean, red bean, string bean, white bean); *Vicia faba* (faba bean, broadbean, haba, habichuela, horsebean, silkworm bean, windsor bean; *Vigna radiata* (mung bean); *Vigna unguiculata* (includes: ssp. *cylindrica,* ssp. *dekintiana*, ssp. *sesquipedalis* (yard-long bean, asparagus bean, long bean), ssp. *unguiculata* (southern pea, black-eyed bean, black-eyed pea, cowpea, crowder pea)).	Fruit	(b)(5)(x).
	Tomato	*Solanum lycopersicum*	Fruit, stem, and leaf.	(b)(4)(ii).
French Guiana	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
French Polynesia, including Tahiti.	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi), (b)(5)(vi).
Ghana	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Grenada	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Guadeloupe	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Guatemala	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Fennel	*Foeniculum vulgare*	Leaf and stem	(b)(2)(i).
	German chamomile	*Matricaria recutita* and *Matricaria chamomilla*.	Flower and leaf	(b)(2)(i).
	Papaya	*Carica papaya*	Fruit	(b)(1)(i), (b)(2)(iii).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
	Rosemary	*Rosmarinus officinalis*	Leaf and stem	(b)(2)(i).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
	Waterlily or lotus	*Nelumbo nucifera*	Roots without soil	(b)(2)(i).
	Yam-bean or jicama.	*Pachyrhizus* spp	Roots without soil	(b)(2)(i)
Guinea	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Guyana	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Haiti	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Honduras	Basil	*Ocimum basilicum*	Leaf and stem	(b)(2)(i), (b)(5)(iii).
	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	German chamomile	*Matricaria recutita* and *Matricaria chamomilla*.	Flower and leaf	(b)(2)(i).
	Oregano or sweet marjoram.	*Origanum* spp.	Leaf and stem	(b)(2)(i).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
	Waterlily or lotus	*Nelumbo nucifera*	Roots without soil	(b)(2)(i).
	Yam-bean or jicama.	*Pachyrhizus* spp.	Roots without soil	(b)(2)(i).
India	Litchi	*Litchi chinensis*	Fruit	(b)(2)(v).
Indonesia	Dasheen	*Colocasia* spp., *Alocasia* spp., and *Xanthosoma* spp.	Tuber	(b)(2)(iv).
Israel	Melon	*Cucumis melo* only	Fruit	(b)(5)(vii).
	Tomato (green)	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii) or (b)(3), (b)(5)(xiv).
	Tomato (red or pink).	*Solanum lycopersicum*	Fruit	(b)(3), (b)(5)(viii) or (b)(3), (b)(5)(xiv).
Italy	Garlic	*Allium sativum*	Bulb	(b)(5)(v) [1].
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
Jamaica	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Papaya	*Carica papaya*	Fruit	(b)(2)(iii), (b)(2)(iv), (b)(3).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Japan	Bean (garden)	*Phaseolus vulgaris*	Fruit	(b)(2)(x), (b)(5)(xi).
	Cucumber	*Cucumis sativas*	Fruit	(b)(2)(x), (b)(5)(xii).
	Pepper	*Capsicum* spp.	Fruit	(b)(2)(x), (b)(5)(xi).

Country/locality of origin	Common name	Botanical name	Plant part(s)	Additional requirements
	Sand pear	*Pyrus pyrifolia* var. *culta*	Fruit	(b)(5)(ix).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(2)(x), (b)(5)(xii).
Kenya	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Korea, Republic of	Dasheen	*Colocasia* spp., *Alocasia* spp., and *Xanthosoma* spp.	Root	(b)(2)(iv).
	Sand pear	*Pyrus pyrifolia* var. *culta*	Fruit	(b)(5)(ix).
	Strawberry	*Fragaria* spp	Fruit	(b)(5)(i).
Liberia	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Mali	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Martinique	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Mauritania	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Mexico	Coconut	*Cocos nucifera*	Fruit with milk and husk[2].	(b)(5)(iv).
	Fig	*Ficus carica*	Fruit	(b)(1)(iii), (b)(2)(i).
	Pitaya	*Hylocereus* spp.	Fruit	(b)(1)(iv), (b)(2)(i).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
Montserrat	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Morocco	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Morocco and Western Sahara.	Tomato	*Solanum lycopersicum*	Fruit, stem, and leaf.	(b)(4)(ii).
Netherlands	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Peach	*Prunus persica*	Fruit	(b)(5)(xi).
Netherlands Antilles	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
New Zealand	Citrus	*Citrus* spp.	Fruit	(b)(3), (b)(5)(xvi).
	Passion fruit	*Passiflora* spp.	Fruit	(b)(2)(vi).
Nicaragua	Fennel	*Foeniculum vulgare*	Leaf and stem	(b)(2)(i).
	German chamomile	*Matricaria recutita* and *Matricaria chamomilla.*	Flower and leaf	(b)(2)(i).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
	Waterlily or lotus	*Nelumbo nucifera*	Roots without soil	(b)(2)(i).
	Yam-bean or jicama.	*Pachyrhizus* spp.	Roots without soil	(b)(2)(i).
Niger	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Nigeria	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Panama	Cucurbit	Cucurbitaceae	Fruit	(b)(2)(iii), (b)(3).
	Rambutan	*Nephelium lappaceum*	Fruit	(b)(2)(i), (b)(5)(ii).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
Paraguay	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Peru	Honeydew melon	*Cucumis melo*	Fruit	(b)(1)(v), (b)(2)(i), (b)(3).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Philippines	Pineapple	*Ananas comosus*	Fruit	(b)(5)(vi).
Portugal (including Azores).	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Portugal (Azores only).	Tomato	*Solanum lycopersicum*	Fruit	(b)(3), (b)(4)(ii).
St. Kitts and Nevis	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
St. Lucia	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
St. Martin	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Barbados cherry	*Malpighia glabra*	Fruit	(b)(2)(vi).
St. Vincent	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Senegal	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Sierra Leone	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
South Africa	Pineapple	*Ananas comosus*	Fruit	(b)(2)(xii).
Spain	Garlic	*Allium sativum*	Bulb	(b)(5)(v)[1].
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Tomato	*Solanum lycopersicum*	Fruit	(b)(4)(ii).
Sri Lanka	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi), (b)(5)(vi).
Taiwan	Brassica	*Brassica oleracea*	Above ground parts	(b)(2)(viii).
	Carambola	*Averrhoa carambola*	Fruit	(b)(2)(ix), (b)(5)(xv).
	Litchi	*Litchi chinensis*	Fruit	(b)(2)(v).
	Longan	*Dimocarpus longan*	Fruit and stems	(b)(2)(v), (b)(3), (b)(5)(xv), (b)(5)(xvii).
Thailand	Pineapple[3]	*Ananas comosus*	Fruit	(b)(2)(xi), (b)(5)(vi).

Country/locality of origin	Common name	Botanical name	Plant part(s)	Additional requirements
Togo	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Trinidad and Tobago.	Cassava	*Manihot esculenta*	Fruit	(b)(2)(vi).
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3).
	Papaya	*Carica papaya*	Fruit	(b)(2)(vi).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Tunisia	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Turkey	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Uruguay	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
Venezuela	Cantaloupe	*Cucumis melo* var. *cantaloupensis*	Fruit	(b)(1)(v), (b)(3).
	Honeydew melon	*Cucumis melo*	Fruit	(b)(1)(v), (b)(3).
	Pineapple	*Ananas comosus*	Fruit	(b)(2)(vi).
	Watermelon	*Citrullus lanatus* var. *lanatus*	Fruit	(b)(1)(v), (b)(3).

[1] Also eligible for importation if treated with an approved treatment listed in part 305 of this chapter.
[2] Fruit without husk may be imported subject to the requirements of § 319.56–5.
[3] Also eligible for importation in accordance with the provisions listed in § 319.56–47.

(b) Additional restrictions for applicable fruits and vegetables as specified in paragraph (a) of this section.

(1) *Pest-free areas.*

(i) The commodity must be from an area that meets the requirements of § 319.56–5 for freedom from the Mediterranean fruit fly (Medfly), and must meet applicable requirements of § 319.56–5.

(ii) The commodity must be from an area that meets the requirements of § 319.56–5 for freedom from the Mediterranean fruit fly (Medfly), and must meet applicable requirements of § 319.56–5. Fruit from outside Medfly-free areas must be treated in accordance with part 305 of this chapter.

(iii) The commodity must be from an area that meets the requirements of § 319.56–5 for freedom from fruit flies, and must meet applicable requirements of § 319.56–5.

(iv) The commodity must be from an area that meets the requirements of § 319.56–5 for freedom from fruit flies, and must meet applicable requirements of § 319.56–5. The phytosanitary certificate must also include an additional declaration stating: "Upon inspection, these articles were found free of *Dysmicoccus neobrevipes* and *Planococcus minor*."

(v) The commodity must be from an area that meets the requirements of § 319.56–5 for freedom from the South American cucurbit fly, and must meet applicable requirements of § 319.56–5.

(2) *Restricted importation and distribution.*

(i) Prohibited entry into Puerto Rico, U.S. Virgin Islands, Hawaii, and Guam. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within PR, VI, HI, or Guam."

(ii) Prohibited entry into Puerto Rico, U.S. Virgin Islands, and Guam. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within PR, VI, or Guam."

(iii) Prohibited entry into Hawaii. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within HI."

(iv) Prohibited entry into Guam. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within Guam."

(v) Prohibited entry into Florida. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within FL."

(vi) Prohibited entry into Hawaii.

(vii) Prohibited entry into Puerto Rico, U.S. Virgin Islands, and Hawaii.

(viii) Prohibited entry into Alaska.

(ix) Prohibited entry into Florida.

(x) Allowed importation into Hawaii only.

(xi) Allowed importation into Guam and Commonwealth of the Northern Mariana Islands only.

(xii) 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."

(3) Commercial consignments only.

(4) *Stage of development.*

(i) The bananas must be green at the time of export. Inspectors at the port

of arrival will determine that the bananas were green at the time of export if:

(A) Bananas shipped by air are still green upon arrival in the United States; and

(B) Bananas shipped by sea are either still green upon arrival in the United States or yellow but firm.

(ii) The tomatoes must be green upon arrival in the United States. Pink or red fruit may only be imported in accordance with other provisions of § 319.56–13 or § 319.56–28 of this subpart.

(iii) No green may be visible on the shoot.

(5) *Other conditions.*

(i) Entry permitted only from September 15 to May 31, inclusive, to prevent the introduction of a complex of exotic pests including, but not limited to a thrips (*Haplothrips chinensis*) and a leafroller (*Capua tortrix*).

(ii) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the country of origin with an additional declaration stating that the fruit is free from *Coccus moestus*, *C. viridis*, *Dysmicoccus neobrevipes*, *Planococcus lilacinus*, *P. minor*, and *Psedococcus landoi;* and all damaged fruit was removed from the consignment prior to export under the supervision of the national plant protection organization.

(iii) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the country of origin with an additional declaration stating that the fruit is free from *Planococcus minor*.

(iv) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the country of origin with an additional declaration stating that the fruit is of the Malayan dwarf variety or Maypan variety (=F_1 hybrid, Malayan Dwarf × Panama Tall) (which are resistant to lethal yellowing disease) based on verification of the parent stock.

(v) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the country of origin with an additional declaration stating that the commodity is free of living stages of *Brachycerus* spp. and *Dyspessa ulula* (Bkh.), based on field inspection and certification and reexamination at the port of departure prior to exportation.

(vi) Only the Tahiti Queen cultivar and varieties which are at least 50 percent smooth Cayenne by lineage are admissible. The importer or the importer's agent must provide the inspector with documentation that establishes the variety's lineage. This document is necessary only with the first importation.

(vii) Prohibited from the Palestinian controlled portions of the West Bank and Gaza Strip; otherwise, must be accompanied by a phytosanitary certificate which declares that the melons were grown in approved areas in the Arava Valley or the Kadesh–Barnea area of Israel, the fields where the melons were grown were inspected prior to harvest, and the melons were inspected prior to export and found free of pests.

(viii) Prohibited from the Palestinian controlled portions of the West Bank and Gaza Strip; otherwise must be accompanied by a phytosanitary certificate which declares that only tomato varieties 111, 121, 124, 139, and 144 are included in the consignment and the tomatoes were packed into fruit-fly-proof containers within 24 hours after harvesting.

(ix) Except for sand pears entering Hawaii, only precleared consignments are authorized. The consignment must be accompanied by a PPQ Form 203 signed by the APHIS inspector on site in the exporting country.

(x) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country that includes a declaration certifying that the products were grown and packed in the exporting country.

(xi) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country that includes a declaration certifying that the products were grown in a greenhouse in the exporting country.

(xii) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country that includes

a declaration certifying that the products were grown in a greenhouse in the exporting country on Honshu Island or north thereof.

(xiii) Only precleared consignments that have been treated in accordance with part 305 of this chapter are authorized. The consignment must be accompanied by a PPQ Form 203 signed by the APHIS inspector on site in the exporting country.

(xiv) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Israel that declares "These tomatoes were grown in registered greenhouses in the Arava Valley of Israel."

(xv) Must be treated in accordance with part 305 of this chapter.

(xvi) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization 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 consignment; and the randomly selected boxes must be examined for hitchhiking pests.

(xvii) Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country of origin with an additional declaration stating that the fruit is free of *Conogethes punctiferalis*, *Cryptophlebia ombrodelta*, and *Rhipiphorothrips cruentatus*.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0236, 0579–0264, 0579–0316, and 0579–0351)

[24 FR 10788, Dec. 29, 1959, as amended at 72 FR 48547, Aug. 24, 2007; 73 FR 10972, Feb. 29, 2008; 74 FR 23611, May 20, 2009; 74 FR 56525, Nov. 2, 2009; 75 FR 4252, Jan. 26, 2010]

§§ 319.56–14—319.56–19 [Reserved]

§ 319.56–20 Apples and pears from Australia (including Tasmania) and New Zealand.

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with this section and all other applicable provisions of this subpart.

(a) *Inspection and treatment for pests of the family Tortricidae.* An inspector must take a biometrically designed sample from each lot of apples or pears that are offered for entry into the United States. If inspection of the sample discloses that pests of the family Tortricidae (fruit-leaf roller moths) are not present in the lot sampled, the fruit may be imported without treatment. If any such pests are found upon inspection, the lot must be treated with methyl bromide as prescribed in part 305 of this chapter.

(b) *Treatment of apples and pears from Australia for fruit flies.* (1) Apples from Australia (including Tasmania) may be imported without treatment for the following fruit flies if they are imported from an area in Australia that meets the requirements of § 319.56–5 for pest freedom: Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Bactrocera tryoni*), *Bactrocera aquilonis*, and *B. neohumeralis*.

(2) Pears from Australia (including Tasmania) may be imported without treatment for the following fruit flies if they are imported from an area in Australia that meets the requirements of § 319.56–5 for pest freedom: Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Dacus tryoni*), *Bactrocera jarvisi*, and *B. neohumeralis*.

(3) Apples and pears from Australia that do not originate from an area that is free of fruit flies must be treated for such pests in accordance with part 305 of this chapter. If an authorized treatment does not exist for a specific fruit fly, the importation of such apples and pears is prohibited.

§ 319.56–21 Okra from certain countries.

Okra from Brazil, Colombia, Ecuador, Guyana, Mexico, Peru, Suriname, Venezuela, and the West Indies may be imported into the United States in accordance with this section and all other applicable provisions of this subpart.

(a) *Importations into pink bollworm generally infested or suppressive areas in the United States.* Okra may be imported into areas defined in § 301.52–2a as pink bollworm generally infested or

suppressive areas, provided the okra is imported in accordance with the requirements of §319.56–3. Upon entry into the United States, such okra is immediately subject to the requirements of Subpart—Pink Bollworm (§§301.52 through 301.52–10) of this chapter.

(b) *Importations into areas south of the 38th parallel that are not pink bollworm generally infested or suppressive areas.* (1) During December 1 through May 15, inclusive, okra may be imported into areas of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel subject to the requirements of §319.56–3.

(2) During May 16 through November 30, inclusive, okra may be imported into areas of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel if treated for the pink bollworm in accordance with part 305 of this chapter.

(c) *Importations into areas north of the 38th parallel.* Okra may be imported into Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia, or the U.S. Virgin Islands, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel, subject to the requirements of §319.56–3.

(d) *Importations into areas of California that are not pink bollworm generally infested or suppressive areas.* (1) During January 1 through March 15, inclusive, okra may be imported into California subject to the requirements of §319.56–3.

(2) During March 16 through December 31, inclusive, okra may be imported into California if it is treated for the pink bollworm in accordance with part 305 of this chapter.

(e) *Imports from Andros Island of the Bahamas.* Okra produced on Andros Island, Commonwealth of the Bahamas, may be imported into the United States in accordance with §319.56–3.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§319.56–22 Apples and pears from certain countries in Europe.

(a) *Importations allowed.* The following fruits may be imported into the United States in accordance with this section and all other applicable provisions of this subpart:

(1) Apples from Belgium, Denmark, France, Germany, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, and Switzerland;

(2) Pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain.

(b) *Trust fund agreement.* Except as provided in paragraph (h) of this section, the apples or pears may be imported only if the national plant protection organization (NPPO) of the exporting country has entered into a trust fund agreement with APHIS in accordance with §319.56–6.

(c) *Responsibilities of the exporting country.* The apples or pears may be imported in any single shipping season only if all of the following conditions are met:

(1) Officials of the NPPO must survey each orchard producing apples or pears for shipment to the United States at least twice between spring blossoming and harvest. If the officials find any leaf miners that suggest the presence of Leucoptera malifoliella in an orchard, the officials must reject any fruit harvested from that orchard during that growing season for shipment to the United States. If the officials find evidence in an orchard of any other plant pest referred to in paragraph (g) of this section, they must ensure that the orchard and all other orchards within 1 kilometer of that orchard will be treated for that pest with a pesticide approved by the APHIS, in accordance with label directions and under the direction of the plant protection organization. If the officials determine that the treatment program has not been applied as required or is not

controlling the plant pest in the orchard, they must reject any fruit harvested from that orchard during that growing season for shipment to the United States.

(2) The apples or pears must be identified to the orchard from which they are harvested (the producing orchard) until the fruit arrives in the United States.

(3) The apples or pears must be processed and inspected in approved packing sheds as follows:

(i) Upon arrival at the packing shed, the apples or pears must be inspected for insect pests as follows: For each grower lot (all fruit delivered for processing from a single orchard at a given time), packing shed technicians must examine all fruit in one carton on every third pallet (there are approximately 42 cartons to a pallet), or at least 80 apples or pears in every third bin (if the fruit is not in cartons on pallets). If they find any live larva or pupa of *Leucoptera malifoliella*, they must reject the entire grower lot for shipment to the United States, and the NPPO must reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season.

(ii) The apples or pears must be sorted, sized, packed, and otherwise handled in the packing sheds on grading and packing lines used solely for fruit intended for shipment to the United States, or, if on grading and packing lines used previously for other fruit, only after the lines have been washed with water.

(iii) During packing operations, apples and pears must be inspected for insect pests as follows: All fruit in each grower lot must be inspected at each of two inspection stations on the packing line by packing shed technicians. In addition, one carton from every pallet in each grower lot must be inspected by officials of the plant protection service. If the inspections reveal any live larva or pupa of *Leucoptera malifoliella*, the entire grower lot must be rejected for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of that shipping season. If the inspections reveal any other insect pest referred to in paragraph (g) of this section, and a treatment authorized in part 305 of this chapter is available, the fruit will remain eligible for shipment to the United States if the entire grower lot is treated for the pest under the supervision of an inspector. However, if the entire grower lot is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the entire grower lot will be rejected for shipment to the United States.

(4) Apples or pears that pass inspection at approved packing sheds must be presented to an inspector for preclearance inspection as prescribed in paragraph (d) of this section or for inspection in the United States as prescribed in paragraph (h) of this section.

(5) Apples and pears presented for preclearance inspection must be identified with the packing shed where they were processed, as well as with the producing orchard, and this identity must be maintained until the apples or pears arrive in the United States.

(6) Facilities for the preclearance inspections prescribed in paragraph (d) of this section must be provided in the exporting country at a site acceptable to APHIS.

(7) Any apples or pears rejected for shipment into the United States may not, under any circumstance, be presented again for shipment to the United States.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in the exporting country by an inspector. Preclearance inspection will be conducted for a minimum of 6,000 cartons of apples or pears, which may represent multiple grower lots from different packing sheds. The cartons examined during any given preclearance inspection will be known as an inspection unit. Apples or pears in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, a biometrically designed statistical sample of 300 cartons drawn from each inspection unit.

(i) If inspectors find any live larva or pupa of *Leucoptera malifoliella*, they will reject the entire inspection unit for

shipment to the United States. The inspectors also will reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season. However, other orchards represented in the rejected inspection unit will not be affected for the remainder of the shipping season because of that rejection. Additionally, if inspectors reject any three inspection units in a single shipping season because of *Leucoptera malifoliella* on fruit processed by a single packing shed, no additional fruit from that packing shed will be accepted for shipment to the United States for the remainder of that shipping season.

(ii) If the inspectors find evidence of any other plant pest referred to in paragraph (g) of this section, and a treatment authorized in part 305 of this chapter is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest under the supervision of an inspector. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the inspectors will reject the entire inspection unit for shipment to the United States. Rejection of an inspection unit because of pests other than *Leucoptera malifoliella* will not be cause for rejecting additional fruit from an orchard or packing shed.

(iii) Apples and pears precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States (except as necessary to ensure that the fruit has been precleared) unless the preclearance program with the exporting country is terminated in accordance with paragraph (e) of this section. If the preclearance program is terminated with any country, precleared fruit in transit to the United States at the time of termination will be spot-checked by inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (g) of this section. If any live larva or pupa of *Leucoptera malifoliella* is found in any carton of fruit, inspectors will reject that carton and all other cartons in that consignment that are from the same producing orchard. In addition, the remaining cartons of fruit in that consignment will be reinspected as an inspection unit in accordance with the preclearance procedures prescribed in paragraph (d) of this section.

(2) [Reserved]

(e) *Termination of preclearance programs.* The Administrator may terminate the preclearance program in a country if he or she determines that any of the conditions specified in paragraph (c) of this section are not met or because of pests found during preclearance inspections. Termination of the preclearance program will stop consignments of apples or pears from that country for the remainder of that shipping season. Termination of the preclearance program for findings of *Leucoptera malifoliella* in preclearance inspections in any country will be based on rates of rejection of inspection units as follows:

(1) Termination because of findings of *Leucoptera malifoliella.* The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of *Leucoptera malifoliella* as follows:

(i) Five inspection units in sequence among inspection units 1–20, or a total of 8 or more of the inspection units 1–20;

(ii) Five inspection units in sequence among inspection units 21–40, or a total of 10 or more of the inspection units 1–40;

(iii) Five inspection units in sequence among inspection units 41–60, or a total of 12 or more of the inspection units 1–60;

(iv) Five inspection units in sequence among inspection units 61–80, or a total of 14 or more of the inspection units 1–80;

(v) Five inspection units in sequence among inspection units 81–100, or a total of 16 or more of the inspection units 1–100;

(vi) Five inspection units in sequence among inspection units 101–120, or a total of 18 or more of the inspection units 1–120.

(vii) Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 2.

(2) Termination because of findings of other plant pests. The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of other insect pests as follows:

(i) Ten or more of the inspection units 1–20;

(ii) Fifteen or more of the inspection units 1–40;

(iii) Twenty or more of the inspection units 1–60;

(iv) Twenty-five or more of the inspection units 1–80;

(v) Thirty or more of the inspection units 1–100; or

(vi) Thirty-five or more of the inspection units 1–120.

(vii) Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 5.

(f) *Cold treatment.* In addition to all other requirements of this section, apples or pears may be imported into the United States from France, Italy, Portugal, or Spain only if the fruit is cold treated for the Mediterranean fruit fly in accordance with part 305 of this chapter.

(g) *Plant pests; authorized treatments.* (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, Switzerland, and Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for: The pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rosslertamm) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Treatments must be conducted in accordance with part 305 of this chapter.

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

(1) The Administrator has determined that inspection can be accomplished at the port of arrival without increasing the risk of introducing insect pests into the United States;

(2) Each pallet of apples or pears must be completely enclosed in plastic, to prevent the escape of insects, before it is offloaded at the port of arrival;

(3) The entire consignment of apples or pears must be offloaded and moved to an enclosed warehouse, where adequate inspection facilities are available, under the supervision of an inspector.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.56–23 Apricots, nectarines, peaches, plumcot, and plums from Chile.

(a) *Importations allowed.* Apricots, nectarines, peaches, plumcot, and plums may be imported into the United States from Chile in accordance with this section and all other applicable provisions of this subpart.[3]

(b) *Trust fund agreement.* Apricots, nectarines, peaches, plumcot, and plums may be imported under the regulations in this section only if the national plant protection organization of Chile (Servicio Agricola y Ganadero, referred to in this section as SAG) or a private export group has entered into a trust fund agreement with APHIS in accordance with § 319.56–6.

[3] As provided in § 319.56–4, apricots, nectarines, peaches, plumcot, and plums from Chile may also be imported if treated in accordance with part 305 of this chapter and subject to other applicable regulations in this subpart.

(c) *Responsibilities of Servicio Agricola y Ganadero*. SAG will ensure that:

(1) Apricots, nectarines, peaches, plumcot, or plums are presented to inspectors for preclearance in their shipping containers at the shipping site as prescribed in paragraph (d) of this section.

(2) Apricots, nectarines, peaches, plumcot, and plums presented for inspection are identified in shipping documents accompanying each load of fruit that identify the packing shed where they were processed and the orchards where they were produced; and this identity is maintained until the apricots, nectarines, peaches, plumcot, or plums are released for entry into the United States.

(3) Facilities for the inspections prescribed in paragraph (d) of this section are provided in Chile at an inspection site acceptable to APHIS.

(d) *Preclearance inspection*. Preclearance inspection will be conducted in Chile under the direction of inspectors. An inspection unit will consist of a lot or consignment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from different packing sheds. Apricots, nectarines, peaches, plumcot, or plums in any inspection unit may be shipped to the United Sates only if the inspection unit passes inspection as follows:

(1) Inspectors will examine the contents of the cartons based on a biometric sampling scheme established for each inspection unit.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in part 305 of this chapter is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, plumcot, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the fruit has been precleared and for occasional monitoring purposes.

(2) [Reserved]

(e) *Termination of preclearance programs*. Consignments of apricots, nectarines, peaches, plumcot, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections establish that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of consignments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments*. (1) Apricots, nectarines, peaches, plumcot, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Treatments must be conducted in accordance with part 305 of this chapter.

(g) *Inspection in the United States*. Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, plumcot, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a

preclearance inspection or fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treatment can be accomplished at the intended port of arrival without increasing the risk of introducing quarantine pests into the United States;

(3) The entire consignment of apricots, nectarines, peaches, plumcot, or plums must be offloaded and moved to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.56–24 Lettuce and peppers from Israel.

(a) Lettuce may be imported into the United States from Israel without fumigation for leafminers, thrips, and *Sminthuris viridis* only in accordance with this section and all other applicable provisions of this subpart.

(1) *Growing conditions.* (i) The lettuce must be grown in insect-proof houses covered with 50 mesh screens, double self-closing doors, and hard walks (no soil) between the beds;

(ii) The lettuce must be grown in growing media that has been sterilized by steam or chemical means;

(iii) The lettuce must be inspected during its active growth phase and the inspection must be monitored by a representative of the Israeli national plant protection organization;

(iv) The crop must be protected with sticky traps and prophylactic sprays approved for the crop by Israel;

(v) The lettuce must be moved to an insect-proof packinghouse at night in plastic containers covered by 50 mesh screens;

(vi) The lettuce must be packed in an insect-proof packinghouse, individually packed in transparent plastic bags, packed in cartons, placed on pallets, and then covered with shrink wrapping; and

(vii) The lettuce must be transported to the airport in a closed refrigerated truck for shipment to the United States.

(2) Each consignment of lettuce must be accompanied by a phytosanitary certificate issued by the Israeli national plant protection organization stating that the conditions of paragraph (a)(1) of this section have been met.

(b) Peppers (fruit) (*Capsicum* spp.) from Israel may be imported into the United States only under the following conditions:

(1) The peppers have been grown in the Arava Valley by growers registered with the Israeli Department of Plant Protection and Inspection (DPPI).

(2) Malathion bait sprays shall be applied in the residential areas of the Arava Valley at 6–to 10–day intervals beginning not less than 30 days before the harvest of backyard host material in residential areas and shall continue through harvest.

(3) The peppers have been grown in insect-proof plastic screenhouses approved by the DPPI and APHIS. Houses shall be examined periodically by DPPI or APHIS personnel for tears in either plastic or screening.

(4) Trapping for Mediterranean fruit fly (Medfly) shall be conducted by DPPI throughout the year in the agricultural region along Arava Highway 90 and in the residential area of Paran. The capture of a single Medfly in a screenhouse will immediately cancel export from that house until the source of the infestation is delimited, trap density is increased, pesticide sprays are applied, or other measures acceptable to APHIS are taken to prevent further occurrences.

(5) Signs in English and Hebrew shall be posted along Arava Highway 90 stating that it is prohibited to throw out/discard fruits and vegetables from passing vehicles.

(6) Sorting and packing of peppers shall be done in the insect-proof screenhouses in the Arava Valley.

(7) Prior to movement from approved insect-proof screenhouses in the Arava Valley, the peppers must be packed in either individual insect-proof cartons or in non-insect-proof cartons that are covered by insect-proof mesh or plastic tarpaulins; covered non-insect-proof cartons must be placed in shipping containers.

(8) The packaging safeguards required by paragraph (b)(7) of this section must remain intact at all times during the movement of the peppers to the United States and must be intact upon arrival of the peppers in the United States.

(9) Each consignment of peppers must be accompanied by a phytosanitary certificate issued by the Israeli national plant protection organization stating that the conditions of paragraphs (b)(1) through (b)(7) of this section have been met.

(Approved by the Office of Management and Budget under control number 0579–0210)

§ 319.56–25 Papayas from Central America and South America.

Commercial consignments of the Solo type of papaya may be imported into the United States only in accordance with this section and all other applicable provisions of this subpart.

(a) The papayas were grown and packed for shipment to the continental United States (including Alaska), Puerto Rico, and the U.S. Virgin Islands in one of the following locations:

(1) *Brazil:* State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito Santo and all areas in the State of Rio Grande del Norte that contain the following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

(2) *Costa Rica:* Provinces of Guanacaste, Puntarenas, San Jose.

(3) *El Salvador:* Departments of La Libertad, La Paz, and San Vicente.

(4) *Guatemala:* Departments of Escuintla, Retalhuleu, Santa Rosa, and Suchitepéquez.

(5) *Honduras:* Departments of Comayagua, Cortés, and Santa Bárbara.

(6) *Nicaragua:* Departments of Carazo, Granada, Leon, Managua, Masaya, and Rivas.

(7) *Panama:* Provinces of Cocle, Herrera, and Los Santos; Districts of Aleanje, David, and Dolega in the Province of Chiriqui; and all areas in the Province of Panama that are west of the Panama Canal; or

(b) The papayas were grown by a grower registered with the national plant protection organization (NPPO) of the exporting country and packed for shipment to the continental United States (including Alaska) in Colombia or Ecuador.

(c) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were one-half or more ripe (more than one-fourth of the shell surface yellow), and all culled and fallen fruits were buried, destroyed, or removed from the farm at least twice a week.

(d) The papayas were held for 20 minutes in hot water at 48 °C (118.4 °F).

(e) When packed, the papayas were less than one-half ripe (the shell surface was no more than one-fourth yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(f) The papayas were safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and other injurious insect pests. The package containing the papayas does not contain any other fruit, including papayas not qualified for importation into the United States.

(g) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the NPPO. Fifty percent of the traps were of the McPhail type and

50 percent of the traps were of the Jackson type. The NPPO kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(1) If the average Jackson fruit fly trap catch was greater than seven Mediterranean fruit flies (*Ceratitis capitata*) (Medfly) per trap per week, measures were taken to control the Medfly population in the production area. If the average Jackson fruit fly trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(2) In Colombia, Ecuador, or the State of Espirito Santo, Brazil, if the average McPhail trap catch was greater than seven South American fruit flies (*Anastrepha fraterculus*) per trap per week, measures were taken to control the South American fruit fly population in the production area. If the average McPhail fruit fly trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

(h) All activities described in paragraphs (a) through (h) of this section were carried out under the supervision and direction of plant health officials of the NPPO.

(i) All consignments must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

(Approved by the Office of Management and Budget under control numbers 0579-0128 and 0579-0358)

[75 FR 22210, Apr. 28, 2010]

§ 319.56–26 Melon and watermelon from certain countries in South America.

(a) *Cantaloupe and watermelon from Ecuador.* Cantaloupe (*Cucumis melo*) and watermelon (fruit) (*Citrullus lanatus*) may be imported into the United States from Ecuador only in accordance with this paragraph and all other applicable provisions of this subpart:

(1) The cantaloupe or watermelon may be imported in commercial consignments only.

(2) The cantaloupe or watermelon must have been grown in an area where trapping for the South American cucurbit fly (*Anastrepha grandis*) has been conducted for at least the previous 12 months by the national plant protection organization (NPPO) of Ecuador, under the direction of APHIS, with no findings of the pest.[4]

(3) The following area meets the requirements of paragraph (a)(2) of this section: The area within 5 kilometers of either side of the following roads:

(i) Beginning in Guayaquil, the road north through Nobol, Palestina, and Balzar to Velasco-Ibarra (Empalme);

(ii) Beginning in Guayaquil, the road south through E1 26, Puerto Inca, Naranjal, and Camilo Ponce to Enriquez;

(iii) Beginning in Guayaquil, the road east through Palestina to Vinces;

(iv) Beginning in Guayaquil, the road west through Piedrahita (Novol) to Pedro Carbo; or

(v) Beginning in Guayaquil, the road west through Progreso, Engunga, Tugaduaja, and Zapotal to El Azucar.

(4) The cantaloupe or watermelon may not be moved into Alabama, American Samoa, Arizona, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, New Mexico, Puerto Rico, South Carolina, Texas, and the U.S. Virgin Islands. The boxes in which the cantaloupe or watermelon is packed must be stamped with the name of the commodity followed by the words "Not to be distributed in the following States or territories: AL, AS, AZ, CA, FL, GA, GU, HI, LA, MS, NM, PR, SC, TX, VI".

(b) *Cantaloupe, netted melon, vegetable melon, winter melon, and watermelon from Peru.* Cantaloupe, netted melon, vegetable melon, and winter melon

[4] Information on the trapping program may be obtained by writing to the Animal and Plant Health Inspection Service, International Services, Stop 3432, 1400 Independence Avenue, SW., Washington, DC 20250–3432.

(*Cucumis melo* L. subsp. *melo*) and watermelon may be imported into the United States from Peru only in accordance with this paragraph and all other applicable requirements of this subpart:

(1) The fruit may be imported in commercial consignments only.

(2) The fruit must have been grown in an area of Peru considered by APHIS to be free of the South American cucurbit fly, must be accompanied by a phytosanitary certificate declaring its origin in such an area, and must be safeguarded and labeled, each in accordance with § 319.56–5 of this subpart.

(3) The phytosanitary certificate required under § 319.56–5 must also include a declaration by the NPPO of Peru indicating that, upon inspection, the fruit was found free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*).

(4) All consignments of fruit must be labeled in accordance with § 319.56(5(e) of this subpart, and the boxes in which the fruit is packed must be labeled "Not for distribution in HI, PR, VI, or Guam."

(Approved by the Office of Management and Budget under control number 0579–0236)

§ 319.56–27 Apples from Japan and the Republic of Korea.

Any variety of *Malus domestica* apples may be imported into the United States from Japan, and Fuji variety apples may be imported into the United States from the Republic of Korea, only in accordance with this section and all other applicable provisions of this subpart.

(a) *Treatment and fumigation.* The apples must be cold treated and then fumigated, under the supervision of an APHIS inspector, either in Japan or the Republic of Korea, for the peach fruit moth (*Carposina niponensis*), the yellow peach moth (*Conogethes punctiferalis*), and the fruit tree spider mite (*Tetranychus viennensis*), in accordance with part 305 of this chapter.

(b) *APHIS inspection.* The apples must be inspected upon completion of the treatments required by paragraph (a) of this section, prior to export from Japan or the Republic of Korea, by an APHIS inspector and an inspector from the national plant protection organization of Japan or the Republic of Korea. The apples shall be subject to further disinfection in the exporting country if plant pests are found prior to export. Imported apples inspected in Japan or the Republic of Korea are also subject to inspection and disinfection at the port of first arrival, as provided in § 319.56–3.

(c) *Trust fund agreements.* The national plant protection organization of the exporting country must enter into a trust fund agreement with APHIS in accordance with § 319.56–6 before APHIS will provide the services necessary for apples to be imported into the United States from Japan or the Republic of Korea.

[72 FR 39501, July 18, 2007, as amended at 75 FR 65214, Oct. 22, 2010]

§ 319.56–28 Tomatoes from certain countries.

(a) *Tomatoes (fruit) (Solanum lycopersicum) from Spain.* Pink or red tomatoes may be imported into the United States from Spain only in accordance with this section and all other applicable provisions of this subpart.[5]

(1) The tomatoes must be grown in the Almeria Province, the Murcia Province, or the municipalities of Albuñol and Carchuna in the Granada Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four

[5] The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red. Green tomatoes from Spain, France, Morocco, and Western Sahara may be imported in accordance with §§ 319.56–3 and 319.56–4.

traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1-month time period will result in cancellation of exports from all registered greenhouses within 2 kilometers of the find until the source of infestation is determined and the Medfly infestation is eradicated;

(5) MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded from harvest to export by insect-proof mesh screens or plastic tarpaulins, including while in transit to the packinghouse and while awaiting packaging. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh or plastic tarpaulins for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States; and

(7) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, "These tomatoes were grown in registered greenhouses in Almeria Province, the Murcia Province, or the municipalities of Albuñol and Carchuna in the Granada Province in Spain."

(b) *Tomatoes (fruit) (Solanum lycopersicum) from France.* Pink or red tomatoes may be imported into the United States from France only in accordance with this section and other applicable provisions of this subpart.[6]

(1) The tomatoes must be grown in the Brittany Region of France in greenhouses registered with, and inspected by, the Service de la Protection Vegetaux (SRPV);

(2) From June 1 through September 30, SRPV must set and maintain one Medfly trap baited with trimedlure inside and one outside each greenhouse and must check the traps every 7 days;

(3) Capture of a single Medfly inside or outside a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation;

(4) SRPV must maintain records of trap placement, checking of traps, and any Medfly captures, and must make them available to APHIS upon request;

(5) From June 1 through September 30, the tomatoes must be packed within 24 hours of harvest. They must be safeguarded by insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh screen or plastic tarpaulin. These safeguards must be intact upon arrival in the United States; and

(6) SRPV is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, "These tomatoes were grown in registered greenhouses in the Brittany Region of France."

(c) *Tomatoes (fruit) (Solanum lycopersicum) from the provinces of El Jadida or Safi in Morocco and the province of Dahkla in Western Sahara.* Pink tomatoes may be imported into the United States from the provinces of El Jadida or Safi in Morocco and the province of Dahkla in Western Sahara only in accordance with this section and

[6] See footnote 5 to paragraph (a) of this section.

other applicable provisions of this subpart.[7]

(1) The tomatoes must be grown in the provinces of El Jadida or Safi in Morocco or in the province of Dahkla in Western Sahara in insect-proof greenhouses registered with, and inspected by, the national plant protection organization (NPPO) of Morocco the national plant protection organization (NPPO) of Morocco ;

(2) The tomatoes may be shipped from Morocco and Western Sahara only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, the NPPO of Morocco must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In Morocco, traps must also be placed outside registered greenhouses within a 2-kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap must be placed outside in the immediate proximity of each registered greenhouse. All traps in Morocco and Western Sahara must be checked every 7 days;

(4) The NPPO of Morocco must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request. The trapping records must be maintained for 1 year for APHIS review;

(5) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered greenhouse and within a 1-month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) The tomatoes must be packed within 24 hours of harvest and must be pink at the time of packing. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh or plastic tarpaulin for transit to the airport and export to the United States. These safeguards must be intact upon arrival in the United States; and

(7) The national plant protection organization of Morocco (NPPO) is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO of Morocco and bearing the declaration, "These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing" or "These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing."

(d) *Tomatoes from Chile.* Tomatoes (fruit) (*Solanum lycopersicum*) 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.* (i) The tomatoes must be treated in Chile with methyl bromide in accordance with part 305 of this chapter. The treatment must be conducted in facilities registered with the Servicio Agricola y Ganadero (SAG) and with APHIS personnel monitoring the treatments;

(ii) The tomatoes must be treated and packed within 24 hours of harvest. Once treated, the tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and awaiting packing. They must be packed in

[7] See footnote 5 to paragraph (a) of this section.

insect-proof cartons or containers, or insect-proof mesh or plastic tarpaulin under APHIS monitoring for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States; and

(iii) Tomatoes may be imported into the United States from Chile with treatment in accordance with this paragraph (d)(1) only if SAG has entered into a trust fund agreement with APHIS for that shipping season in accordance with §319.56–6. This agreement requires SAG to pay in advance all costs that APHIS estimates it will incur in providing the preclearance services prescribed in this section for that shipping season.

(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 continuing 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 double self-closing doors and have all other openings and vents covered with 1.6 mm (or less) screening.

(iii) The tomatoes must originate from an area that has been determined by APHIS to be free of Medfly in accordance with the procedures described in §319.56–5 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 SAG 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 will 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 *T. 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 will 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 will 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 consignment 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.

(e) *Tomatoes (fruit) (Solanum lycopersicum) from Australia.* Tomatoes may be imported into the United States from Australia only in accordance with this section and other applicable provisions of this subpart.

(1) The tomatoes must be grown in greenhouses registered with, and inspected by, the Australian Quarantine Inspection Service (AQIS);

(2) Two months prior to shipping, AQIS must inspect the greenhouse to establish its freedom from the following quarantine pests: *Bactrocera aquilonis*, *B. cucumis*, *B. jarvis*, *B. neohumeralis*, *B. tryoni*, *Ceratitis capitata*, *Chrysodeixis argentifera*, *C. erisoma*, *Helicoverpa armigera*, *H. punctigera*, *Lamprolonchaea brouniana*, *Sceliodes cordalis*, and *Spodoptera litura*. AQIS must also set and maintain fruit fly traps inside the greenhouses and around the perimeter of the greenhouses. Inside the greenhouses, the traps must be APHIS-approved fruit fly traps, and they must be set at the rate of six per hectare. In all areas outside the greenhouse and within 8 kilometers of the greenhouse, fruit fly traps must be placed on a 1-kilometer grid. All traps must be checked at least every 7 days;

(3) Within a registered greenhouse, capture of a single fruit fly or other quarantine pest will result in immediate cancellation of exports from that

greenhouse until the source of the infestation is determined, the infestation has been eradicated, and measures are taken to preclude any future infestation;

(4) Outside of a registered greenhouse, if one fruit fly of the species specified in paragraph (e)(2) of this section is captured, the trap density and frequency of trap inspection must be increased to detect a reproducing colony. Capture of two Medflies or three of the same species of *Bactrocera* within 2 kilometers of each other and within 30 days will result in the cancellation of exports from all registered greenhouses within 2 kilometers of the finds until the source of the infestation is determined and the fruit fly infestation is eradicated;

(5) AQIS must maintain records of trap placement, checking of traps, and any fruit fly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse or while awaiting packing. They must be placed in insect-proof cartons or containers, or securely covered with insect-proof mesh or plastic tarpaulin for transport to the airport or other shipping point. These safeguards must be intact upon arrival in the United States; and

(7) Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by AQIS stating "These tomatoes were grown, packed, and shipped in accordance with the requirements of §319.56–28(e) of 7 CFR."

(f) *Tomatoes (fruit) (Solanum lycopersicum) from certain countries in Central America.* Pink or red tomatoes may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions:

(1) From areas free of Mediterranean fruit fly:

(i) The tomatoes must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in §319.56–5.

(ii) A pre-harvest inspection of the production site must be conducted by the national plant protection organization (NPPO) of the exporting country for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests are found to be generally infesting the production site, the NPPO may not allow exports from that production site until the NPPO and APHIS have determined that risk mitigation has been achieved.

(iii) The tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(iv) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an area recognized to be free of Medfly and the consignment has been inspected and found free of the pests listed in the requirements."

(2) From areas where Medfly is considered to exist:

(i) The tomatoes must be grown in approved registered production sites. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must visit and inspect the production sites monthly starting 2 months before harvest and continuing through 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 double self-closing doors and have all other openings and vents covered with 1.6 mm (or less) screening.

(iii) Registered sites must contain traps for the detection of Medfly both within and around the production site as follows:

(A) Traps with an approved protein bait for Medfly must be placed inside

the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(B) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export tomatoes to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(C) Medfly traps with an approved lure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares 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 the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(D) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of tomatoes from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(E) The greenhouse must be inspected prior to harvest for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, exports from that production site will be halted until the exporting country's NPPO and APHIS determine that the pest risk has been mitigated.

(iv) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Medfly captures in addition to production site and packinghouse inspection records. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS's review.

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

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

(vii) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an approved production site and the consignment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(g) *Tomatoes (fruit) (Solanum lycopersicum) from the Souss-Massa-Draa region of Morocco*. Pink tomatoes may be imported into the United States from the region of Souss-Massa-Draa in Morocco only in accordance with this section and other applicable provisions of this subpart.[8]

(1) The tomatoes must be grown in approved production sites within the region of Souss-Massa-Draa in Morocco in pest-exclusionary structures registered with, and inspected by, the national plant protection organization (NPPO). Production sites will be approved jointly by the NPPO of Morocco and APHIS. The NPPO of Morocco will visit and inspect the production sites starting 2 months before harvest and continuing until the end of the shipping season. APHIS may monitor the production sites at any time during this period;

(2) The tomatoes may be shipped from the Souss-Massa-Draa region of Morocco only between December 1 and April 30, inclusive;

[8] See footnote 5 to paragraph (a) of this section.

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, the NPPO of Morocco must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure, or other approved protein bait, inside the pest-exclusionary structures at a rate of 8 traps per hectare, with a minimum of 4 traps per pest-exclusionary structure. Traps must also be placed outside registered pest-exclusionary structures within a 2-kilometer radius at a rate of 4 traps per square kilometer. All traps must be checked every 7 days;

(4) The NPPO of Morocco must maintain records of trap placement, trap maintenance, and any Medfly captures, and make the records available to APHIS upon request. The NPPO of Morocco must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for 1 year for APHIS review;

(5) Capture of a single Medfly in a registered pest-exclusionary structure during the 2 months prior to export and continuing through the duration of the harvest, or detection of a Medfly in a consignment that is traced back to a registered pest-exclusionary structure, will immediately result in cancellation of exports from that pest-exclusionary structure until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Exports will not be reinstated until APHIS and the NPPO of Morocco mutually determine that risk mitigation has been achieved. Capture of a single Medfly within 200 meters of a registered pest-exclusionary structure will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered pest-exclusionary structure and within a 1-month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) No Medfly host material is permitted within 50 meters of the entry door of the pest-exclusionary structure or the packinghouse;

(7) The tomatoes must be packed within 24 hours of harvest and must be pink at the time of packing. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh or plastic tarpaulin for transit to the airport or ship and export to the United States. These safeguards must be intact upon arrival in the United States. Sea containers must be kept closed if stored within 20 meters of Medfly host materials prior to loading;

(8) 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; and

(9) The national plant protection organization (NPPO) of Morocco is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO of Morocco and bearing the declaration, "These tomatoes were grown in registered pest-exclusionary structures in Souss-Massa-Draa Region, Morocco, and were pink at the time of packing."

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0131, 0579–0316, 0579–0286, and 0579–0345)

[24 FR 10788, Dec. 29, 1959, as amended at 74 FR 56526, Nov. 2, 2009; 75 FR 28187, May 20, 2010]

§ 319.56–29 Ya variety pears from China.

Ya variety pears may be imported into the United States from China only in accordance with this section and all other applicable provisions of this subpart.

(a) *Growing and harvest conditions.* (1) The pears must have been grown by growers registered with the national plant protection organization (NPPO) of China in an APHIS-approved export growing area in the Hebei or Shandong Provinces.

(2) Field inspections for signs of pest infestation must be conducted by the national plant protection organization (NPPO) of China during the growing season.

(3) The registered growers shall be responsible for following the phytosanitary measures agreed upon by APHIS and the NPPO of China, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for pests to attack the fruit during the growing season. The bags must remain on the pears through the harvest and during their movement to the packinghouse.

(4) The packinghouses in which the pears are prepared for exportation shall not be used for any fruit other than Ya variety pears from registered growers during the pear export season. The packinghouses shall accept only those pears that are in intact bags as required by paragraph (a)(3) of this section. The pears must be loaded into containers at the packinghouse and the containers then sealed before movement to the port of export.

(b) Each consignment of pears must be accompanied by a phytosanitary certificate issued by the NPPO of China stating that the conditions of this section have been met.

[72 FR 39501, July 18, 2007, as amended at 73 FR 10973, Feb. 29, 2008]

§ 319.56–30 Hass avocados from Michoacan, Mexico.

Fresh Hass variety avocados (*Persea americana*) may be imported from Michoacan, Mexico, into the United States in accordance with the requirements of § 319.56–3 of this subpart, and only under the following conditions:

(a) *Shipping restrictions.* (1) The avocados may be imported in commercial consignments only;

(2) *Shipping restrictions.* The avocados may be imported into and distributed in all States and in Puerto Rico, but not in any U.S. Territory.

(b) *Trust fund agreement.* The avocados may be imported only if the Mexican avocado industry association representing Mexican avocado growers, packers, and exporters has entered into a trust fund agreement with APHIS for that shipping season in accordance with § 319.56–6.

(c) *Safeguards in Mexico.* The avocados must have been grown in the Mexican State of Michoacan in an orchard located in a municipality that meets the requirements of paragraph (c)(1) of this section. The orchard in which the avocados are grown must meet the requirements of paragraph (c)(2) of this section. The avocados must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (c)(3) of this section. The Mexican national plant protection organization (NPPO) must provide an annual work plan to APHIS that details the activities that the Mexican NPPO will, subject to APHIS' approval of the work plan, carry out to meet the requirements of this section; APHIS will be directly involved with the Mexican NPPO in the monitoring and supervision of those activities. The personnel conducting the trapping and pest surveys must be hired, trained, and supervised by the Mexican NPPO or by the Michoacan State delegate of the Mexican NPPO.

(1) *Municipality requirements.* (i) The municipality must be listed as an approved municipality in the bilateral work plan provided to APHIS by the Mexican NPPO.

(ii) The municipality must be surveyed at least semiannually (once during the wet season and once during the dry season) and found to be free from the large avocado seed weevil *Heilipus lauri,* the avocado seed moth *Stenoma catenifer,* and the small avocado seed weevils *Conotrachelus aguacatae* and *C. perseae.*

(iii) Trapping must be conducted in the municipality for Mediterranean fruit fly (Medfly) (*Ceratitis capitata*) at the rate of 1 trap per 1 to 4 square miles. Any findings of Medfly must be reported to APHIS.

(2) *Orchard and grower requirements.* The orchard and the grower must be registered with the Mexican NPPO's avocado export program and must be listed as an approved orchard or an approved grower in the annual work plan provided to APHIS by the Mexican NPPO. The operations of the orchard must meet the following conditions:

(i) The orchard and all contiguous orchards and properties must be surveyed semiannually and found to be free from the avocado stem weevil *Copturus aguacatae*.

(ii) Avocado fruit that has fallen from the trees must be removed from the orchard at least once every 7 days and may not be included in field boxes of fruit to be packed for export.

(iii) Dead branches on avocado trees in the orchard must be pruned and removed from the orchard.

(iv) Harvested avocados must be placed in field boxes or containers of field boxes that are marked to show the official registration number of the orchard. The avocados must be moved from the orchard to the packinghouse within 3 hours of harvest or they must be protected from fruit fly infestation until moved.

(v) The avocados must be protected from fruit fly infestation during their movement from the orchard to the packinghouse and must be accompanied by a field record indicating that the avocados originated from a certified orchard.

(3) *Packinghouse requirements.* The packinghouse must be registered with the Mexican NPPO's avocado export program and must be listed as an approved packinghouse in the annual work plan provided to APHIS by the Mexican NPPO. The operations of the packinghouse must meet the following conditions:

(i) During the time the packinghouse is used to prepare avocados for export to the United States, the packinghouse may accept fruit only from orchards certified by the Mexican NPPO for participation in the avocado export program.

(ii) All openings to the outside must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents insects from entering the packinghouse.

(iii) The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(iv) Prior to the culling process, a biometric sample, at a rate determined by APHIS, of avocados per consignment must be selected, cut, and inspected by the Mexican NPPO or its approved designee and found free from pests.

(v) The identity of the avocados must be maintained from field boxes or containers to the containers in which they will be shipped so the avocados can be traced back to the orchard in which they were grown if pests are found at the packinghouse or the port of first arrival in the United States.

(vi) Prior to being packed for shipping, each avocado fruit must be cleaned of all stems, leaves, and other portions of plants and labeled with a sticker that bears the official registration number of the packinghouse.

(vii) The avocados must be packed in clean, new boxes or bulk shipping bins, or in clean plastic reusable crates. The boxes, bins, or crates must be clearly marked with the identity of the grower, packinghouse, and exporter. The boxes, bins, or crates must be covered with a lid, insect-proof mesh, or other material to protect the avocados from fruit-fly infestation prior to leaving the packinghouse. Those safeguards must be intact at the time the consignment arrives in the United States.

(viii) The packed avocados must be placed in a refrigerated truck or refrigerated container and remain in that truck or container while in transit through Mexico to the port of export for consignments shipped by air or sea or the port of first arrival in the United States for consignments shipped by land. Prior to leaving the packinghouse, the truck or container must be secured by the Mexican NPPO with a seal that will be broken when the truck or container is opened. The seal may be broken and a new seal applied by the Mexican NPPO if the truck or container stops at another approved packinghouse for additional avocados meeting the requirements of this section to be placed in the truck or container. The seal on the refrigerated truck or refrigerated container must be intact at the time the truck or container reaches the port of export in Mexico or the port of first arrival in the United States.

(ix) Any avocados that have not been packed or loaded into a refrigerated truck or refrigerated container by the

end of the workday must be kept in the screened packing area.

(d) *Certification.* All consignments of avocados must be accompanied by a phytosanitary certificate issued by the Mexican NPPO with an additional declaration certifying that the conditions specified in this section have been met.

(e) *Pest detection.* If any of the avocado pests *Heilipus lauri, Conotrachelus aguacatae, C. perseae, Copturus aguacatae,* or *Stenoma catenifer* are detected during the semiannual pest surveys in a packinghouse, certified orchard or areas outside of certified orchards, or other monitoring or inspection activity in the municipality, the Mexican NPPO must immediately initiate an investigation and take measures to isolate and eradicate the pests. The Mexican NPPO must also provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. Orchards affected by the pest detection will lose their export certification immediately, and avocado exports from that orchard will be suspended until APHIS and the Mexican NPPO agree that the pest eradication measures taken have been effective.

(f) *Inspection.* The avocados are subject to inspection by an inspector at the port of first arrival, at any stops in the United States en route to an approved State, and upon arrival at the terminal market in the approved States. At the port of first arrival, an inspector will sample and cut avocados from each consignment to detect pest infestation.

(g) *Repackaging.* If any avocados are removed from their original shipping boxes, crates, or bulk shipping bins and repackaged, the stickers required by paragraph (c)(3)(vi) of this section may not be removed or obscured and the new packaging must be clearly marked with all the information required by paragraph (c)(3)(vii) of this section.

[72 FR 39501, July 18, 2007, as amended at 74 FR 31160, June 30, 2009; 75 FR 66644, Oct. 29, 2010; 75 FR 81376, Dec. 28, 2010]

§ 319.56–31 Peppers from Spain.

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Alicante or Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(b) The peppers may be shipped only from December 1 through April 30, inclusive;

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (*Ceratitis capitata*) (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded from harvest to export by insect-proof mesh or plastic tarpaulin, including while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or covered by insect-proof mesh or plastic tarpaulin for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, "These peppers were grown in registered greenhouses in Alicante or Almeria Province in Spain," must accompany the consignment.

(Approved by the Office of Management and Budget under control number 0579–0210)

§ 319.56–32 Peppers from New Zealand.

Peppers (fruit) (*Capsicum* spp.) from New Zealand may be imported into the United States only in accordance with this section and all other applicable provisions of this subpart.

(a) The peppers must be grown in New Zealand in insect-proof greenhouses approved by the New Zealand Ministry of Agriculture and Forestry (MAF).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be examined periodically by MAF to ensure that the screens are intact.

(d) Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by MAF bearing the following declaration: "These peppers were grown in greenhouses in accordance with the conditions in § 319.56–32."

§ 319.56–33 Mangoes from the Philippines.

Mangoes (fruit) (*Mangifera indica*) may be imported into the United States from the Philippines only in accordance with this section and other applicable provisions of this subpart.

(a) *Limitation of origin.* The mangoes must have been grown on the island of Guimaras, which the Administrator has determined meets the criteria set forth in § 319.56–5 with regard to the mango seed weevil (*Sternochetus mangiferae*). 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.

(b) *Treatment.* The mangoes must be treated for fruit flies of the genus *Bactrocera* with vapor heat under the supervision of an inspector in accordance with the regulations in part 305 of this chapter.

(c) *Inspection.* Mangoes from the Philippines are subject to inspection under the direction of an inspector, either in the Philippines or at the port of first arrival in the United States. Mangoes inspected in the Philippines are subject to reinspection at the port of first arrival in the United States as provided in § 319.56–3.

(d) *Labeling.* Each box of mangoes must be clearly labeled in accordance with § 319.56–5(e)(1). Consignments 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 consignments 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.

(f) *Trust fund agreement.* Mangoes that are treated or inspected in the Philippines may be imported into the United States only if the Republic of the Philippines Department of Agriculture has entered into a trust fund agreement with APHIS in accordance with § 319.56–6.

(Approved by the Office of Management and Budget under control numbers 0579–0172 and 0579–0316)

§ 319.56–34 Clementines from Spain.

Clementines (*Citrus reticulata*) from Spain may only be imported into the United States in accordance with this section and all other applicable provisions of this subpart.

(a) *Trust fund agreement.* Clementines from Spain may be imported only if the Government of Spain or its designated representative enters into a trust fund agreement with APHIS before each shipping season in accordance with § 319.56–6.

(b) *Grower registration and agreement.* Persons who produce clementines in Spain for export to the United States must:

(1) Be registered with the Government of Spain; and

(2) Enter into an agreement with the Government of Spain whereby the producer agrees to participate in and follow the Mediterranean fruit fly management program established by the Government of Spain.

(c) *Management program for Mediterranean fruit fly; monitoring.* The Government of Spain's Mediterranean fruit fly (*Ceratitis capitata*) management program must be approved by APHIS, and must contain the fruit fly trapping and recordkeeping requirements specified in this paragraph. The program must also provide that clementine producers must allow APHIS inspectors access to clementine production areas in order to monitor compliance with the Mediterranean fruit fly management program.

(1) *Trapping and control.* In areas where clementines are produced for export to the United States, traps must be placed in Mediterranean fruit fly host plants at least 6 weeks prior to harvest. Bait treatments using malathion, spinosad, or another pesticide that is approved by APHIS and the Government of Spain must be applied in the production areas at the rate specified by Spain's Medfly management program.

(2) *Records.* The Government of Spain or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce clementines for export to the United States. All trapping and control records kept by the Government of Spain or its designated representative must be made available to APHIS upon request.

(3) *Compliance.* If APHIS determines that an orchard is not operating in compliance with the regulations in this section, it may suspend exports of clementines from that orchard.

(d) *Phytosanitary certificate.* Clementines from Spain must be accompanied by a phytosanitary certificate stating that the fruit meets the conditions of the Government of Spain's Mediterranean fruit fly management program and applicable APHIS regulations.

(e) *Labeling.* Boxes in which clementines are packed must be labeled with a lot number that provides information to identify the orchard where the fruit was grown and the packinghouse where the fruit was packed. The lot number must end with the letters "US." All labeling must be large enough to clearly display the required information and must be located on the outside of the boxes to facilitate inspection.

(f) *Pre-treatment sampling; rates of inspection.* For each consignment of clementines intended for export to the United States, prior to cold treatment, inspectors will cut and inspect 200 fruit that are randomly selected from throughout the consignment. If inspectors find a single live Mediterranean fruit fly in any stage of development during an inspection, the entire consignment of clementines will be rejected. If a live Mediterranean fruit fly in any stage of development is found in any two lots of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.

(g) *Cold treatment.* Clementines must be cold treated in accordance with part 305 of this chapter. Upon arrival of clementines at a port of entry into the United States, inspectors will examine the cold treatment data for each consignment to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the consignment will be held until appropriate remedial actions have been implemented.

(h) *Port of entry sampling.* Clementines imported from Spain are subject to inspection by an inspector at the port of entry into the United States. At the port of first arrival, an inspector will sample and cut clementines from each consignment to

detect pest infestation according to sampling rates determined by the Administrator. If a single live Mediterranean fruit fly in any stage of development is found, the consignment will be held until an investigation is completed and appropriate remedial actions have been implemented.

(i) *Suspension of program.* If APHIS determines at any time that the safeguards contained in this section are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines and conduct an investigation into the cause of the deficiency.

(j) *Definitions.* The following are definitions for terms used in this section:

Consignment. (1) *Untreated fruit.* For untreated fruit, the term means one or more lots (containing no more than a combined total of 200,000 boxes of clementines) that are presented to an inspector for pre-treatment inspection.

(2) *Treated fruit.* For treated fruit, the term means one or more lots of clementines that are imported into the United States on the same conveyance.

Lot. For the purposes of this section, a number of units of clementines that are from a common origin (*i.e.*, a single producer or a homogenous production unit.)[9]

Orchard. A plot on which clementines are grown that is separately registered in the Spanish Medfly management program.

Shipping season. For the purposes of this section, a shipping season is considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

(Approved by the Office of Management and Budget under control number 0579–0203)

[24 FR 10788, Dec. 29, 1959, as amended at 74 FR 56526, Nov. 2, 2009]

§ 319.56–35 Persimmons from the Republic of Korea.

Persimmons (fruit) (*Disopyros khaki*) may be imported into the United States from the Republic of Korea only in accordance with this section and all other applicable provisions of this subpart.

(a) The production site, which is an orchard, where the persimmons are grown must have been inspected at least once during the growing season and before harvest for the following pests: *Conogethes punctiferalis, Planococcus kraunhiae, Stathmopoda masinissa,* and *Tenuipalpus zhizhilashiviliae.*

(b) After harvest, the persimmons must be inspected by the Republic of Korea's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a) of this section before the persimmons may be shipped to the United States;

(c) Each consignment of persimmons must be accompanied by a phytosanitary certificate issued by the Republic of Korea's NPPO stating that the fruit is free of *Conogethes punctiferalis, Planococcus kraunhiae, Stathmopoda masinissa,* and *Tenuipalpus zhizhilashiviliae.*

(d) If any of the pests listed in paragraph (a) of this section are detected in an orchard, exports from that orchard will be canceled until the source of infestation is determined and the infestation is eradicated.

(Approved by the Office of Management and Budget under control number 0579–0210)

§ 319.56–36 Watermelon, squash, cucumber, and oriental melon from the Republic of Korea.

Watermelon (*Citrullus lanatus*), squash (*Cucurbita maxima*), cucumber (*Cucumis sativus*), and oriental melon (*Cucumis melo*) may be imported into the United States from the Republic of Korea only in accordance with this paragraph and all other applicable provisions of this subpart:

(a) The fruit must be grown in pest-proof greenhouses registered with the Republic of Korea's national plant protection organization (NPPO).

(b) The NPPO must inspect and regularly monitor greenhouses for plant pests. The NPPO must inspect greenhouses and plants, including fruit, at intervals of no more than 2 weeks, from the time of fruit set until the end of harvest.

[9] A homogeneous production unit is a group of adjacent orchards in Spain that are owned by one or more growers who follow a homogenous production system under the same technical guidance.

(c) The NPPO must set and maintain McPhail traps (or a similar type with a protein bait that has been approved for the pests of concern) in greenhouses from October 1 to April 30. The number of traps must be set as follows: Two traps for greenhouses smaller than 0.2 hectare in size; three traps for greenhouses 0.2 to 0.5 hectare; four traps for greenhouses over 0.5 hectare and up to 1.0 hectare; and for greenhouses greater than 1 hectare, traps must be placed at a rate of four traps per hectare.

(d) The NPPO must check all traps once every 2 weeks. If a single pumpkin fruit fly is captured, that greenhouse will lose its registration until trapping shows that the infestation has been eradicated.

(e) The fruit may be shipped only from December 1 through April 30.

(f) Each consignment must be accompanied by a phytosanitary certificate issued by NPPO, with the following additional declaration: "The regulated articles in this consignment were grown in registered greenhouses as specified by 7 CFR 319.56–36."

(g) Each consignment must be protected from pest infestation from harvest until export. Newly harvested fruit must be covered with insect-proof mesh or a plastic tarpaulin while moving to the packinghouse and awaiting packing. Fruit must be packed within 24 hours of harvesting in an enclosed container or vehicle or in insect-proof cartons or cartons covered with insect-proof mesh or plastic tarpaulin, and then placed in containers for shipment. These safeguards must be intact when the consignment arrives at the port in the United States.

(Approved by the Office of Management and Budget under control number 0579–0236)

§ 319.56–37 Grapes from the Republic of Korea.

Grapes (*Vitis* spp.) may be imported into the United States from the Republic of Korea only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) The fields where the grapes are grown must be inspected during the growing season by the Republic of Korea's national plant protection organization (NPPO). The NPPO will inspect 250 grapevines per hectare, inspecting leaves, stems, and fruit of the vines.

(b) If evidence of *Conogethes punctiferalis*, *Eupoecilia ambiguella*, *Sparganothis pilleriana*, *Stathmopoda auriferella*, or *Monilinia fructigena* is detected during inspection, the field will immediately be rejected, and exports from that field will be canceled until visual inspection of the vines shows that the infestation has been eradicated.

(c) Fruit must be bagged from the time the fruit sets until harvest.

(d) Each consignment must be inspected by the NPPO before export. For each consignment, the NPPO must issue a phytosanitary certificate with an additional declaration stating that the fruit in the consignment was found free of *C. punctiferalis*, *E. ambiguella*, *S. pilleriana*, *S. auriferella*, *M. fructigena*, and *Nippoptilia vitis*.

(Approved by the Office of Management and Budget under control number 0579–0236)

§ 319.56–38 Citrus from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the United States from Chile, and grapefruit (*Citrus paradisi* Macfad.) and sweet oranges (*Citrus sinensis* (L.) Osbeck) may be imported into the continental United States from Chile, in accordance with this section and all other applicable provisions of this subpart.

(a) The fruit must be accompanied by a permit issued in accordance with § 319.56–3(b).

(b) If the fruit is produced in an area of Chile where Mediterranean fruit fly (*Ceratitis capitata*) is known to occur, the fruit must be cold treated in accordance with part 305 of this chapter. Fruit for which cold treatment is required must be accompanied by documentation indicating that the cold treatment was initiated in Chile (a PPQ Form 203 or its equivalent may be used for this purpose).

(c) The fruit must either be produced and shipped under the systems approach described in paragraph (d) of this section or fumigated in accordance with paragraph (e) of this section.

(d) *Systems approach.* The fruit may be imported without fumigation for *Brevipalpus chilensis* if it meets the following conditions:

(1) *Production site registration.* The production site where the fruit is grown must be registered with the national plant protection organization (NPPO) of Chile. To register, the production site must provide Chile's NPPO with the following information: Production site name, grower, municipality, province, region, area planted to each species, number of plants/hectares/species, and approximate date of harvest. Registration must be renewed annually.

(2) *Low prevalence production site certification.* Between 1 and 30 days prior to harvest, random samples of fruit must be collected from each registered production site under the direction of Chile's NPPO. These samples must undergo a pest detection and evaluation method as follows: The fruit and pedicels must be washed using a flushing method, placed in a 20 mesh sieve on top of a 200 mesh or finer sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process must then be repeated. The contents of the sieves must then be placed on a petri dish and analyzed for the presence of live *B. chilensis* mites. If a single live *B. chilensis* mite is found, the production site will not qualify for certification as a low prevalence production site and will be eligible to export fruit to the United States only if the fruit is fumigated in accordance with paragraph (e) of this section. Each production site may have only one opportunity per harvest season to qualify as a low prevalence production site, and certification of low prevalence will be valid for one harvest season only. The NPPO of Chile will present a list of certified production sites to APHIS.

(3) *Post-harvest processing.* After harvest and before packing, the fruit must be washed, rinsed in a potable water bath, washed with detergent with brushing using bristle rollers, rinsed with a hot water shower with brushing using bristle rollers, predried at room temperature, waxed, and dried with hot air.

(4) *Phytosanitary inspection.* The fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the post-harvest processing. A biometric sample will be drawn and examined from each consignment of fruit, which may represent multiple grower lots from different packing sheds. Clementines, mandarins, or tangerines in any consignment may be shipped to the United States only if the consignment passes inspection as follows:

(i) Fruit presented for inspection must be identified in the shipping documents accompanying each lot of fruit that identify the production site(s) where the fruit was produced and the packing shed(s) where the fruit was processed. This identity must be maintained until the fruit is released for entry into the United States.

(ii) A biometric sample of boxes from each consignment will be selected and the fruit from these boxes will be visually inspected for quarantine pests, and a portion of the fruit will be washed and the collected filtrate will be microscopically examined for *B. chilensis.*

(A) If a single live *B. chilensis* mite is found, the fruit will be eligible for importation into the United States only if it is fumigated in Chile in accordance with paragraph (e) of this section. The production site will be suspended from the low prevalence certification program and all subsequent lots of fruit from the production site of origin will be required to be fumigated as a condition of entry to the United States for the remainder of the shipping season.

(B) If inspectors find evidence of any other quarantine pest, the fruit in the consignment will remain eligible for importation into the United States only if a treatment for the pest is authorized by part 305 of this chapter and the entire consignment is treated for the pest in Chile under APHIS supervision.

(iii) Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration

stating that the fruit in the consignment meets the conditions of § 319.56–38(d).

(e) *Approved fumigation.* Clementines, grapefruit, mandarins, sweet oranges, or tangerines that do not meet the conditions of paragraph (d) of this section may be imported into the United States if the fruit is fumigated either in Chile or at the port of first arrival in the United States with methyl bromide for *B. chilensis* in accordance with part 305 of this chapter. An APHIS inspector will monitor the fumigation of the fruit and will prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatment.

(f) *Trust fund agreement.* Clementines, grapefruit, mandarins, sweet oranges, or tangerines may be imported into the United States under this section only if the NPPO of Chile or a private export group has entered into a trust fund agreement with APHIS in accordance with § 319.56–6.

(Approved by the Office of Management and Budget under control number 0579–0242)

[72 FR 39501, July 18, 2007, as amended at 74 FR 15640, Apr. 7, 2009; 74 FR 46489, Sept. 10, 2009; 75 FR 4253, Jan. 26, 2010]

§ 319.56–39 Fragrant pears from China.

Fragrant pears may be imported into the United States from China only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) *Origin, growing, and harvest conditions.* (1) The pears must have been grown in the Korla region of Xinjiang Province in a production site that is registered with the national plant protection organization (NPPO) of China.

(2) All propagative material introduced into a registered production site must be certified free of the pests listed in this section by the NPPO of China.

(3) Within 30 days prior to harvest, the NPPO of China or officials authorized by the NPPO of China must inspect the registered production site for signs of pest infestation and allow APHIS to monitor the inspections. The NPPO of China must provide APHIS with information on pest detections and pest detection practices, and APHIS must approve the pest detection practices.

(4) If any of the quarantine pests listed in this section are found during the pre-harvest inspection or at any other time, the NPPO of China must notify APHIS immediately.

(i) Upon detection of Oriental fruit fly (*Bactrocera dorsalis*), APHIS may reject the lot or consignment and may prohibit the importation into the United States of fragrant pears from China until an investigation is conducted and APHIS and the NPPO of China agree that appropriate remedial action has been taken.

(ii) Upon detection of peach fruit borer (*Carposina sasaki*), yellow peach moth (*Conogethes punctiferalis*), apple fruit moth (*Cydia inopinata*), Hawthorn spider mite (*Tetranychus viennensis*), red plum maggot (*Cydia funebrana*), brown rot (*Monilinia fructigena*), Asian pear scab (*Venturia nashicola*), pear trellis rust (*Gymnosporangium fuscum*), Asian pear black spot (Alternaria spp.), or phylloxeran (*Aphanostigma* sp. poss. *jackusiensis*), APHIS may reject the lot or consignment and may prohibit the importation into the United States of fragrant pears from the production site for the season. The exportation to the United States of fragrant pears from the production site may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of China agree that appropriate remedial action has been taken. If any of these pests is detected in more than one registered production site, APHIS may prohibit the importation into the United States of fragrant pears from China until an investigation is conducted and APHIS and the NPPO of China agree that appropriate remedial action has been taken.

(5) After harvest, the NPPO of China or officials authorized by the NPPO of China must inspect the pears for signs of pest infestation and allow APHIS to monitor the inspections.

(6) Upon detection of large pear borer (*Numonia pivivorella*), pear curculio (*Rhynchites fovepessin*), or Japanese apple curculio (*R. heros*), APHIS may reject the lot or consignment.

(b) *Packing requirements.* (1) The fragrant pears must be packed in cartons that are labeled in accordance with § 319.56–5(e).

(2) The fragrant pears must be held in a cold storage facility while awaiting export. If fruit from unregistered production sites are stored in the same facility, the fragrant pears must be isolated from that other fruit.

(c) *Shipping requirements.* (1) The fragrant pears must be shipped in insect-proof containers and all pears must be safeguarded during transport to the United States in a manner that will prevent pest infestation.

(2) The fragrant pears may be imported only under a permit issued by APHIS in accordance with § 319.56–3(b).

(3) Each consignment of pears must be accompanied by a phytosanitary certificate issued by the NPPO of China stating that the conditions of this section have been met and that the consignment has been inspected and found free of the pests listed in this section.

(Approved by the Office of Management and Budget under control number 0579–0227)

§ 319.56–40 Peppers from certain Central American countries.

Fresh peppers (*Capsicum* spp.) may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) For peppers of the species *Capsicum annuum, Capsicum frutescens, Capsicum baccatum,* and *Capsicum chinense* from areas free of Mediterranean fruit fly (Medfly), terms of entry are as follows:

(1) The peppers must be grown and packed in an area that has been determined by APHIS to be free of Medfly in accordance with the procedures described in § 319.56–5 of this subpart.

(2) A pre-harvest inspection of the growing site must be conducted by the national plant protection organization (NPPO) of the exporting country for the weevil *Faustinus ovatipennis,* pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana,* Andean potato mottle virus, and tomato yellow mosaic virus, and if these pests are found to be generally infesting the growing site, the NPPO may not allow export from that production site until the NPPO has determined that risk mitigation has been achieved.

(3) The peppers must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(4) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each consignment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an area recognized to be free of Medfly and the consignment has been inspected and found free of the pests listed in the requirements."

(b) For peppers of the species *Capsicum annuum, Capsicum frutescens, Capsicum baccatum, Capsicum chinense,* and *Capsicum pubescens* from areas in which Medfly is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO will visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

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

(3) Registered sites must contain traps for the detection of Medfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export peppers to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(iii) Medfly traps with an approved lure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares 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 the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Medfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS' review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers 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 or the consignment will be denied entry into the United States.

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

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each consignment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an approved production site and the consignment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(c) For peppers of the species *Capsicum pubescens* from areas in which Mexican fruit fly (Mexfly) is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

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

(3) Registered sites must contain traps for the detection of Mexfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Mexfly is detected inside a registered production site or in a

consignment, the registered production site will lose its ability to ship under the systems approach until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(iii) Mexfly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares 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 the greenhouse. Traps must be set for at least 2 months before export, and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Mexflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Mexfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS' review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers 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 or the consignment will be denied entry into the United States.

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

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each consignment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an approved production site and the consignment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(Approved by the Office of Management and Budget under control number 0579–0274)

§ 319.56–41 Citrus from Peru.

Grapefruit (*Citrus paradisi*), limes (*C. aurantiifolia*), mandarins or tangerines (*C. reticulata*), sweet oranges (*C. sinensis*), and tangelos (*Citrus tangelo*) may be imported into the United States from Peru under the following conditions:

(a) The fruit must be accompanied by a permit issued in accordance with § 319.56–3(b).

(b) The fruit may be imported in commercial consignments only.

(c) *Approved growing areas.* The fruit must be grown in one of the following approved citrus-producing zones: Zone I, Piura; Zone II, Lambayeque; Zone III, Lima; Zone IV, Ica; and Zone V, Junin.

(d) *Grower registration and agreement.* The production site where the fruit is grown must be registered for export with the national plant protection organization (NPPO) of Peru, and the producer must have signed an agreement with the NPPO of Peru whereby the producer agrees to participate in and follow the fruit fly management program established by the NPPO of Peru.

(e) *Management program for fruit flies; monitoring.* The NPPO of Peru's fruit

fly management program must be approved by APHIS, and must require that participating citrus producers allow APHIS inspectors access to production areas in order to monitor compliance with the fruit fly management program. The fruit fly management program must also provide for the following:

(1) *Trapping and control.* In areas where citrus is produced for export to the United States, traps must be placed in fruit fly host plants at least 6 weeks prior to harvest at a rate mutually agreed upon by APHIS and the NPPO of Peru. If fruit fly trapping levels at a production site exceed the thresholds established by APHIS and the NPPO of Peru, exports from that production site will be suspended until APHIS and the NPPO of Peru conclude that fruit fly population levels have been reduced to an acceptable limit. Fruit fly traps are monitored weekly; therefore, reinstatements of production sites will be evaluated on a weekly basis.

(2) *Records.* The NPPO of Peru or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce citrus for export to the United States. All trapping and control records kept by the NPPO of Peru or its designated representative must be made available to APHIS upon request.

(f) *Cold treatment.* The fruit, except for limes (*C. aurantiifolia*), must be cold treated for A*nastrepha fraterculus, A. obliqua, A. serpentina,* and *Ceratitis capitata* (Mediterranean fruit fly) in accordance with part 305 of this chapter.

(g) *Phytosanitary inspection.* Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Peru stating that the fruit has been inspected and found free of *Ecdytolopha aurantiana.*

(h) *Port of first arrival sampling.* Citrus fruits imported from Peru are subject to inspection by an inspector at the port of first arrival into the United States in accordance with §319.56–3(d). At the port of first arrival, an inspector will sample and cut citrus fruits from each consignment to detect pest infestation. If a single live fruit fly in any stage of development or a single *E. aurantiana* is found, the consignment will be held until an investigation is completed and appropriate remedial actions have been implemented.

§319.56–42 Peppers from the Republic of Korea.

Peppers (*Capsicum annuum* L. var. *annuum*) from the Republic of Korea may be imported into the continental United States only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) The peppers must be grown in the Republic of Korea in insect-proof greenhouses approved by and registered with the National Plant Quarantine Service (NPQS).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be inspected monthly throughout the growing season by NPQS to ensure phytosanitary procedures are employed to exclude plant pests and diseases, and that the screens are intact.

(d) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse can accept peppers only from registered approved production sites. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit from the production site to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the continental United States. These safeguards must remain intact until the arrival of the peppers in the United States or the consignment will not be allowed to enter the United States.

(e) Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by NPQS bearing the following additional declaration: "These peppers were grown in greenhouses in accordance with the conditions in 7 CFR 319.56–42 and were inspected and found

free from *Agrotis segetum*, *Helicoverpa armigera*, *Helicoverpa assulta*, *Mamestra brassicae*, *Monilinia fructigena*, *Ostrinia furnacalis*, *Scirtothrips dorsalis*, *Spodoptera litura*, and *Thrips palmi*."

(f) The peppers must be imported in commercial consignments only.

(Approved by the Office of Management and Budget under control number 0579–0282)

§ 319.56–43 Baby corn and baby carrots from Zambia.

(a) Immature, dehusked "baby" sweet corn (*Zea mays* L.) measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions and in accordance with all other applicable provisions of this subpart:

(1) The production site, which is a field, where the corn has been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Phomopsis jaczewskii*.

(2) After harvest, the corn must be inspected by Zambia's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a)(1) of this section before the corn may be shipped to the continental United States.

(3) The corn must be inspected at the port of first arrival as provided in § 319.56–3(d).

(4) Each consignment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the corn has been inspected and found free of *Phomopsis jaczewskii* based on field and packinghouse inspections.

(5) The corn may be imported in commercial consignments only.

(b) Immature "baby" carrots (*Daucus carota* L. ssp. *sativus*) for consumption measuring 10 to 18 millimeters (0.39 to 0.71 inches) in diameter and 50 to 105 millimeters (1.97 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the carrots have been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Meloidogyne ethiopica*.

(2) After harvest, the carrots must be inspected by the NPPO of Zambia and found free of the pests listed in paragraph (b)(1) of this section before the carrots may be shipped to the continental United States.

(3) The carrots must be inspected at the port of first arrival as provided in § 319.56–3(d).

(4) Each consignment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the carrots have been inspected and found free of *Meloidogyne ethiopica* based on field and packinghouse inspections.

(5) The carrots must be free from leaves and soil.

(6) The carrots may be imported in commercial consignments only.

(Approved by the Office of Management and Budget under control number 0579–0284)

§ 319.56–44 Untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

Untreated grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) may be imported into the United States from Mexico for extracting juice if they originate from production sites in Mexico that are approved by APHIS because they meet the following conditions and any other conditions determined by the Administrator to be necessary to mitigate the pest risk that such fruits pose and in accordance with all other applicable provisions of this subpart:

(a) *Application of sterile insect technique.* Production sites, and a surrounding 1.5 mile buffer area, must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly (*Anastrepha ludens*).

(b) *Fruit fly trapping protocol.* (1) *Trapping densities.* In areas where grapefruit, sweet oranges, and tangerines are produced for export to the United States, APHIS approved traps and lures must be placed in production sites and a surrounding 1.5 mile buffer areas as follows:

(i) For Mexican fruit fly (*Anastrepha ludens*) and sapote fruit fly (*A. serpentina*): One trap per 50 hectares.

(ii) For Mediterranean fruit fly (*Ceratitis capitata*): One to four traps per 250 hectares.

(2) *Fruit fly catches.* Upon trapping of a Mexican fruit fly, sapote fruit fly, or Mediterranean fruit fly in a production site or buffer area, exports from that production site are prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of export from that production site.

(3) *Monitoring.* The trapping program must be monitored under an APHIS-approved quality control program.

(c) *Safeguarding.* Fruit must be safeguarded against fruit fly infestation using methods approved by APHIS from the time of harvest until processing in the United States.

(d) *Phytosanitary certificate.* Each consignment must be accompanied by a phytosanitary certificate issued by Mexico's national plant protection organization that contains additional declarations stating that the requirements of paragraphs (a), (b), and (c) of this section have been met.

(e) *Ports.* The harvested fruit may enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) of this chapter.

(f) *Route of transit.* Harvested fruit must travel on the most direct route to the processing plant from its point of entry into the United States as specified in the import permit. Such fruit may not enter or transit areas other than the Texas counties listed in § 301.64–3(c) of this chapter.

(g) *Approved destinations.* Processing plants within the United States must be located within an area in Texas that is under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly.

(h) *Compliance agreements.* Processing plants within the United States must enter into a compliance agreement with APHIS in order to handle grapefruit, sweet oranges, and tangerines imported from Mexico in accordance with this section. APHIS will only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0264)

§ 319.56–45 Shelled garden peas from Kenya.

Garden peas (*Pisum sativum*) may be imported into the continental United States from Kenya only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) The peas must be shelled from the pod.

(b) The peas must be washed in disinfectant water at 3 to 5 °C containing 50 ppm chlorine.

(c) Each shipment of peas must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of Kenya bearing the following additional declaration: "These peas have been shelled and washed in accordance with 7 CFR 319.56–45 and have been inspected and found free of pests."

(Approved by the Office of Management and Budget under control number 0579–0302)

§ 319.56–46 Mangoes from India.

Mangoes (*Mangifera indica*) may be imported into the continental United States from India only under the following conditions:

(a) The mangoes must be treated in India with irradiation for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera in accordance with part 305 of this chapter.

(b) The risks presented by *Cytosphaera mangiferae* and *Macrophoma mangiferae* must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum post-harvest fungicidal dip; or

(2) The orchard of origin is inspected prior to the beginning of harvest as determined by the mutual agreement between APHIS and the national plant protection organization (NPPO) of India and the orchard is found free of

Cytosphaera mangiferae and *Macrophoma mangiferae;* or

(3) The orchard of origin is treated with a broad-spectrum fungicide during the growing season and is inspected prior to the beginning of harvest as determined by the mutual agreement between APHIS and the NPPO of India and the fruit found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*.

(c) Each consignment of mangoes must be inspected jointly by APHIS and the NPPO of India as part of the required preclearance inspection activities at a time and in a manner determined by mutual agreement between APHIS and the NPPO of India.

(d) The risks presented by Cytosphaera mangiferae, Macrophoma mangiferae, and Xanthomonas campestris pv. mangiferaeindicae must be addressed by inspection during preclearance activities.

(e) Each consignment of fruit must be inspected jointly by APHIS and the NPPO of India and accompanied by a phytosanitary certificate issued by the NPPO of India certifying that the fruit received the required irradiation treatment. The phytosanitary certificate must also bear two additional declarations confirming that:

(1) The mangoes were subjected to one of the pre- or post-harvest mitigation options described in § 319.56–46(b) and

(2) The mangoes were inspected during preclearance activities and found free of *Cytosphaera mangiferae*, *Macrophoma mangiferae*, and *Xanthomonas campestris* pv. *mangiferaeindicae*.

(f) The mangoes may be imported in commercial consignments only.

(Approved by the Office of Management and Budget under control number 0579–0312)

[72 FR 39501, July 18, 2007, as amended at 75 FR 4253, Jan. 26, 2010]

§ 319.56–47 Certain fruits from Thailand.

Litchi (*Litchi chinensis*), longan (*Dimocarpus longan*), mango (*Mangifera indica*), mangosteen (*Garcinia mangoestana* L.), pineapple (*Ananas comosus*), and rambutan (*Nephelium lappaceum* L.) may be imported into the United States from Thailand only under the following conditions:

(a) *Growing conditions.* Litchi, longan, mango, mangosteen, pineapple, and rambutan must be grown in a production area that is registered with and monitored by the national plant protection organization of Thailand.

(b) *Treatment.* Litchi, longan, mango, mangosteen, pineapple, and rambutan must be treated for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera, with irradiation in accordance with part 305 of this chapter. Treatment must be conducted in Thailand prior to importation of the fruits into the United States.

(c) *Phytosanitary certificates.* (1) Litchi must be accompanied by a phytosanitary certificate with an additional declaration stating that the litchi were treated with irradiation as described in paragraph (b) of this section and that the litchi have been inspected and found to be free of *Peronophythora litchi*.

(2) Longan, mango, mangosteen, pineapple, and rambutan must be accompanied by a phytosanitary certificate with an additional declaration stating that the longan, mango, mangosteen, pineapple, or rambutan were treated with irradiation as described in paragraph (b) of this section.

(d) *Labeling.* In addition to meeting the labeling requirements in part 305 of this chapter, cartons in which litchi and longan are packed must be stamped "Not for importation into or distribution in FL."

[72 FR 48548, Aug. 24, 2007, as amended at 75 FR 4253, Jan. 26, 2010]

§ 319.56–48 Conditions governing the entry of baby squash and baby courgettes from Zambia.

Baby squash (*Curcurbita maxima* Duchesne) and baby courgettes (C. pepo. L.) measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Aulacaspis tubercularis*, *Dacus bivitattus*, *Dacus ciliatus*, *Dacus frontalis*, *Dacus lounsburyii*, *Dacus punctatifrons*, *Dacus vertebratus*, *Diaphania indica*,

Helicoverpa armigera, and *Spodoptera littoralis*.

(a) *Approved greenhouses.* The baby squash and baby courgettes must be grown in Zambia in insect-proof, pest-free greenhouses approved jointly by the Zambian national plant protection organization (NPPO) and APHIS.

(1) The greenhouses must be equipped with double self-closing doors.

(2) Any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 1.6 mm screening in order to prevent the entry of pests into the greenhouse.

(3) The greenhouses must be inspected periodically by the Zambian NPPO or its approved designee to ensure that sanitary procedures are employed to exclude plant pests and diseases and to verify that the screening is intact.

(4) The greenhouses also must be inspected monthly for the quarantine pests listed in the introductory text of this section by the Zambian NPPO or its approved designee, beginning 2 months before harvest and continuing for the duration of the harvest. APHIS must be allowed to inspect or monitor the greenhouses during this period as well. If, during these inspections, any of the quarantine pests listed in the introductory text of this section is found inside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(b) *Trapping for Dacus spp. fruit flies.* Trapping for *Dacus bivitattus*, *Dacus ciliatus*, *Dacus frontalis*, *Dacus lounsburyii*, *Dacus punctatifrons*, and *Dacus vertebratus* (referred to in paragraph (b) of this section, collectively, as *Dacus* spp. fruit flies) is required both inside and outside the greenhouse. Trapping must be conducted beginning 2 months before harvest and continue for the duration of the harvest.

(1) *Inside the greenhouse.* Approved fruit fly traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of at least two traps per greenhouse. The traps must be serviced at least once every 7 days. If a *Dacus* spp. fruit fly is found in a trap inside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(2) *Outside the greenhouse.* (i) Approved fruit fly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the greenhouse at a density of 1 trap per 10 hectares, with a total of at least 10 traps. At least one of these traps must be placed near the greenhouse. These traps must be serviced at least once every 7 days.

(ii) No shade trees are permitted within 10 meters of the entry door of the greenhouse, and no fruit fly host plants are permitted within 50 meters of the entry door of the greenhouse. While trapping is being conducted, no fruit fly host material (such as fruit) may be brought into the greenhouse or be discarded within 50 meters of the entry door of the greenhouse. Ground applications of an approved protein bait spray for the *Dacus* spp. fruit flies must be used on all shade trees and host plants within 200 meters surrounding the greenhouse every 6 to 10 days starting at least 30 days before and during harvest.

(iii) *Dacus* spp. fruit fly prevalence levels lower than 0.7 flies per trap per week (F/T/W) must be maintained outside the greenhouse for the duration of the trapping. If the F/T/W is 0.7 or greater outside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(3) *Records and monitoring.* The Zambian NPPO or its approved designee must maintain records of trap placement, trap servicing, and any *Dacus* spp. captures. The Zambian NPPO must maintain an APHIS-approved

quality control program to audit the trapping program. APHIS must be given access to review 1 year's worth of trapping data for any approved greenhouse upon request.

(c) *Packinghouse procedures.* Baby squash and baby courgettes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. No shade trees are permitted within 10 meters of the entry door of the packinghouse, and no fruit fly host plants are permitted within 50 meters of the entry door of the packinghouse. In addition, during packing, no fruit fly host material other than the baby squash and baby courgettes may be brought into the packinghouse, and no fruit fly host material may be discarded within 50 meters of the entry door of the packinghouse. The baby squash or baby courgettes must be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The baby squash or baby courgettes must be packed in insect-proof cartons for shipment to the United States. These cartons must be labeled with the identity of the greenhouse. While packing the baby squash or baby courgettes for export to the United States, the packinghouse may only accept baby squash or baby courgettes from approved greenhouses. These safeguards must remain intact until the arrival of the baby squash or baby courgettes in the United States. If the safeguards do not remain intact, the consignment will not be allowed to enter the United States.

(d) *Commercial consignments.* Baby squash and baby courgettes from Zambia may be imported in commercial consignments only.

(e) *Phytosanitary certificate.* Each consignment of baby squash and baby courgettes must be accompanied by a phytosanitary certificate of inspection issued by the Zambian NPPO with an additional declaration reading as follows: "These baby squash or baby courgettes were produced in accordance with 7 CFR 319.56–48."

(Approved by the Office of Management and Budget under control number 0579–0347)

[73 FR 76867, Dec. 18, 2008]

§ 319.56–49 Eggplant from Israel.

Eggplant (*Solanum melongena* L.) may be imported into the continental United States from Israel only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Ceratitis capitata*, *Eutetranychus orientalis*, *Helicoverpa armigera*, *Nipaecoccus viridis*, *Scirtothrips dorsalis*, and *Spodoptera littoralis*.

(a) *Approved pest-exclusionary structures.* The eggplant must be grown in pest-exclusionary structures in approved production sites in the Arava Valley of Israel by growers registered with the Israeli national plant protection organization (NPPO). Initial approval of the production sites must be completed jointly by the Israeli NPPO and APHIS.

(1) The pest-exclusionary structures must be equipped with double self-closing doors.

(2) Any vents or openings in the pest-exclusionary structures (other than the double self-closing doors) must be covered with 1.6 mm or smaller screening in order to prevent the entry of pests into the pest-exclusionary structure.

(3) The pest-exclusionary structures must be inspected periodically by the Israeli NPPO or its approved designee to ensure that sanitary procedures are employed to exclude plant pests and diseases and to verify that the screening is intact.

(4) The pest-exclusionary structures also must be inspected monthly for the quarantine pests listed in the introductory text of this section by the Israeli NPPO or its approved designee, beginning 2 months before harvest and continuing for the duration of the harvest. APHIS must be granted access to inspect or monitor the pest-exclusionary structures during this period as well. If, during these inspections, any quarantine pests listed in the introductory text of this section are found inside a pest-exclusionary structure, the Israeli NPPO will immediately prohibit that pest-exclusionary structure from exporting eggplant to the continental United States and notify APHIS of the action. The prohibition will remain in effect until the Israeli NPPO and

APHIS agree that the risk has been mitigated.

(b) *Trapping for Medfly*. Trapping for Mediterranean fruit fly (Medfly, *Ceratitis capitata*) is required both inside and outside the pest-exclusionary structures. Trapping must begin 2 months before harvest and continue for the duration of the harvest.

(1) *Inside the pest-exclusionary structures.* APHIS-approved fruit fly traps with an approved protein bait must be placed inside the pest-exclusionary structures at a density of four traps per hectare, with a minimum of at least two traps per pest-exclusionary structure. The traps must be serviced at least once every 7 days. If a single Medfly is found in a trap inside a pest-exclusionary structure, the Israeli NPPO will immediately prohibit that pest-exclusionary structure from exporting eggplant to the continental United States and notify APHIS of the action. The prohibition will remain in effect until the Israeli NPPO and APHIS agree that the risk has been mitigated.

(2) *Outside the pest-exclusionary structures.* (i) No shade trees are permitted within 10 meters of the entry door of the pest-exclusionary structures, and no fruit fly host plants are permitted within 50 meters of the entry door of the pest-exclusionary structures. While trapping is being conducted, no fruit fly host material (such as fruit) may be brought into the pest-exclusionary structures or be discarded within 50 meters of the entry door of the pest-exclusionary structures.

(ii) A treatment jointly approved by the Israeli NPPO and APHIS must be applied for the duration of the eggplant harvest in the areas of the Arava Valley where fruit fly host material occurs in backyards.

(iii) Trapping for Medfly must be conducted by the Israeli NPPO or its approved designee throughout the year in the agricultural region along the Arava Highway 90 and in the residential area of Paran.

(iv) Trapping records must be kept and made available for APHIS review upon request.

(c) *Packinghouse procedures.* The eggplant must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. While packing the eggplant for export to the continental United States, the packinghouse may only accept eggplant from approved pest-exclusionary structures. No shade trees are permitted within 10 meters of the entry door of the packinghouse, and no fruit fly host plants are permitted within 50 meters of the entry door of the packinghouse. The eggplant must be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Packinghouse procedures must include culling of any visibly damaged, overripe, or infested eggplant. The eggplant must be packed in either individual insect-proof cartons or boxes labeled with the specific place of origin or non-insect-proof cartons or boxes that are covered by insect-proof mesh or plastic tarpaulins. Covered non-insect-proof cartons or boxes must be placed in shipping containers that have identification labels indicating the specific place of origin. These safeguards must remain intact until the arrival of the eggplant in the continental United States or the consignment will not be allowed to enter the continental United States.

(d) *Commercial consignments.* Eggplant from Israel may be imported in commercial consignments only.

(e) *Phytosanitary certificate.* Each consignment of eggplant must be accompanied by a phytosanitary certificate of inspection issued by the Israeli NPPO with an additional declaration reading as follows: "The eggplant in this consignment has been grown in an approved production site and inspected and found free of the pests listed in 7 CFR 319.56–49."

[74 FR 26513, June 3, 2009]

§ 319.56–50 Hass avocados from Peru.

Fresh Hass variety avocados (*Persea americana* P. Mill.) may be imported into the continental United States from Peru only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Anastrepha fraterculus* (Wiedemann), the South American fruit fly; *Ceratitis capitata* (Wiedemann), the Mediterranean fruit fly; *Coccus viridis* (Green), the green scale; *Ferrisia*

malvastra (McDaniel), a mealybug; and *Stenoma catenifer* Walsingham, the avocado seed moth.

(a) *General requirements.* (1) The national plant protection organization (NPPO) of Peru must provide a workplan to APHIS that details the activities that the NPPO of Peru will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The NPPO of Peru must also establish a trust fund in accordance with §319.56–6.

(2) The avocados must be grown at places of production that are registered with the NPPO of Peru and that meet the requirements of this section.

(3) The avocados must be packed for export to the United States in packinghouses that are registered with the NPPO of Peru and that meet the requirements of this section.

(4) Avocados from Peru may be imported in commercial consignments only.

(b) *Monitoring and oversight.* (1) The NPPO of Peru must visit and inspect registered places of production monthly, starting at least 2 months before harvest and continuing until the end of the shipping season, to verify that the growers are complying with the requirements of paragraphs (c) and (g) of this section and follow pest control guidelines, when necessary, to reduce quarantine pest populations. If trapping is conducted under paragraph (d)(2) of this section, the NPPO of Peru must also verify that the growers are complying with the requirements in those paragraphs and must certify that each place of production has effective fruit fly trapping programs. Any personnel conducting trapping and pest surveys under paragraphs (d)(2) or (f) of this section must be trained and supervised by the NPPO of Peru. APHIS may monitor the places of production if necessary.

(2) In addition to conducting fruit inspections at the packinghouses, the NPPO of Peru must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of paragraph (h) of this section.

(3) If the NPPO of Peru finds that a place of production or packinghouse is not complying with the requirements of this section, no fruit from the place of production or packinghouse will be eligible for export to the United States until APHIS and the NPPO of Peru conduct an investigation and appropriate remedial actions have been implemented.

(4) The NPPO of Peru must retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS for review.

(c) *Grove sanitation.* Avocado fruit that has fallen from the trees must be removed from each place of production at least once every 7 days, starting 2 months before harvest and continuing to the end of harvest. Fallen avocado fruit may not be included in field containers of fruit brought to the packinghouse to be packed for export.

(d) *Mitigation measures for A. fraterculus.* Places of production must meet one of the following requirements for *A. fraterculus:*

(1) *Pest-free area.* The avocados must be produced in a place of production located in an area that is designated as free of *A. fraterculus* in accordance with §319.56–5.

(2) *Place of production with low pest prevalence.* (i) Beginning at least 1 year before harvest begins and continuing through the end of the harvest, trapping must be conducted in registered places of production with at least 1 trap per 0.2 square kilometers (km^2) to demonstrate that the places of production have a low prevalence of *A. fraterculus.* APHIS-approved traps baited with APHIS-approved plugs must be used and serviced at least once every 2 weeks.

(ii) During the trapping, when traps are serviced, if *A. fraterculus* are trapped at a particular place of production at cumulative levels above 0.7 flies per trap per day, pesticide bait treatments must be applied in the affected place of production in order for the place of production to remain eligible to export avocados to the United States. The NPPO of Peru must keep records of fruit fly detections for each trap, update the records each time the traps are checked, and make the records available to APHIS inspectors upon request.

(e) *Mitigation measures for C. capitata.* Places of production must meet one of the following requirements for *C. capitata:*

(1) *Pest-free area.* The avocados must be produced in a place of production located in an area that is designated as free of *C. capitata* in accordance with § 319.56–5.

(2) *Treatment.* Avocados from Peru must be treated for *C. capitata* in accordance with part 305 of this chapter.

(f) *Surveys for S. catenifer.* (1) Peruvian departamentos in which avocados are grown for export to the United States must be surveyed by the NPPO of Peru at least once annually, no more than 2 months before harvest begins, and found to be free from infestation by *S. catenifer.* APHIS must approve the survey protocol used to determine and maintain pest-free status and the actions to be performed if *S. catenifer* is detected. Surveys must include representative areas from all parts of each registered place of production in each departamento. The NPPO of Peru must cut and inspect a biometric sample of fruit at a rate determined by APHIS. Fruit sampled must be either from the upper half of the tree or from the ground. Sampled fruit must be cut and examined for the presence of eggs and larvae of *S. catenifer* in the pulp or seed and for the presence of eggs in the pedicel.

(2) If one or more *S. catenifer* is detected in the annual survey, or during any other monitoring or inspection activity, the affected place of production will be immediately suspended from the export program until appropriate measures to reestablish pest freedom, agreed upon by the NPPO of Peru and APHIS, have been taken. The NPPO of Peru must keep records of *S. catenifer* detections for each orchard, update the records each time the orchards are surveyed, and make the records available to APHIS inspectors upon request. The records must be maintained for at least 1 year after the beginning of the harvest.

(g) *Harvesting requirements.* Harvested avocados must be placed in field cartons or containers that are marked with the official registration number of the place of production. The place of production where the avocados were grown must remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process. The fruit must be moved to a registered packinghouse within 3 hours of harvest or must be protected from fruit fly infestation until moved. The fruit must be safeguarded by an insect-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing.

(h) *Packinghouse requirements.* (1) During the time registered packinghouses are in use for packing avocados for export to the United States, the packinghouses may only accept avocados that are from registered places of production and that are produced in accordance with the requirements of this section.

(2) Avocados must be packed within 24 hours of harvest in an insect-exclusionary packinghouse. All openings to the outside of the packinghouse must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents pests from entering. The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(3) Before packing, all avocados must be cleaned of all plant debris.

(4) Fruit must be packed in insect-proof packaging, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the United States. These safeguards must remain intact until arrival in the United States.

(5) Shipping documents accompanying consignments of avocados from Peru that are exported to the United States must include the official registration number of the place of production at which the avocados were grown and must identify the packing shed or sheds in which the fruit was processed and packed. This identification must be maintained until the fruit is released for entry into the United States.

(i) *NPPO of Peru inspection.* Following any post-harvest processing, inspectors from the NPPO of Peru must inspect a biometric sample of fruit from each place of production at a rate to be determined by APHIS. The inspectors

must visually inspect for the quarantine pests listed in the introductory text of this section and must cut fruit to inspect for *S. catenifer*. Unless the avocados were produced in a pest-free area as described in paragraph (d)(1) of this section, the inspectors must cut fruit to inspect for *A. fraterculus*. Unless the avocados were produced in a pest-free area as described in paragraph (e)(1) of this section, the inspectors must cut fruit to inspect for *C. capitata*. If any quarantine pests are detected in this inspection, the place of production where the infested avocados were grown will immediately be suspended from the export program until an investigation has been conducted by APHIS and the NPPO of Peru and appropriate mitigations have been implemented. If *C. capitata* is detected, avocados from the place of production where the infested avocados were produced may be imported into the United States only if treated with an approved treatment for *C. capitata* in accordance with part 305 of this chapter.

(j) *Phytosanitary certificate.* Each consignment of Hass avocados imported from Peru into the United States must be accompanied by a phytosanitary certificate issued by the NPPO of Peru with an additional declaration stating that the avocados in the consignment were grown, packed, and inspected and found to be free of pests in accordance with the requirements of 7 CFR 319.56–50. In addition:

(1) If the avocados were produced in an area free of *A. fraterculus*, the phytosanitary certificate must state that the avocados in this consignment were produced in an area designated as free of *A. fraterculus* in accordance with 7 CFR 319.56–5.

(2) If the avocados were produced in an area free of *C. capitata*, the phytosanitary certificate must state that the avocados in this consignment were produced in an area designated as free of *C. capitata* in accordance with 7 CFR 319.56–5.

(3) If the avocados have been treated for *C. capitata* prior to export, the phytosanitary certificate must state that the avocados in the consignment have been treated for *C. capitata* in accordance with 7 CFR part 305.

(Approved by the Office of Management and Budget under control number 0579–0355)

[75 FR 11, Jan. 4, 2010]

Subpart—Wheat Diseases

SOURCE: At 70 FR 8231, Feb. 18, 2005, unless otherwise noted.

§ 319.59–1 Definitions.

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

From. An article is considered to be "from" any country or locality in which it was grown.

Grain. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) used for consumption or processing.

Hay. Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

Host crops. Plants or plant parts, including grain, seed, or hay, of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*).

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Seed. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and

triticale (*Triticum aestivum* × *Secale cereale*) used for propagation.

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

Straw. The vegetative material left after the harvest of host crops. Straw is generally used as animal feed or bedding, as mulch, or for erosion control.

United States. The States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

§ 319.59–2 General import prohibitions; exceptions.

(a) Except as provided in paragraph (b) of this section, importation of *Triticum* spp. plants into the United States from any country except Canada is prohibited. This prohibition does not include seed.

(b) *Triticum* spp. plants, articles listed in § 319.59–3 as prohibited importation pending risk evaluation, and articles regulated for Karnal bunt in § 319.59–4(a) may be imported by the U.S. Department of Agriculture for experimental or scientific purposes if:

(1) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Center East, Beltsville, MD 20705, or through any USDA plant inspection station listed in § 319.37–14 of this part;

(2) Imported pursuant to a departmental permit issued for such article and kept on file at the National Plant Germplasm Inspction Station;

(3) Imported under conditions of treatment, processing, growing, shipment, or disposal specified on the departmental permit and found by the Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases, injurious insects, and other plant pests, and

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

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005; 72 FR 43523, Aug. 6, 2007]

§ 319.59–3 Articles prohibited importation pending risk evaluation.

The articles listed in paragraph (a) of this section from the countries and localities listed in paragraph (b) of this section are prohibited from being imported or offered for entry into the United States, except as provided in § 319.59–2(b), pending the completion of an evaluation by APHIS of the potential pest risks associated with the articles. The national plant protection organization of any listed country or locality may contact APHIS[1] to initiate the preparation of a risk evaluation. If supported by the results of the risk evaluation, APHIS will take action to remove that country or locality from the list in paragraph (b) of this section.

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass):

(1) Seeds, plants, and straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour; and

(2) Seeds of *Melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South

[1] Requests should be submitted in writing to Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236.

Korea, Ukraine, Uzbekistan, and Venezuela.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

§ 319.59–4 Karnal bunt.

(a) *Regulated articles.* The following are regulated articles for Karnal bunt:

(1) Conveyances, including trucks, railroad cars, and other containers used to move host crops from a region listed in paragraph (b)(1) of this section that test positive for Karnal bunt through the presence of bunted kernels;

(2) Plant parts, including grain, seed, straw, or hay, of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) from a region listed in paragraph (b)(1) of this section, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(3) *Tilletia indica* (Mitra) Mundkur;

(4) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(5) Seed conditioning equipment and storage/handling equipment that has been used in the production of wheat, durum wheat, or triticale seed found to contain the spores of *Tilletia indica*.

(b)(1) Karnal bunt is known to occur in the following regions: Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, and South Africa.

(2) The Administrator may recognize an area within a region listed in paragraph (b)(1) of this section as an area free of Karnal bunt whenever he or she determines that the area meets the requirements of the International Standard for Phytosanitary Measures (ISPM) No. 4, "Requirements for the establishment of pest free areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in § 300.5 of this chapter. APHIS will publish a notice in the FEDERAL REGISTER and maintain on an APHIS Web site a list of the specific areas that are approved as areas in which Karnal bunt is not known to occur in order to provide the public with current, valid information. Areas listed as being free from Karnal bunt are subject to audit by APHIS to verify that they continue to merit such listing.

(c) *Handling, inspection and phytosanitary certificates.* Unless otherwise prohibited under § 319.59–3 of this subpart, any articles described in paragraph (a)(2) of this section that are from a region listed in paragraph (b)(1) of this section may be imported into the United States subject to the following conditions:

(1) The articles must be from an area that has been recognized, in accordance with paragraph (b)(2) of this section, to be an area free of Karnal bunt, or the articles have been tested and found to be free of Karnal bunt;

(2) The articles have not been commingled prior to arrival at a U.S. port of entry with articles from areas where Karnal bunt is known to occur;

(3) The articles offered for entry must be made available to an inspector for examination and remain at the port until released, or authorized further movement pending release, by an inspector; and

(4) The articles must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that includes the following additional declaration: "These articles originated in an area where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores."

(d) *Treatments.* (1) Prior to entry into the United States, the following articles must be cleaned by removing any soil and plant debris that may be present.

(i) All conveyances and mechanized harvesting equipment used for storing and handling wheat, durum wheat, or triticale that tested positive for Karnal bunt based on bunted kernels.

(ii) All grain storage and handling equipment used to store or handle seed that has tested spore positive or grain that has tested bunted-kernel positive.

(iii) All seed-conditioning equipment used to store or handle seed that has tested spore-positive.

(2) Articles listed in paragraphs (d)(1)(i) and (d)(1)(ii) of this section will require disinfection in addition to cleaning prior to entry into the United States if an inspector or an official of the plant protection organization of the country of origin determines that disinfection is necessary to prevent the spread of Karnal bunt. Disinfection is required for all seed conditioning equipment covered under paragraph (d)(1)(iii) prior to entry into the United States.

(3) Items that require disinfection prior to entry into the United States must be disinfected in accordance with part 305 of this chapter.

(Approved by the Office of Management and Budget under control number 0579–0240)

[70 FR 8231, Feb. 18, 2005, as amended at 75 FR 4253, Jan. 26, 2010]

Subpart—Packing Materials

QUARANTINE

§ 319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) The following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by § 319.59 of this part from any country or locality listed in § 319.59–2 of this part.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(4) Soil containing an appreciable admixture of vegetable matter, from all countries, which is authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

(c) However, whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such

articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

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

[24 FR 10788, Dec. 29, 1959, as amended at 26 FR 9333, Oct. 4, 1961; 36 FR 24917, Dec. 24, 1971; 60 FR 27682, May 25, 1995; 63 FR 31102, June 8, 1998]

§ 319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in § 319.69.

(a) Plants and products designated in § 319.69(a)(1), (3), (4), and (5) and (b)(1) and (3) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(b) Corn and allied plants listed in § 319.69(a)(2) may be imported into Guam subject to the requirements of §§ 319.69–2, 319.69–3, and 319.69–4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37–9.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27682, May 25, 1995; 62 FR 65009, Dec. 10, 1997]

RULES AND REGULATIONS

§ 319.69–1 Definitions.

(a) *Packing materials.* The expression "packing material", as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word "packing", as used in the expression "packing materials", shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.[1]

(b) *Soil containing vegetable matter.* Soil containing an appreciable admixture of vegetable matter, here brought under quarantine only because its content of decaying vegetation or plant remains carries a definite pest risk, is to be distinguished from soil of purely mineral or earthy composition, which is not covered by this quarantine.

(c) *Inspector.* An inspector of the U.S. Department of Agriculture.

§ 319.69–2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

§ 319.69–3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

§ 319.69–4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, the inspector may refuse entry to the shipment, or the inspector may seize and destroy or otherwise dispose of such packing material, or the inspector may require it to be replaced, or sterilized, or otherwise treated.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33326, June 7, 2005]

[1] Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

§ 319.69–5 Types of soil authorized for packing.

The following types of soil or earth are authorized as safe for packing: (a) Peat, (b) peat moss, and (c) Osmunda fiber.

Subpart—Coffee

SOURCE: 63 FR 65650, Nov. 30, 1998, unless otherwise noted.

§ 319.73–1 Definitions.

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

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

Sample. Unroasted coffee not for commercial resale. Intended use includes, but is not limited to, evaluation, testing, or market analysis.

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

Unroasted coffee. The raw or unroasted seeds or beans of coffee.

§ 319.73–2 Products prohibited importation.

(a) To prevent the spread of the coffee berry borer *Hypothenemus hampei* (Ferrari) and the fungus *Hemileia vastatrix* (Berkely and Broome), which causes an injurious rust disease, the following articles are prohibited importation into Hawaii and Puerto Rico, except as provided in § 319.73–3 of this subpart:

(1) Unroasted coffee;

(2) Coffee plants and leaves; and

(3) Empty sacks previously used for unroasted coffee.

(b) Due to the risk of Mediterranean fruit fly and other injurious insects, seeds of all kinds when in pulp, including coffee berries or fruits, are prohibited importation into all parts of the United States by § 319.37–2(a) of this part, except as provided in § 319.37–2(c).

§ 319.73–3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) *Mail*. Samples of unroasted coffee that are transiting Hawaii or Puerto Rico en route to other destinations and that are packaged to prevent the escape of any plant pests may proceed without action by an inspector. Packaging that would prevent the escape of plant pests includes, but is not limited to, sealed cartons, airtight containers, or vacuum packaging. Samples of unroasted coffee received by mail but not packaged in this manner are subject to inspection and safeguard by an inspector. These samples must be returned to origin or forwarded to a destination outside Hawaii or Puerto Rico in a time specified by an inspector and in packaging that will prevent the escape of any plant pests. If this action is not possible, the samples must be destroyed.

(b) *Cargo*. Samples of unroasted coffee that are transiting Hawaii or Puerto Rico as cargo and that remain on the carrier may proceed to a destination outside Hawaii or Puerto Rico without action by an inspector. Samples may be transshipped in Puerto Rico or Hawaii only after an inspector determines that they are packaged to prevent the escape of any plant pests. Samples that are not packaged in this manner must be rewrapped or packaged in a manner prescribed by an inspector to prevent the escape of plant pests before the transshipment will be allowed.

(c) Other mail, cargo, and baggage shipments of articles covered by § 319.73–2 arriving in Puerto Rico or Hawaii may not be unloaded or transshipped in Puerto Rico or Hawaii and are subject to inspection and other applicable requirements of the Plant Safeguard Regulations (part 352 of this chapter).

§ 319.73–4 Costs.

All costs of inspection, packing materials, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart will be borne by the owner, importer, or agent of the owner or importer, including a broker. The services of an inspector during regularly assigned hours of duty and at the usual places of duty

will be furnished without cost to the importer.

Subpart—Cut Flowers

SOURCE: 64 FR 38110, July 15, 1999, unless otherwise noted.

§ 319.74–1 Definitions.

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

Cut flower. The highly perishable commodity known in the commercial flower-producing industry as a cut flower, which is the severed portion of a plant, including the inflorescence and any parts of the plant attached to it, in a fresh state. This definition does not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; or Christmas greenery, such as holly, mistletoe, and Christmas trees.

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

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

§ 319.74–2 Conditions governing the entry of cut flowers.

(a) *Inspection*. All cut flowers imported into the United States must be made available to an inspector for examination at the port of first arrival and must remain at the port of first arrival until released, or authorized further movement, by an inspector.

(b) *Actions to prevent the introduction of plant pests; notice by an inspector*. If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported cut flowers that are found to be infested with injurious plant pests or infected with diseases, the inspector will provide an emergency action notification (PPQ Form 523) to the importer, owner, or agent or representative of the importer or owner of the cut flowers. The importer, owner, or agent or representative of the importer or owner must, within the time specified in the PPQ Form 523 and at his or her own expense, destroy the cut flowers, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments, clean, or apply other safeguards to the cut flowers as prescribed by the inspector on the PPQ Form 523. Further, if the importer, owner, or agent or representative of the importer or owner fails to follow the conditions on PPQ Form 523 by the time specified on the form, APHIS will arrange for destruction of the cut flowers, and the importer, owner, or agent or representative of the importer or owner will be responsible for all costs incurred. Cut flowers that have been cleaned or treated must be made available for further inspection, cleaning, and treatment at the option of the inspector at any time and place indicated by the inspector before the requirements of this subpart will have been met. Neither the Department of Agriculture nor the inspector may be held responsible for any adverse effects of treatment on imported cut flowers.

(c) *Fumigation for agromyzids*. Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) must be fumigated at the time of importation with methyl bromide in accordance with part 305 of this chapter, with the following exceptions:

(1) Fumigation will not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids.

(2) Fumigation will not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

(d) *Chrysanthemum white rust hosts*. (1) The following *Chrysanthemum*, *Leucanthemella*, and *Nipponanthemum*

spp. are considered to be hosts of chrysanthemum white rust:

Accepted name of susceptible species	Synonyms	Common name
Chrysanthemum arcticum L.	*Arctanthemum arcticum* (L.) Tzvelev and *Dendranthema arcticum* (L.) Tzvelev.	Arctic chrysanthemum and arctic daisy.
Chrysanthemum boreale (Makino) Makino.	*Chrysanthemum indicum* L. var. *boreale* Makino and *Dendranthema boreale* (Makino) Ling ex Kitam.	
Chrysanthemum indicum L.	*Dendranthema indicum* (L.) Des Moul.	
Chrysanthemum japonense Nakai ..	*Dendranthema japonense* (Nakai) Kitam. and *Dendranthema occidentali-japonense* Kitam.	Nojigiku.
Chrysanthemum japonicum Makino	*Chrysanthemum makinoi* Matsum. & Nakai and *Dendranthema japonicum* (Makino) Kitam.	Ryuno-giku.
Chrysanthemum×morifolium Ramat	*Anthemis grandiflorum* Ramat., *Anthemis stipulacea* Moench, *Chrysanthemum sinense* Sabine ex Sweet, *Chrysanthemum stipulaceum* (Moench) W. Wight, *Dendranthema×grandiflorum* (Ramat.) Kitam., *Dendranthema×morifolium* (Ramat.) Tzvelev, and *Matricaria morifolia* Ramat.	Florist's chrysanthemum, chrysanthemum, and mum.
Chrysanthemum pacificum Nakai ...	*Ajania pacifica* (Nakai) K. Bremer & Humphries and *Dendranthema pacificum* (Nakai) Kitam.	Iso-giku.
Chrysanthemum shiwogiku Kitam ..	*Ajania shiwogiku* (Kitam.) K. Bremer & Humphries and *Dendranthema shiwogiku* (Kitam.) Kitam.	Shio-giku.
Chrysanthemum yoshinaganthum Makino ex Kitam.	*Dendranthema yoshinaganthum* (Makino ex Kitam.) Kitam.	
Chrysanthemum zawadskii Herbich subsp. *yezoense* (Maek.) Y. N. Lee.	*Chrysanthemum arcticum* subsp. maekawanum Kitam, *Chrysanthemum arcticum* var. *yezoense* Maek. [basionym], *Chrysanthemum yezoense* Maek. [basionym], *Dendranthema yezoense* (F. Maek.) D. J. N. Hind, and *Leucanthemum yezoense* (Maek.) á. Löve & D. Löve.	
Chrysanthemum zawadskii Herbich subsp. *zawadskii.*	*Chrysanthemum sibiricum* Turcz. ex DC., nom. inval., *Dendranthema zawadskii* (Herbich) Tzvelev, and *Dendranthema zawadskii* var. *zawadskii.*	
Leucanthemella serotina (L.) Tzvelev.	*Chrysanthemum serotinum* L., *Chrysanthemum uliginosum* (Waldst. & Kit. ex Willd.) Pers., and *Pyrethrum uliginosum* (Waldst. & Kit. ex Willd.).	Giant daisy or high daisy.
Nipponanthemum nipponicum (Franch. ex Maxim.) Kitam.	*Chrysanthemum nipponicum* (Franch. ex Maxim.) Matsum. and *Leucanthemum nipponicum* Franch. ex Maxim.	Nippon daisy or Nippon-chrysanthemum.

(2) Chrysanthemum white rust is considered to exist in the following regions: Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.

(3) Cut flowers of any species listed in paragraph (d)(1) of this section may be imported into the United States from any region listed in paragraph (d)(2) of this section only under the following conditions:

(i) The flowers must be grown in a production site that is registered with the national plant protection organization (NPPO) of the country in which the production site is located or with the NPPO's designee, and the NPPO or its designee must provide a list of registered sites to APHIS.

(ii) Each shipment of cut flowers must be accompanied by a phytosanitary certificate or equivalent documentation, issued by the NPPO of the country of origin or its designee, that contains an additional declaration stating that the place of production as

well as the consignment have been inspected and found free of *Puccinia horiana*.

(iii) Box labels and other documents accompanying shipments of cut flowers must be marked with the identity of the registered production site.

(iv) APHIS-authorized inspectors must also be allowed access to production sites and other areas necessary to monitor the chrysanthemum white rust-free status of the production sites.

(4) Cut flowers not meeting these conditions will be refused entry into the United States. The detection of chrysanthemum white rust in a shipment of cut flowers from a registered production site upon arrival in the United States will result in the prohibition of imports originating from the production site until such time when APHIS and the NPPO of the exporting country, can agree that the eradication measures taken have been effective and that the pest risk within the production site has been eliminated.

(e) *Irradiation.* Cut flowers and foliage that are required under this part to be treated or subjected to inspection to control one or more of the plant pests for which irradiation is an approved treatment under part 305 of this chapter may instead be treated with irradiation. Irradiation treatment must be conducted in accordance with the requirements of part 305 of this chapter. There is a possibility that some cut flowers could be damaged by such irradiation.

(f) *Refusal of entry.* If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease that, in the judgment of the inspector, they cannot be cleaned or treated, or if they contain soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(Approved by the Office of Management and Budget under control number 0579–0271.)

[64 FR 38110, July 15, 1999, as amended at 71 FR 4464, Jan. 27, 2006; 72 FR 15811, Apr. 3, 2007; 75 FR 4253, Jan. 26, 2010]

§ 319.74–3 Importations by the Department.

The U.S. Department of Agriculture may import cut flowers for experimental or scientific purposes under such conditions and restrictions as the Administrator may prescribe to prevent the dissemination of plant pests.

§ 319.74–4 Costs and charges.

The Animal and Plant Health Inspection Service, U.S. Department of Agriculture, will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty (provisions relating to costs for other services of an inspector are contained in 7 CFR part 354). The importer, owner, or agent or representative of the importer or owner of cut flowers is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including the costs of any labor, chemicals, packing materials, or other supplies required.

Subpart—Khapra Beetle

§ 319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If the article is not promptly safeguarded, removed from the United States, or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

(c) A restricted article may be imported without complying with other restrictions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or through any USDA plant inspection station listed in § 319.37–14;

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

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

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 66 FR 21057, Apr. 27, 2001; 72 FR 43523, Aug. 6, 2007]

§ 319.75–1 Definitions.

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

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

From. An article is considered to be "from" any country or locality in which it originated or any country(ies) or locality(ies) in which it was offloaded prior to arrival in the United States.

Import. (importation, imported). To import or move into the United States.

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

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

Person. Any individual, corporation, company, society, association or other organized group.

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

Plant gum. Any of numerous colloidal polysaccharide substances of plant origin that are gelatinous when moist but harden on drying. Plant gums include but are not limited to acacia gum, guar gum, gum arabic, locust gum and tragacanth gum.

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

or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985; 66 FR 21057, Apr. 27, 2001]

§319.75–2 Restricted articles.[1]

(a) The following articles from the specified localities or countries are restricted articles:

(1) Seeds of the plant family Cucurbitaceae[2] if in shipments greater than two ounces, if not for propagation, and if from a country listed in paragraph (b) of this section;

(2) Brassware and wooden screens from Bombay, India;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted and moist) from Sudan or India;

(4) Plant gums shipped as bulk cargo (in an unpackaged state) if from a country listed in paragraph (b) of this section;

(5) Used jute or burlap bagging not containing cargo if from a country listed in paragraph (b) of this section;[3]

(6) Used jute or burlap bagging from a country listed in paragraph (b) of this section that contains cargo, and the cargo in such bagging;[3]

(7) Used jute or burlap bagging from a country listed in paragraph (b) of this section that is used as a packing material (such as filler, wrapping, ties, lining, matting, moisture retention material, or protection material), and the cargo for which the used jute or burlap bagging is used as a packing material;[3] and

(8) Whole chilies (*Capsicum* spp.), whole red peppers (*Capsimcum* spp.), and cumin seeds (*Cuminum cyminum*) in new jute or burlap bags from Pakistan.

(b) Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, and Upper Volta.

[50 FR 8706, Mar. 5, 1985, as amended at 72 FR 39528, July 18, 2007]

§319.75–3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236, at least 60 days prior to arrival of the article at the port of entry.

[1] The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of Subpart—Fruits and Vegetables of this part.

[2] Seeds of the plant family Cucurbitaceae include but are not limited to: Benincasa hispida (wax gourd), Citrullus Lanatus (watermelon) Cucumis melon (muskmelon, cantaloup, honeydew), Cumumis sativius (cucumber), Cucurbita pepo (pumpkin, squashes, vegetable marrow), Lagenaria siceraria (calabash, gourd), Luffa cylindrica (dishcloth gourd), Mormoridica charantia (bitter melon), and Sechium edule (chayote).

[3] Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq*.

The completed application shall include the following information:[4]

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

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

(3) Country or locality of origin;

(4) Country(ies) or locality(ies) where it is intended to be off-loaded prior to arrival in the United States;

(5) Intended U.S. port of entry;

(6) Means of transportation; and

(7) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to the regulated article.[5]

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

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983; 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985; 59 FR 67610, Dec. 30, 1994; 66 FR 21057, Apr. 27, 2001]

§ 319.75–4 Treatments.

A restricted article prior to movement into the United States from the port of entry shall be treated in accordance with part 305 of this chapter for possible infestation with khapra beetle in accordance with part 305 of this chapter.

[46 FR 38334, July 27, 1981, as amended at 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985; 70 FR 33326, June 7, 2005]

§ 319.75–5 Marking and identity.

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

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

(4) Name and address of consignee,

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

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983]

§ 319.75–6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such

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

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

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

[46 FR 38334, July 27, 1981, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.75–7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] The importer shall be responsible for arrangements for treatments required under § 319.75–4. Any treatment required under § 319.75–4 for a restricted article shall be performed at the port of entry by a nongovernmental fumigator at the importer's expense, and shall be performed under the supervision of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[46 FR 38334, July 27, 1981]

§ 319.75–8 Ports of entry.

Any restricted article shall be imported only at a port of entry identified in § 319.37–14 of this part and found by the Deputy Administrator and specified on the permit issued pursuant to § 319.75–3 to have a nongovernmental fumigator available at the port to treat such restricted article pursuant to § 319.75–4. It is the responsibility of the importer to arrange with the nongovernmental fumigator for treatment of the article.

[46 FR 38334, July 27, 1981, as amended at 72 FR 43523, Aug. 6, 2007]

§ 319.75–9 Inspection and phytosanitary certificate of inspection.

(a) Any nursery stock, plant, fruit, vegetable, root, bulb, or other plant product designated as a restricted article and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article which is accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article and grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

[50 FR 8707, Mar. 5, 1985]

Subpart—Gypsy Moth Host Material from Canada

SOURCE: 64 FR 45866, Aug. 23, 1999, unless otherwise noted.

§ 319.77–1 Definitions.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Canadian infested area. Any area of Canada listed as a gypsy moth infested area in § 319.77–3 of this subpart.

[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

Canadian noninfested area. Any area of Canada that is not listed as a gypsy moth infested area in § 319.77–3 of this subpart.

Certification of origin. A signed, accurate statement certifying the area in which a regulated article was produced or grown. The statement may be provided directly on the shipping documents accompanying shipments of commercial wood products from Canada, or may be provided on a separate certificate.

Gypsy moth. The insect known as the gypsy moth, Lymantria dispar (Linnaeus), in any stage of development.

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

Mobile home. Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

Outdoor household articles. Articles associated with a household that are generally kept or used outside the home. Examples of outdoor household articles are awnings, barbeque grills, bicycles, boats, dog houses, firewood, garden tools, hauling trailers, outdoor furniture and toys, recreational vehicles and their associated equipment, and tents.

Phytosanitary certificate. A document issued by an official authorized by the national government of Canada that contains a description of the regulated article intended for importation into the United States and that certifies that the article has been thoroughly inspected or treated, is believed to be free from plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States. A phytosanitary certificate must be addressed to the Animal and Plant Health Inspection Service and may be issued no more than 14 days prior to the shipment of the regulated article.

Recreational vehicles. Vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as temporary places of dwelling.

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

U.S. infested area. Any area of the United States listed as a gypsy moth generally infested area in § 301.45–3 of this chapter.

U.S. noninfested area. Any area of the United States that is not listed as a gypsy moth generally infested area in § 301.45–3 of this chapter.

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38175, June 20, 2000]

§ 319.77–2 Regulated articles.

In order to prevent the spread of gypsy moth from Canada into noninfested areas of the United States, the gypsy moth host materials listed in paragraphs (a) through (g) of this section are designated as regulated articles. Regulated articles may be imported into the United States from Canada only under the conditions described in § 319.77–4 of this subpart.

(a) Trees without roots (e.g., Christmas trees), unless they were greenhouse-grown throughout the year;

(b) Trees with roots, unless they were greenhouse-grown throughout the year;

(c) Shrubs with roots and persistent woody stems, unless they were greenhouse-grown throughout the year;

(d) Logs with bark attached;

(e) Pulpwood with bark attached;

(f) Bark and bark products;

(g) Outdoor household articles; and

(h) Mobile homes and their associated equipment.

[64 FR 45866, Aug. 23, 1999, as amended at 71 FR 40878, July 19, 2006]

§ 319.77–3 Gypsy moth infested areas in Canada.

The following areas in Canada are known to be infested with gypsy moth:

(a) *Province of New Brunswick*—(1) *Charlotte County.* That portion of Charlotte County that includes the following parishes: Campobello Island, Dumbarton, Dufferin, Grand Manan Island, St. Andrews, St. Croix, St. David, St. George, St. James, St. Patrick, and St. Stephen.

(2) *Kings County.* That portion of Kings County that includes the following parishes: Greenwich, Kars, and Springfield.

(3) *Queens County*. (i) That portion of Queens County that includes the following parishes: Canning, Cambridge, Gagetown, Johnston, and Wickham; and

(ii) That portion of Chipman Parish south or west of highway 10; and

(iii) That portion of Waterborough Parish west of highway 10 and south of highway 2.

(4) *Sunbury County*. That portion of Sunbury County that includes the following parishes: Blissville, Burton, Gladstone, Lincoln, and Sheffield.

(5) *York County*. (i) That portion of York County that includes the City of Fredericton and the following parishes: North Lake and McAdam; and

(ii) That portion of Queensbury parish south and east of the Scotch Lake Road beginning in the west at Bear Island on the St. John River and ending at the Parish border on the east.

(b) *Province of Nova Scotia*—(1) *Annapolis County*. The entire county.

(2) *Digby County*. The entire county.

(3) *Halifax County*. The area of the county bounded by a line beginning at the intersection of the Halifax/Lunenburg County border and the Atlantic Ocean; then north along the Halifax/Lunenburg County border to the Halifax/Hants County border; then east along the Halifax/Hants County border to route 354; then south along route 354 to route 568 (Beaverbank-Windsor Junction Road); then east along route 568 (Beaverbank-Windsor Junction Road) to route 416 (Fall River Road); then east and north along route 416 (Fall River Road) to route 2; then south along route 2 to route 102/118; then south along route 118 to route 107; then south along route 107 to route 7; then east along route 7 to route 328; then south along route 328 to the shoreline of Cole Harbour; then west along the seashore from Cole Harbour to the point of beginning.

(4) *Hants County*. The area of the county bounded by a line beginning at the intersection of the Hants/Kings County border and the shoreline of the Minas Basin; then southwest along the Hants/Kings County border to the Hants/Lunenburg County border; then southeast along the Hants/Lunenburg County border to the Hants/Halifax County border; then east along the Hants/Halifax County border to route 354; then north along route 354 to the Minas Basin; then west along the shoreline of the Minas Basin to the point of beginning.

(5) *Kings County*. The entire county.

(6) *Lunenberg County*. The entire county.

(7) *Queens County*. The entire county.

(8) *Shelburne County*. The entire county.

(9) *Yarmouth County*. The entire county.

(c) *Province of Ontario*. (1) That portion of the Province of Ontario that includes the following counties and regional municipalities: Brant, Bruce, Dufferin, Durham, Elgin, Essex, Frontenac, Grey, Haldimand-Norfolk, Haliburton, Halton, Hamilton-Wentworth, Hastings, Huron, Kent, Lambton, Lanark, Leeds-Granville, Lennox-Addington, Middlesex, Muskoka, Niagara, Northumberland, Ottawa-Carleton, Oxford, Parry Sound, Peel, Perth, Peterborough, Prescott-Russell, Prince Edward, Renfrew, Simcoe, Stormont-Dundas-Glengarry, Victoria, Waterloo, Wellington, and York; and

(2) That portion of Algoma District that includes the City of Sault Ste. Marie and the following townships: Bright, Bright Additional, Cobden, Denis, Garden River First Nation, Indian Reserve #7, Johnson, Korah, Laird, Lefroy, Lewis, Long, MacDonald, Parke, Plummer Additional, Prince, Tarbutt, Tarbutt Additional, Tarentorus, Thessalon, Thompson, Shedden, Spragge, and Striker; and

(3) That portion of Algoma District south of Highway 17 and east of the City of Sault Ste. Marie; and

(4) That portion of Manitoulin District that includes: Cockburn Island, Great Cloche Island, Manitoulin Island, St. Joseph Island, and all Indian Reserves; and

(5) That portion of Nipissing District that includes the City of North Bay; and

(6) That portion of Nipissing District south of the Ottawa and Mattawa rivers; and

(7) That portion of Nipissing District south of highway 17 and west of the City of North Bay; and

(8) That portion of Sudbury District that includes the City of Sudbury and the townships of Baldwin, Dryden, Dunlop, Graham, Hallam, Hymen, Indian Reserves #4, #5, and #6, Lorne, Louise; May, McKim, Nairn, Neelon, Porter, Salter, Shakespeare, Victoria, and Waters; and

(9) That portion of the Sudbury District south of Highway 17.

(d) *Province of Quebec.* (1) That portion of the Province of Quebec that includes the following regional county municipalities: Acton, Arthabaska, Asbestos, Beauce-Sartigan, Beauharnois-Salaberry, Bécancour, Bellechasse, Brome-Missisquoi, Champlain, Coaticook, Communauté Urbaine de Montréal, Communauté Urbaine de L'Outaouais, D'Autray, Desjardins, Deux-Montagnes, Drummond, Francheville, Joliette, L'Amiante, L'Assomption, L'Érable, L'île-d'Orléans, Lajemmerais, Laval, La Nouvelle-Beauce, La Rivière-du-Nord, La Vallée-du-Richelieu, Le Bas-Richelieu, Le Granit, Le Haut-Richelieu, Le Haut-Saint-Francois, Le Haut-Saint-Laurent, Le Haute-Yamaska, Le Val-Saint-Francois, Les Chutes-de-la-Chaudire, Les Collines-de-L'Outaouais, Les Etchemins, Les Jardins-de-Napierville, Les Maskoutains, Les Moulins, Lotbinière, Memphrémagog, Mirabel, Montcalm, Montmagny, Nicolet-Yamaska, Robert-Cliche, Roussillon, Rouville, Sherbrooke, Therese-de Blainville, and Vaudreuil-Soulanges; and

(2) That portion of the regional county municipality of Antoine-Llabelle that includes the following municipalities: Notre-Dame-du-Laus, Notre-Dame-de-Pontmain, and Saint-Aimé-du-Lac-des-Iles; and

(3) That portion of the regional county municipality of Argenteuil that includes the following municipalities: Brownsburg, Calumet, Carillon, Chatham, Grenville, Lachute, Saint-André-d'Argenteuil, and Saint-André-Est; and

(4) That portion of the regional county municipality of Communauté Urbaine De Québec that includes the following municipalities: Cap-Rouge, L'Ancienne-Lorette, Québec, Saint-Augustin-de-Desmaures, Sainte-Foy, Sillery, and Vanier; and

(5) That portion of the regional county municipality of La Vallée-de-la-Gatineau that includes the following municipalities: Denholm, Gracefield, Kazabazua, Lac-Sainte-Marie, Low, Northfield, and Wright; and

(6) That portion of the regional county municipality of Le Centre-de-la-Mauricie that includes the following municipalities: Charette, Notre-Dame-du-Mont-Carmel, Sainte-Elie, Shawinigan, and Shawinigan (Sud); and

(7) That portion of the regional county municipality of Les Laurentides that includes the following municipality: La Conception; and

(8) That portion of the regional county municipality of Les Pays-d'en-Haut that includes the following municipality: Mont-Rolland; and

(9) That portion of the regional county municipality of Maskinongé that includes the following municipalities: Louiseville, Maskinongé, Saint-Joseph-de-Maskinongé, Saint-Barnabé, Saint-Sévère, Saint-Léon-le-Grand, Saint-Paulin, Sainte-Ursule, Saint-Justin, Saint-édouard-de-Maskinongé, Sainte-Angèle-de-Prémont, and Yamachiche; and

(10) That portion of the regional county municipality of Matawinie that includes the following municipalities: Saint-Félix-de-Valois, Saint-Jean-de-Matha, Rawdon, and Chertsey; and

(11) That portion of the regional county municipality of Papineau that includes the following municipalities: Fassett, Lochaber, Lochaber-Partie-Ouest, Mayo, Montebello, Montpellier, Mulgrave-et-Derry, Notre-Dame-de-Bon-Secours-Partie-Nord, Papineauville, Plaisance, Ripon (Village et Canton), Saint-André-Avellin (Village et Paroise), Sainte-Angélique, Saint-Sixte, and Thurso; and

(12) That portion of the regional county municipality of Pontiac that includes the following municipalities: Bristol, Shawville, Clarendon, Portage-du-Fort, Bryson, Campbell's Bay, Grand-Calumet, Litchfield, Thorne, Alleyn-et-Cawood, Leslie-Clapham-et-Huddersfield, Fort-Coulonge, Mansfield-et-Pontefract, Waltham-et-Bryson, L'Isle-aux-Allumettes-Partie-Est, Chapeau, L'Isle-aux-Allumettes, Chichester, Sheen-Esher-Aberdeen-et-

Malakoff, and Rapides-des-Joachims; and

(13) That portion of the regional county municipality of Portneuf that includes the following municipalities: Cap-Santé, Deschambault, Donnacona, Grondines, Neuville, and Pointe-aux-Trembles.

[65 FR 38175, June 20, 2000, as amended at 67 FR 59453, Sept. 23, 2002]

§ 319.77–4 Conditions for the importation of regulated articles.

(a) *Trees and shrubs.*[1] (1) Trees without roots (*e.g.*, Christmas trees), trees with roots, and shrubs with roots and persistent woody stems may be imported into the United States from any area of Canada without restriction under this subpart if they:

(i) Were greenhouse-grown throughout the year;

(ii) Are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas; or

(iii) Are Christmas trees destined for a U.S. infested area and will not be moved through any U.S. noninfested areas other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (*i.e.*, areas in those counties that are not listed in 7 CFR 301.45–3).

(2) Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the trees or shrubs originated in a Canadian infested area, they must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the trees or shrubs have been inspected and found free of gypsy moth or that the trees or shrubs have been treated for gypsy moth in accordance with part 305 of this chapter.

(ii) If the trees or shrubs originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(b) *Bark and bark products and logs and pulpwood with bark attached.*[2] (1) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. infested area and that will not be moved through any U.S. noninfested area other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (*i.e.*, areas in those counties that are not listed in § 301.45–3 of this chapter) may be imported from any area of Canada without restriction under this subpart.

(2) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the bark, bark products, logs, or pulpwood originated in a Canadian infested area, they must be either:

(A) Accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that they have been inspected and found free of gypsy moth or that they have been treated for gypsy moth in accordance with part 305 of this chapter; or

(B) Destined for a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing.

(ii) If the bark, bark products, logs, or pulpwood originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

[1] Trees and shrubs from Canada may be subject to additional restrictions under "Subpart-Nursery Stock, Plants, Roots, Seeds, and Other Plant Products" (§§ 319.37 through § 319.37–14 of this part) and "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles" (§§ 319.40–1 through 319.40–11 of this part).

[2] Bark, bark products, and logs from Canada are also subject to restrictions under "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles" (§§ 319.40 through 319.40–11 of this part).

(c) *Outdoor household articles and mobile homes and their associated equipment.* (1) Outdoor household articles and mobile homes and their associated equipment that are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas may be imported from any area in Canada without restriction under this subpart.

(2) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction under this subpart.

(3) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into a U.S. noninfested area, or that will be moved through a U.S. noninfested area, may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

(Approved by the Office of Management and Budget under control number 0579–0142)

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38176, June 20, 2000; 69 FR 61589, Oct. 20, 2004; 70 FR 33326, June 7, 2005; 71 FR 40878, July 19, 2006]

§ 319.77–5 Disposition of regulated articles denied entry.

Any regulated article that is denied entry into the United States because it does not meet the requirements of this subpart must be promptly safeguarded or removed from the United States. If the article is not promptly safeguarded or removed from the United States, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

[64 FR 45866, Aug. 23, 1999, as amended at 66 FR 21057, Apr. 27, 2001]

PART 322—BEES, BEEKEEPING BY-PRODUCTS, AND BEEKEEPING EQUIPMENT

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AUTHORITY: 7 U.S.C. 281; 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

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