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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 300 and 319

[Docket No. 95-098-3]

#### Importation of Fruits and Vegetables

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

**ACTION:** Final rule.

**SUMMARY:** We are allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables are required to undergo prescribed treatments for injurious plant pests as a condition of entry, or to meet other special conditions. The removal of these prohibitions will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

**EFFECTIVE DATE:** January 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Grosser, Senior Operations Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737-1236; (301) 734-6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 7 CFR 319.56 through 319.56-8 (referred to below as "the regulations") prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction

and dissemination of fruit flies and other injurious plant pests that are new to or not widely distributed within and throughout the United States.

On July 2, 1996, we published in the Federal Register (61 FR 34379-34385, Docket No. 95-098-1) a proposal to amend the regulations by allowing additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that the fruits and vegetables could introduce injurious insects into the United States. We proposed to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk assessments that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 60 days ending September 3, 1996. We received 15 comments by that date. They were from representatives of State and foreign governments, grocery stores, industry groups, and a member of Congress. Ten commenters supported the proposed rule as written. The other commenters expressed concerns about our proposing to allow importation of citrus fruit from the Western Cape Province of South Africa. These concerns are discussed below:

*Comment:* How has it been determined that the Western Cape Province is free of citrus blackspot?

*Response:* Many factors have contributed to our determination that the Western Cape Province is free of citrus blackspot. First, citrus blackspot has never been reported in the Western Cape Province. In addition, in June 1994, we received assurances from the Director of the Directorate of Plant and Quality Control, Department of Agriculture, Republic of South Africa, that the Western Cape Province is free of citrus blackspot. In that same month, personnel of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), began a review of the testing protocol for citrus blackspot (the procedures used in testing for the presence of citrus blackspot) and the results of the testing for citrus blackspot provided by the South African Department of

Agriculture. APHIS personnel determined that the testing protocol used in the Western Cape Province was scientifically sound and that the Western Cape Province showed no evidence of citrus blackspot. Later, in May (the time of the year for optimum expression of citrus blackspot in South Africa) 1995, an additional survey for citrus blackspot was conducted by personnel of the Directorate of Plant and Quality Control, and no evidence of the disease was detected. The results of these surveys give us the confidence to make the determination that the Western Cape Province is free from citrus blackspot.

*Comment:* The pest risk analysis for citrus fruit from South Africa notes that the Western Cape Province is free of citrus blackspot. What measures are being taken to ensure that citrus blackspot is not introduced into the Western Cape Province from other areas of South Africa that are known to be infected with the disease? Regular, on-going surveys performed in the Western Cape Province by trained plant pathologists, routine verification of South African testing programs regarding the pest-free status of the Western Cape Province, and other on-going pest exclusion activities need to be established to prevent the spread of citrus blackspot into the Western Cape Province.

*Response:* As stated in the proposed rule, both natural and regulatory barriers are in place that will help ensure that the Western Cape Province will remain free of citrus blackspot. The Western Cape Province's nearest citrus-producing neighbor, the Gamtoos River Valley, has, to date, had no findings or reports of citrus blackspot, and the citrus-producing areas in South Africa that are infested with citrus blackspot are separated from the Western Cape Province by mountain ranges, semi-desert areas, or long distances. Additionally, the South African Government has in place regulations that prohibit the movement of nursery trees from the northern citrus-production area of South Africa into the Western Cape Province, and the South African Government carefully monitors and regularly inspects citrus fruit for citrus blackspot in the growing areas and packing houses of the Western Cape Province. We believe that these natural and regulatory barriers are sufficient to

help ensure that the Western Cape Province remains free of citrus blackspot.

*Comment:* Leaves and other debris which might result in the introduction of the citrus leaf miner, *Phyllocnistis citrella*, should not be allowed into the United States with any shipments of citrus imported from South Africa. Additionally, mitigation measures, such as limiting shipments of citrus from South Africa to early spring, need to be taken to prevent the introduction of *Toxoptera odinae*, a type of aphid, into the United States.

*Response:* This final rule allows the importation of citrus fruit from the Western Cape Province of South Africa. Section 319.56-2(a) of the regulations provides that all importations of fruits and vegetables must be free from plants or portions of plants, including leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from clean fruits and vegetables. Both the citrus leaf miner and *Toxoptera odinae* are associated with the leaves and other portions of citrus plants, and as citrus leaves or other debris that may harbor the citrus leaf miner or *Toxoptera odinae* are prohibited entry into the United States, we are confident that at any time of the year, the risk of the introduction of the citrus leaf miner or *Toxoptera odinae* into the United States is negligible. Additionally, both of these pests are mitigated in the Western Cape Province of South Africa by chemical controls during preharvest and postharvest and by phytosanitary export inspections. Therefore, we are making no changes to the proposed rule in response to this comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without changes.

#### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the Federal Register.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has

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

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic impact of this final rule on small entities.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee, 150ff, 151-167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could have introduced injurious plant pests into the United States.

In our proposal, we solicited comments on the potential effects of the proposed action on small entities. In particular, we sought data and other information to determine the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. We received no comments on the Initial Regulatory Flexibility Analysis contained in the proposed rule.

This rule is based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk assessments indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables will be required to undergo mandatory treatment for injurious plant pests as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

#### Basil From Argentina

From 1990 to 1994, the value of U.S. basil imports averaged \$3.3 million

annually. This average includes import values for 1994 when, due to a record import volume of 3,220 metric tons, U.S. basil imports amounted to \$4.6 million. No information is available on U.S. basil production.

It is estimated that Argentina produces about 1,500 metric tons of basil annually. If commercial conditions are favorable, basil exports to the United States could, over time, reach 200 metric tons a year. This amount is only about 6 percent of current U.S. basil imports and, therefore, is not expected to have a significant economic effect on any entities in the U.S. basil market.

#### Babaco From Chile

Chile produced 334 metric tons of babaco from 1994 to 1995. Of this amount, only 6.9 metric tons were exported, and all exported babaco went to Argentina. There is no data available on production or importation of babaco by the United States. We do not expect that babaco imported from Chile would have a significant economic impact on U.S. producers or other small entities.

#### Hyacinth Bean and Yard Long Bean From Honduras

No information is available on potential U.S. imports of hyacinth bean or yard long bean from Honduras or on U.S. production of these commodities.

#### Angelica From Korea

Korea produces about 1,300 metric tons of angelica a year. Of this amount, only 10 kilograms were exported in 1994 and 14 kilograms in 1995. Given the negligible quantities exported in the last 2 years, it is anticipated that very little angelica will be imported into the United States from Korea. Therefore, no significant economic impact on U.S. entities is expected.

#### Strawberry From Morocco

In 1994, total U.S. strawberry production was 737,580 metric tons. That year, the United States exported 57,332 metric tons of fresh strawberries and 28,637 metric tons of frozen strawberries and imported 19,843 metric tons of fresh strawberries and 25,050 metric tons of frozen strawberries. Therefore, in 1994, U.S. exports of fresh strawberries surpassed U.S. imports of fresh strawberries by nearly three times, while frozen strawberry exports and imports were more balanced.

Morocco produced about 35,000 metric tons of strawberries in the 1994-95 season. During that season, Morocco exported about 9,000 metric tons of fresh strawberries and 11,000 metric tons of frozen strawberries.

Future U.S. strawberry imports from Morocco are estimated at 160 metric tons of strawberries per year. As these estimated strawberry imports from Morocco constitute less than .02 percent of U.S. strawberry production, they are not expected to have a significant economic impact on U.S. entities, large or small.

#### Broad Bean, Green Bean, and Mung Bean From Nicaragua

In 1994, total U.S. green bean production was 916,750 metric tons. Of this amount, 20,324 metric tons, or 2.2 percent of total production, was exported. In 1994, green bean imports amounted to 11,230 metric tons.

U.S. production data is not available for broad bean and mung bean. However, in 1994, the United States exported 389 metric tons of dried broad bean and 2,134 metric tons of dried mung bean. U.S. imports of these commodities in 1994 totaled 610 metric tons of dried broad bean and 7,178 metric tons of dried mung bean.

No information is available on potential imports of green bean, broad bean, and mung bean from Nicaragua. Given the sizable quantity of green beans produced in the United States and given the import levels for broad bean and mung bean, potential import of these commodities from Nicaragua is not expected to have a significant economic impact on U.S. producers or other small entities.

#### Clementine, Grapefruit, Lemon, Minneola, Navel Orange, Satsuma, and Valencia Orange From South Africa

In the 1994–95 season, the total value of the U.S. citrus crop was \$2.25 billion. The 1994–95 value of U.S.-produced navel oranges (early and midseason) was \$836 million, valencia oranges \$727 million, grapefruit \$301 million, and lemon \$265 million. Production value is not available for clementine, satsuma, and minneola.

In 1994, the United States exported fresh citrus and citrus products valued at more than \$650 million and imported fresh citrus and citrus products valued at about \$70 million. By weight, about 50 percent of 1994 fresh citrus exports were oranges and tangerines, about 40 percent grapefruit, and about 10 percent lemons and limes.

South Africa exports about two-thirds of its citrus crop. The 1996 projected exports of citrus from the Western Cape Province of South Africa to the United States include 10,500 metric tons of navel oranges; 12,750 metric tons of valencia oranges; 8,000 metric tons of clementines; 75 metric tons of grapefruit; 3,000 metric tons of lemons;

1,000 metric tons of satsuma; and 900 metric tons of minneola. These projections amount to only a fraction of one percent of U.S. production of citrus.

Additionally, as South Africa exports most of its fresh citrus and citrus products during the summer months, South African citrus would not compete with the late fall, winter, and early spring citrus production season in the United States.

Therefore, due to summer arrival of citrus from South Africa, the relatively negligible quantity of citrus expected to be imported into the United States from South Africa, and the fact that U.S. citrus exports are more than nine times greater than U.S. citrus imports, we expect that South African citrus exports to the United States would not have a significant economic impact on U.S. producers, exporters, and importers of citrus, or other small entities. Citrus importers in the United States could benefit from the increased availability of citrus fruit, especially navel oranges, during the time of year when U.S. production is at its lowest.

The alternative to this rule was to make no changes in the regulations. After consideration, we rejected this alternative because there is no biological reason to prohibit the importation into the United States of the fruits and vegetables listed in this document.

#### Executive Order 12988

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

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0049.

#### List of Subjects

##### 7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

##### 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR parts 300 and 319 are amended as follows:

#### **PART 300—INCORPORATION BY REFERENCE**

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), the introductory text is revised to read as follows:

##### **§ 300.1 Materials incorporated by reference; availability.**

(a) *Plant Protection and Quarantine Treatment Manual*. The *Plant Protection and Quarantine Treatment Manual*, which was reprinted November 30, 1992, and includes all revisions through October 1996, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

\* \* \* \* \*

#### **PART 319—FOREIGN QUARANTINE NOTICES**

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

4. A new § 319.56–2q is added to read as follows:

##### **§ 319.56–2q Administrative instructions: conditions governing the entry of citrus from South Africa.**

Clementine (*Citrus reticulata*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), minneola (*C. paradisi* x *C. reticulata*), navel orange (*Citrus sinensis*), satsuma (*Citrus reticulata*), and valencia orange (*Citrus sinensis*) may be imported into the United States from the Western Cape Province of South Africa only under the following conditions:

(a) The citrus fruit must be grown in, packed in, and shipped from the Western Cape Province of South Africa.

(b) The citrus fruit must be cold treated for false codling moth and fruit

flies of the genus *Ceritatis* and *Pterandrus* in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(1) If the cold treatment is to be conducted in the United States, entry of the citrus fruit into the United States is limited to ports listed in § 319.56-2d(b)(1).

(2) If the cold treatment is conducted in South Africa or in transit to the United States, entry of the citrus into the United States may be made through any U.S. port.

(c) Each shipment of citrus fruit must be accompanied by a phytosanitary certificate issued by the South African

Ministry of Agriculture stating that the conditions of paragraph (a) of this section have been met. (Approved by the Office of Management and Budget under control number 0579- 0049)

5. In § 319.56-2t, an OMB control number is added at the end of the section, and the table is amended as follows:

a. In the entries for Costa Rica, Guatemala, and Philippines, under the heading *Common name*, by removing the words "Yam bean" from each entry and adding the word "Jicama" in their places.

b. In the entries for Guatemala and Panama, the entry for Tarragon would be amended in the fourth column, under

the heading *Plant part(s)*, by removing the words "Leaf and stem" and adding the words "Above ground parts" in their place.

c. In the entry for Belize, the entry for Papaya, by revising the text under the heading *Plant part(s)* to read as set forth below.

d. By adding, in alphabetical order, entries for Basil from Argentina, Babaco from Chile, Angelica from Korea, and Strawberry from Morocco to read as set forth below.

**§ 319.56-2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.**

\* \* \* \* \*

Country/locality	Common name	Botanical name	Plant part(s)
Argentina.			
*	Basil .....	Ocimum spp. ....	Above ground parts.
Belize.			
*	Papaya .....	Carica papaya .....	Fruit (Must be accompanied by a phytosanitary certificate issued by the Belizean department of agriculture stating that the fruit originated in the district of Cayo, Corozal, or Orange Walk, or in any portion of the district of Stann Creek <i>except</i> the area bounded as follows: Beginning at the southernmost point of the Placencia Peninsula; then north along the coast of the Caribbean Sea to Riversdale Rd.; then west along Riversdale Rd. to Southern Hwy.; then south along the Southern Hwy. to Independence Rd.; then east along Independence Rd. to Big Creek Port; then east, on an imaginary line, from Big Creek Port across the Placencia Lagoon to the point of beginning. Papayas from other areas of Belize enterable only with treatment—see § 319.56-2x). Prohibited entry into Hawaii due to the papaya fruit fly, <i>Toxotrypana curvicauda</i> . Cartons in which fruit is packed must be stamped "Not for importation into or distribution within HI.")
Chile .....	Babaco .....	Carica x heilborni var. pentagona.	Fruit. (From Medfly-free areas—see § 319.56-2j. Fruit must be accompanied by a phytosanitary certificate issued by the Chilean department of agriculture stating that the fruit originated in a Medfly-free province.)
Korea .....	Angelica .....	Aralia elata .....	Edible shoot.
Morocco .....	Strawberry .....	Fragaria spp. ....	Fruit.

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

6. In § 319.56-2x, paragraph (a), the table is amended as follows:
- a. In the entry for Belize, the entry for Papaya, by revising the text under the heading *Plant part(s)* to read as set forth below.
  - b. By adding, in alphabetical order, entries for Hyacinth bean and Yard long bean from Honduras and Broad bean, Green bean, and Mung bean from Nicaragua to read as set forth below.

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

(a) \* \* \*

Country/locality	Common name	Botanical name	Plant part(s)
Belize	Papaya	<i>Carica papaya</i>	Fruit (Treatment for Medfly not required for fruit grown in the districts of Cayo, Corozal, and Orange Walk, or in any portion of the district of Stann Creek except the area bounded as follows: Beginning at the southernmost point of the Placencia Peninsula; then north along the coast of the Caribbean Sea to Riversdale Rd.; then west along Riversdale Rd. to Southern Hwy.; then south along the Southern Hwy. to Independence Rd.; then east along Independence Rd. to Big Creek Port; then east, on an imaginary line, from Big Creek Port across the Placencia Lagoon to the point of beginning—see §319.59-2t.) Papayas prohibited entry into Hawaii due to the papaya fruit fly, <i>Toxotrypana curvicauda</i> . Cartons in which fruit is packed must be stamped "Not for importation into or distribution within HI."
Honduras	Hyacinth bean Yard long bean	<i>Lablab purpureus</i> <i>Vigna unguiculata</i> , subsp. <i>sesquipedalis</i> .	Pod or shelled. Pod or shelled.
Nicaragua	Broad bean Green bean Mung bean	<i>Vicia faba</i> <i>Phaseolus</i> spp. <i>Vigna radiata</i>	Pod or shelled. Pod or shelled. Pod or shelled.

\* \* \* \* \*

Done in Washington, DC, this 20th day of December 1996.  
 Al Strating,  
*Acting Administrator, Animal and Plant Health Inspection Service.*  
 [FR Doc. 97-108 Filed 1-3-97; 8:45 am]  
**BILLING CODE 3410-34-P**

**9 CFR Parts 160 and 161**

[Docket No. 96-075-1]

**Accredited Veterinarians; Optional Digital Signature**

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to accept digital signatures from accredited veterinarians as an additional option for official certificates, forms, records, and reports to the Animal and Plant Health Inspection Service. Currently, we require hand written signatures on all such documents. We believe that accepting digital signatures may benefit accredited veterinarians and the industries they serve by reducing the turn around time for these documents. This proposed action would relieve

restrictions that appear to be unnecessary.

**DATES:** Consideration will be given only to comments received on or before March 7, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 96-075-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-075-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph S. VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS. APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-7716, or e-mail: [jvantiem@aphis.usda.gov](mailto:jvantiem@aphis.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 9 CFR parts 160 and 161 (the regulations), govern the accreditation of veterinarians. Accredited veterinarians are approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) to perform certain regulatory tasks to control and prevent the spread of animal diseases throughout the country and internationally. One of these regulatory tasks is preparing official documents including certificates, forms, records, and reports and submitting such documents to APHIS. Currently, we require a hand written signature by the accredited veterinarian on all official certificates, forms, records, and reports.

We are proposing to change the regulations to allow accredited veterinarians the additional option of signing official certificates, forms, records, and reports by use of a digital signature and of transmitting such documents electronically to APHIS. We will continue to accept and process official certificates, forms, records, and reports in hard copy as well, so that the technical capabilities or preferences of