

(j) Additional fee for reconsideration—\$432.00.

(k) Additional fee for late payment—\$38.00.

(l) Additional fee for late replenishment of seed—\$38.00.

(m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision)—\$4,118.00.

(n) Granting of extensions for responding to a request—\$74.00.

(o) Field inspections by a representative of the Plant Variety Protection Office, made at the request of the applicant, shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulation.

(p) Any other service not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed \$89.00 per employee-hour.

Dated: September 25, 2002.

A.J. Yates,

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-24903 Filed 9-30-02; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 300 and 319

[Docket No. 02-026-1]

#### Importation of Fruits and Vegetables

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables would be required to be treated or meet other special conditions. This action would provide the United States with additional types and sources of fruits and vegetables while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

We are also proposing to recognize areas in several countries as free from certain fruit flies; amend the packing

requirements for certain commodities; expand locations in the northeastern United States where cold treatment can be conducted; update and clarify restrictions on the entry of fruits and vegetables; update and clarify permit procedures, including amendment, denial, or withdrawal of permits; require full disclosure of fruits and vegetables at the port of first arrival and clarify the conditions under which they may be released for movement; and make other miscellaneous changes.

**DATES:** We will consider all comments that we receive on or before December 2, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-026-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-026-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-026-1" on the subject line.

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

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56 through 319.56-8, referred to below as the regulations) currently prohibit or restrict the importation of fruits and vegetables into the United States from certain parts

of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

We propose to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under certain conditions, for importation into the United States. We are proposing this action at the request of various importers and foreign ministries of agriculture.

In accordance with the Animal and Plant Health Inspection Service (APHIS) notice, "Procedures and Standards Governing the Consideration of Import Requests," published in the **Federal Register** on June 19, 2001 (66 FR 32923-32928, Docket No. 00-082-1), we have conducted pest risk assessments for commodities that have not been imported previously under the regulations. For citrus from the Republic of South Africa and for peppers and tomatoes from Spain, where we are proposing to extend the area from which these commodities may be imported, we have reviewed data that demonstrates that the pest risk assessment prepared for the currently eligible areas is applicable to the new areas as well. Information on these pest risk assessments and data referred to in this document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**. Some of the pest risk assessments are also available on the Internet at <http://www.aphis.usda.gov/ppq/prs/>.

The fruits and vegetables referred to in this document would have to be imported under permit and would be subject to the requirements in § 319.56-6 of the regulations. Under § 319.56-6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to disinfection at the port of first arrival if a U.S. Department of Agriculture (USDA) inspector requires it. Section 319.56-6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with quarantine pests that an inspector determines that it cannot be cleaned or treated.

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

We are proposing to make several other amendments to update and clarify the regulations and improve their effectiveness. Our proposed

amendments are discussed below by topic.

### Changes in Terminology

We propose to update the regulations to replace the term “injuriously insects” wherever it appears with the term “quarantine pests.” We would define *quarantine pest* in § 319.56–1 as “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,” which is consistent with the definition provided in the standards of the International Plant Protection Convention (IPPC) of the United Nations’ Food and Agriculture Organization. “Quarantine pests” is a more accurate term because the regulations address not only insects, but other pests of quarantine significance as well. In addition, the APHIS, other plant protection organizations throughout the world, and the regulated community use the term “quarantine pests.” Therefore, in the remainder of this proposed rule, we use the term “quarantine pests” and, in the regulatory portion of this document, we will propose to replace the term “injuriously insects” with the term “quarantine pests.”

Our regulations currently refer to “fruit-fly proof” cartons or coverings. However, “insect-proof” is a more inclusive term and would clarify the intent of the regulations that the cartons or coverings must be adequate to exclude insects generally rather than just fruit flies. Therefore, we propose to replace the term “fruit-fly proof” wherever it appears in the regulations with the term “insect-proof.”

### Definitions

In addition to adding the definition for *quarantine pest* discussed above, we would amend § 319.56–1 by adding the following terms and definitions.

Under the current regulations, the importation of fruits or vegetables must be authorized by a permit; however the term “permit” is not specifically defined in the regulations. Therefore, we would add a definition for *permit* to read, “A written or oral authorization, including by electronic methods, to import fruits or vegetables in accordance with the regulations in this subpart.” As a permit could be either a general permit or a specific permit, we would add definitions for these terms as well.

*General permit* would be defined as “An authorization contained in § 319.56–2(b), (c), or (d) 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.”

*Specific permit* would be defined as “An authorization issued by APHIS to a person to import a particular fruit or vegetable from a specified country in accordance with the requirements of this subpart and any additional conditions that may be assigned.”

### Restrictions on Entry of Fruits and Vegetables

Section 319.56–2 currently provides restrictions on the entry of fruits and vegetables imported into the United States. Paragraph (e) of § 319.56–2 provides conditions under which fruits and vegetables may be imported into the United States, but that paragraph does not necessarily apply to all fruits and vegetables that may be imported under the regulations. In other sections of the regulations, specific conditions are prescribed for specific commodities that may be imported into the United States from a particular country or locality (e.g., in § 319.56–2w, papayas from Brazil and in § 319.56–2dd, tomatoes from Spain, France, Morocco, and Chile). We propose to amend § 319.56–2(e) to clarify that fruits and vegetables from designated countries or localities that are subject to specific import requirements prescribed elsewhere in the regulations are not subject to the general requirements specified in § 319.56–2(e). We would, however, add the provision that the general requirements of § 319.56–2(e) will apply if so indicated in the specific section, as is the case for apples and pears from Australia and New Zealand in § 319.56–2j.

The regulations in § 319.56–2(e)(3) and (e)(4) currently specify that certain fruits and vegetables may be imported from a definite area or district if that area or district is free of all or certain injurious insects and the importation of the fruits and vegetables can be authorized “without risk.” To prevent the introduction of quarantine pests through the importation of fruits and vegetables into the United States, the regulations currently stipulate inspection, treatment, and other conditions to mitigate the risk of introducing quarantine pests. Even with strict adherence to the preventive measures that the regulations prescribe, there will always be some risk—however slight—that a fruit or vegetable could harbor quarantine pests, which makes the “without risk” criterion a standard that, in practical terms, is impossible to satisfy. Therefore, in § 319.56–2(e)(3) and (e)(4), we propose to amend the regulations by removing the criterion of importation without

risk. Even with the removal of that criterion from § 319.56–2(e)(3) and (e)(4), those paragraphs would continue to provide appropriate conditions for the importation of fruits and vegetables from pest-free areas.

Section 319.56–2(f) currently lists criteria that must be met before APHIS will authorize the importation of certain fruits or vegetables from a definite area or district under § 319.56–2(e)(3) or (e)(4). Specifically, prior to the importation of a fruit or vegetable, the Administrator must determine that surveys conducted by the country of origin support the absence of certain injurious insects, the country of origin has adopted and is enforcing requirements to prevent the introduction of certain insects, and that the country of origin has submitted written detailed procedures for the conduct of surveys and the enforcement of requirements employed to prevent the introduction of injurious insects.

We propose to replace the specific criteria in § 319.56–2(f) with a standard requiring that the area from which the fruit or vegetable is being imported meets the requirements of the IPPC’s International Standard for Phytosanitary Measures (ISPM) No. 4, “Requirements for the establishment of pest free areas.” ISPM No. 4 is available by writing to USDA, APHIS, PPQ, Phytosanitary Issues Management, 4700 River Road Unit 140, Riverdale, MD 20737, or on the Internet at: <http://www.aphis.usda.gov/ppq/pim/standards/>.

The IPPC, of which the United States is a member, establishes international standards to achieve international harmonization of phytosanitary measures. ISPM No. 4 requires that for an area to be considered as free, it must have a system to establish freedom, phytosanitary measures to maintain freedom, and a system for the verification of the maintenance of freedom. We believe that incorporating this standard by reference into our regulations would prevent the introduction of quarantine pests into the United States and provide requirements that are consistent with the IPPC.

### Fruit-Fly-Free Areas in Mexico

The regulations in § 319.56–2(h) currently list the municipalities in Mexico that APHIS has determined meet the criteria of § 319.56–2(e) and (f) with regard to freedom from the plant pests Mediterranean fruit fly (*Ceratitis capitata*) (Medfly), Mexican fruit fly (*Anastrepha ludens*), dark fruit fly (*A. serpentina*), West Indian fruit fly (*A. obliqua*), and South American fruit fly (*A. fraterculus*). Apples, apricots,

grapefruit, mangoes, oranges, peaches, persimmons, pomegranates, and tangerines may be imported from these municipalities without treatment for the listed fruit flies.

Mexico recently provided APHIS with fruit fly survey data that demonstrate that the municipalities of La Paz and Los Cabos in the State of Baja California Sur and Ahome, Choix, El Fuerte, Guasave, and Sinaloa de Leyva in the State of Sinaloa meet the criteria of § 319.56–2(e) and (f) for area freedom from the fruit flies listed above. These municipalities also meet the requirements under ISPM No. 4, which, as discussed above, we are proposing to use as the requirements for the establishment of pest-free areas. Therefore, we are proposing to include those municipalities in the list of fruit-fly-free areas of Mexico in § 319.56–2(h).

#### Medfly Area in Chile

Under § 319.56–2(j), all Districts in Belize, all Provinces in Chile, and the Department of Petén in Guatemala are recognized, in accordance with § 319.56–2(e) and (f), as free of Medfly. However, because Medfly was detected in the Chilean Province of Arica, we are proposing to amend § 319.56–2(j) to replace “all Provinces of Chile” with the words “all Provinces of Chile except Arica.”

#### Cold Treatment Locations

Currently, § 319.56–2d(b)(1) lists the following ports where cold treatment may be conducted if it was not conducted in transit to the United States: Atlantic ports north of, and including, Baltimore, MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; the maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Baltimore-Washington International and Dulles International airports, Washington, DC. We propose to specify that cold treatment may also be applied at storage warehouses approved by the Administrator that are located in the area north of 39° longitude and east of 104° latitude and at specified maritime ports and airports that are located outside of that area (*i.e.*, the maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Washington Dulles International Airport, Chantilly, VA). This proposed change would eliminate the need to specifically list Atlantic ports north of, and including, Baltimore,

MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and Baltimore-Washington International Airport, as these locations fall within the area north of 39° longitude and east of 104° latitude. This proposed change would allow cold treatment to be conducted at additional locations in the northeastern United States, while continuing to provide protection against quarantine pests. We also propose to replace the current reference to Dulles International Airport, Washington, DC, with a reference to Washington Dulles International Airport, Chantilly, VA.

We also propose to amend § 319.56–2d(b)(1) to indicate that cold treatment may occur in containers, as well as in compartments or rooms. The last sentence of that paragraph would read “Refrigeration must be completed in the compartment, container, or room in which it was begun.”

#### Inspected and Subject to Disinfection

We propose to amend § 319.56–2t to add the following to the list of fruits and vegetables from certain countries or localities that are eligible for importation into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations:

Country/locality	Commodity	Plant part(s)
Belize .....	Rambutan .....	Fruit.
Chile .....	Pepper .....	Fruit.
Costa Rica .....	Rambutan .....	Fruit.
El Salvador .....	Fennel .....	Leaf and stem.
	German chamomile .....	Flower and leaf.
	Loroco .....	Flower, leaf, and stem.
	Oregano or sweet marjoram .....	Leaf and stem.
	Parsley .....	Leaf and stem.
	Rambutan .....	Fruit.
	Rosemary .....	Leaf and stem.
	Waterlily or lotus .....	Roots without soil.
	Yam-bean or Jicama root .....	Roots without soil.
Guatemala .....	Fennel .....	Leaf and stem.
	German chamomile .....	Flower and leaf.
	Rambutan .....	Fruit.
	Waterlily or lotus .....	Roots without soil.
Honduras .....	Basil .....	Leaf and stem.
	German chamomile .....	Flower and leaf.
	Loroco .....	Flower and leaf.
	Oregano or sweet marjoram .....	Leaf and stem.
	Rambutan .....	Fruit.
	Waterlily or lotus .....	Roots without soil.
	Yam-bean or Jicama root .....	Roots without soil.
Mexico .....	Fig .....	Fruit.
	Rambutan .....	Fruit.
Nicaragua .....	Fennel .....	Leaf and stem.
	German chamomile .....	Flower and leaf.
	Loroco .....	Leaf and stem.
	Rambutan .....	Fruit.
	Waterlily or lotus .....	Roots without soil.
	Yam-bean or Jicama root .....	Roots without soil.
Panama .....	Rambutan .....	Fruit.

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

The pest risk assessments identified pests associated with these commodities and evaluated the consequences and likelihood of their introduction. However, for most of the commodities listed above, the pest risk assessments were limited to the continental United States. Therefore, we would require that shipments of those commodities be shipped in boxes labeled “Not for distribution in HI, PR, VI, and Guam.” The only commodities listed above to which those proposed shipping restrictions would not apply are pepper from Chile and loroco from El Salvador, Honduras, and Nicaragua.

We are also proposing to amend the current entries in § 319.56–2t for rosemary and loroco from Guatemala to be consistent with the pest risk assessments prepared for those

commodities. The entry for rosemary would be amended to change the enterable plant parts from “above ground parts” to “leaf and stem” and to add the requirement for shipping in boxes labeled “Not for distribution in HI, PR, VI, and Guam.” The entry for loroco would be amended to change the enterable plant parts from “above ground parts” to “flower and leaf.”

The following commodities would also be required to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the country of origin that contains specific additional declarations, *i.e.*:

- Basil from Honduras (freedom from *Planococcus minor*);
- Fig from Mexico (fruit originated in a fruit-fly-free area listed in § 319.56–2(h));
- Pepper from Chile (fruit originated in a fruit-fly-free area listed in § 319.56–2(j)); and
- Rambutan from Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, or Panama (freedom from *Coccus moestus*, *C. viridis*, *Dysmicoccus neobrevipes*, *Planococcus lilacinus*, *P. minor*, *Pseudococcus landoi*, and all damaged fruit was removed from the shipment prior to export under the

supervision of the national plant protection organization).

We believe these additional declarations would be necessary to give us assurance that the product was inspected and found free of specified pests or originated in a pest-free area and, in the case of rambutan from the countries named above, that the shipment is free from damaged fruit, which can be more susceptible to infestation by pests than intact fruit.

#### Treatment Required

Section 319.56–2x currently lists fruits and vegetables that may be imported into the United States only if they have been treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual. We require treatment for these commodities because they may be infested with quarantine pests that cannot be detected by visual inspection. We are proposing to amend the list in § 319.56–2x to allow the following fruits and vegetables to be imported into the United States from certain countries or localities if they have been treated for quarantine pests in accordance with the PPQ Treatment Manual:

Country/locality	Commodity (plant part)	Quarantine pests	Treatment (see table below)
China .....	Longan (fruit) .....	<i>Bactrocera dorsalis</i> and <i>Bactrocera curcubitae</i> .	Cold treatment.
Colombia .....	Cape gooseberry (fruit) .....	<i>Ceratitis capitata</i> .....	Cold treatment.
Colombia .....	Yellow pitaya (fruit) .....	<i>Ceratitis capitata</i> and <i>Anastrepha fraterculus</i> .	Vapor heat treatment.
Nicaragua .....	Yard-long-bean (pod) .....	<i>Cydia fabivora</i> , <i>Epinotia aporema</i> , and <i>Maruca testulalis</i> .	Methyl bromide.
Spain .....	Persimmon (fruit) .....	<i>Ceratitis capitata</i> .....	Cold treatment.

We would amend the PPQ Treatment Manual to show the treatments that would be required for the above commodities. Based on research that we have evaluated and approved (for cold treatment for Medfly, we also considered the results of a cold treatment evaluation and quantitative analysis and the findings of USDA technical experts), we have determined that the treatments described below are effective against the specified pests. (The research data and findings may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**. The cold treatment evaluation and the quantitative analysis may be viewed on the Internet at <http://www.aphis.usda.gov/oa/clementine/index.html>.) Therefore, the following treatments would be added to the PPQ Treatment Manual and incorporated by reference into 7 CFR 300.1 for the

specified commodity, country, and quarantine pest combination:

#### Treatments

Cold treatment of cape gooseberries from Colombia and persimmons from Spain for *Ceratitis capitata*

Temperature	Exposure period (days)
34 °F (1.11 °C) or below .....	14
35 °F (1.67 °C) or below .....	16
36 °F (2.22 °C) or below .....	18

Cold treatment of longan from China for *Bactrocera dorsalis* and *Bactrocera curcubitae*

Temperature	Exposure period (days)
33.8 °F (1 °C) or below .....	13

Temperature	Exposure period (days)
34.5 °F (1.39 °C) or below .....	18

Vapor heat treatment of yellow pitaya from Colombia for *Ceratitis capitata* and *Anastrepha fraterculus*

1. Raise temperature of the fruit using saturated water vapor at 116.6 °F until the approximate center of the fruit reaches 114.8 °F within a minimum time period of 4 hours.

2. Hold fruit temperature at 114.8 °F or above for 20 minutes.

If post-treatment cooling is conducted, wait 30 minutes after the treatment to start the forced cooling process.

Methyl bromide fumigation in 15" vacuum chamber of yard-long-bean from Nicaragua for *Cydia fabivora*, *Epinotia aporema*, and *Maruca testulalis*

Temperature	Dosage rate (lb/1,000 ft <sup>3</sup> )	Exposure period (in hours)
90 °F (32.22 °C) or above .....	0.5	1.5
80–89 °F (26.67–31.67 °C) .....	1	1.5
70–79 °F (21.11–26.11 °C) .....	1.5	1.5
60–69 °F (15.56–20.56 °C) .....	2	1.5
50–59 °F (10–15 °C) .....	2.5	1.5
40–49 °F (4.44–9.44 °C) .....	3	1.5

or

Methyl bromide at normal atmospheric pressure (NAP)-tarpaulin or chamber—of yard-long-bean from Nicaragua for *Cydia fabivora*, *Epinotia aporema*, and *Maruca testulalis*

Temperature	Dosage rate (lb/1,000 ft <sup>3</sup> )	Minimum con- centration readings (ounces) at:	
		0.5 hours	2 hours
80 °F or above .....	1.5	19	14
70–79 °F (1.11 °C) .....	2	26	19
60–69 °F (1.67 °C) .....	2.5	32	24
50–59 °F (2.22 °C) .....	3	38	29

#### Okra From Haiti

Under § 319.56–2p, okra may currently be imported under certain conditions into the United States from Mexico, the West Indies, and certain countries in South America. West Indies is defined in § 319.56–2p(a)(3)(i) as the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles, and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela). Although we currently allow the importation of okra from Haiti under the regulations in § 319.56–2p, the Haitian Government has requested that we make it clear that we consider Haiti as part of the West Indies. Therefore, we are proposing to amend § 319.56–2p(a)(3)(i) by adding the words “(including Hispaniola)” immediately after the words “Greater Antilles.” (Hispaniola includes Haiti and the Dominican Republic.)

#### Citrus From South Africa

Under § 319.56–2q, clementines, grapefruits, lemons, minneolas, navel oranges, satsumas, and valencia oranges may currently be imported into the United States from the Western Cape Province of South Africa if they are cold treated and accompanied by a phytosanitary certificate completed by the South African Ministry of Agriculture. The Western Cape Province is free of citrus black spot, and the required cold treatment addresses the risk presented by other pests of concern; *i.e.*, the false codling moth and fruit flies of the genera *Ceratitis* and *Pterandrus*.

The South African Government provided APHIS with data that demonstrate that the Hartswater magisterial district in the Northern Cape Province of South Africa is also free of citrus black spot. In addition, we have determined that the other pests of concern in the Western Cape Province—the false codling moth and fruit flies of the genera *Ceratitis* and *Pterandrus*—are also the only other pests of concern in the Hartswater magisterial district. Therefore, we propose to allow citrus that is grown in, packed in, and shipped from the Hartswater magisterial district in the Northern Cape Province of South Africa to be imported into the United States under the conditions prescribed in § 319.56–2q. We would also correct the spelling of *Ceratitis* in paragraph (b) of that section.

#### Peppers From Israel

Section 319.56–2u contains the current requirements that apply to the importation into the United States of lettuce and peppers from Israel. Under paragraph (b) of that section, peppers imported from Israel must, among other things, be packed in insect-proof containers prior to movement from approved screenhouses in the Arava Valley to safeguard them from quarantine pests and hitchhikers. Although this requirement ensures that the peppers are appropriately safeguarded before they leave the approved screenhouses in which they were grown, sorted, and packed, the regulations currently do not address the integrity of that packaging during the peppers' movement through Israel for

export and during transit to the United States. Therefore, we are proposing to add a new paragraph (b)(8) to § 319.56–2u to require that the insect-proof containers remain intact during transit and be intact upon arrival in the United States. While the regulations currently specify the use of insect-proof containers, we believe that standard containers (*i.e.*, non-insect-proof boxes) could be used to package the peppers if those boxes were completely covered by insect-proof mesh or a plastic tarpaulin and then placed inside a shipping container for transit to the United States. We are, therefore, proposing to amend the regulations to provide for the use of this option as an alternative to individual insect-proof containers. As an added precaution, however, we would require the shipping containers to be secured with a numbered seal applied by the Israeli Department of Plant Protection and Inspection (DPPI) if those containers will be moved through any fruit-fly-supporting areas during transit. The seal number would have to be recorded on the phytosanitary certificate that is discussed in the next paragraph. These proposed requirements would ensure that the peppers are protected from pests during all phases of their movement from the approved screenhouses.

While the regulations in paragraph (a) of § 319.56–2u currently require that lettuce from Israel be accompanied by a phytosanitary certificate issued by the Israeli Ministry of Agriculture, paragraph (b) of that section does not contain a similar phytosanitary certificate requirement for peppers. To

improve our ability to verify that peppers from Israel were grown in accordance with the conditions of § 319.56–2u(b), we are proposing to add a new paragraph (b)(9) that would require that peppers from Israel be accompanied by a phytosanitary certificate issued by the Israeli Ministry of Agriculture that states that the peppers were grown, packed, and shipped in accordance with the requirements of § 319.56–2u(b).

#### Citrus From Australia

Currently, the regulations in § 319.56–2v list areas in Australia that APHIS has determined meet the criteria of the regulations for freedom from Medfly, the Queensland fruit fly (*Dacus tryoni* [Frogg]), and other fruit flies that attack citrus in Australia, and provide that certain citrus, including oranges, lemons, limes, mandarins (including satsumas, tangerines, and tangors), and grapefruit may be imported into the United States from those areas without treatment under certain conditions. The Government of Australia has submitted data from surveys showing that the following additional geographical subdivisions of the Riverland District of South Australia, called “hundreds,” meet the criteria of the regulations and ISPM No. 4 for freedom from destructive fruit flies: Eba, Fisher, Forster, Hay, Murbko, Nildottie, Paisley, Ridley, Skurray, and the Parish of Onley in the Shire of Mildura, Victoria. Therefore, we propose to amend § 319.56–2v(a)(1) by adding these hundreds to the list of areas from which citrus may be imported into the United States without treatment for fruit flies.

#### Tomatoes From Spain

The regulations in § 319.56–2dd currently prescribe certain conditions under which pink or red tomatoes can be imported into the United States from certain locations in Spain. These provisions are designed to ensure that the tomatoes are free of Medfly. Currently, pink or red tomatoes grown in greenhouses that are registered and inspected by the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF) may be imported from the Almeria Province of Spain under a systems approach that stipulates that:

- The tomatoes may be shipped only from December 1 through April 30, inclusive;
- Two months prior to shipping, and continuing through April 30, MAFF must set and maintain 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 traps per square kilometer. All traps must be checked once every 7 days;

- 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;
- MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

- The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit-fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit-fly-proof containers for transit to the airport and subsequent shipping to the United States. Transit through other fruit fly-supporting areas is prohibited unless the fruit-fly-proof containers are sealed by MAFF before shipment and the official seal number is recorded on the phytosanitary certificate; and

- MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, “These tomatoes were grown in registered greenhouses in Almeria Province in Spain.”

The Government of Spain has provided APHIS with data that demonstrate that the Murcia Province and the municipalities of Albuñol and Carchuna in the Granada Province of Spain meet the criteria of the regulations and ISPM No. 4 for freedom from Medfly. In addition, the Government of Spain has stated that pink or red tomatoes from these areas would be produced, packed, and shipped in accordance with the systems approach described above. Therefore, we propose to amend §§ 319.56–2t and 319.56–2dd(a)(1) and (a)(7) to allow the

importation of pink or red tomatoes grown in greenhouses in the Murcia Province and the municipalities of Albuñol and Carchuna in the Province of Granada in Spain.

#### Packaging Requirements for Tomatoes From Spain, France, Morocco, and Chile

Under § 319.56–2dd, tomatoes from Spain, France, Morocco, and Chile must currently be shipped in fruit-fly-proof containers to safeguard the commodities from quarantine pests and hitchhikers. The regulations currently require that the tomatoes be safeguarded by fruit-fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit-fly-proof containers for transit to the airport and subsequent shipping to the United States. We propose to add the requirement that the insect-proof containers must be intact upon arrival in the United States to § 319.56–2dd(a)(6) for Spain, (b)(5) for France, (c)(6) for Morocco, and (d)(2) for Chile. This requirement would enable us to verify that the imported tomatoes were packed in accordance with the regulations to prevent infestation by quarantine pests or hitchhikers. We would also make minor changes in these paragraphs, such as replacing references to “fruit-fly proof” with “insect-proof.”

#### Tomatoes From Australia

At the request of the Australian Government, we propose to amend § 319.56–2dd to allow tomatoes from Australia to be imported into the United States. To prevent the introduction of *Bactrocera aquilonis* (Northern Territory fruit fly), *B. cucumis* (cucumber fly), *B. jarvis* (Jarvis’s fruit fly), *B. neohumeralis* (lesser Queensland fruit fly), *B. tryoni* (Queensland fruit fly), Medfly, *Chrysodeixis argentifera* (tobacco looper), *C. erisoma* (green garden looper), *Helicoverpa armigera* (corn earworm, cotton bollworm, tobacco budworm, or tomato grub), *H. punctigera* (Australian budworm), *Lamprolonchaea brouniana* (metallic-green tomato fly), *Sceliodes cordalis* (eggfruit caterpillar), and *Spodoptera litura* (cluster caterpillar), we would allow the importation of tomatoes from Australia under certain conditions that are similar to the conditions under which pink or red tomatoes from other countries, such as Spain, may be imported into the United States. These proposed conditions include the trapping and other fruit-fly-specific measures that are included in the conditions under which pink or red tomatoes may be imported from other countries. In addition, the risk

presented by the non-fruit fly pests of concern (e.g., the loopers, worms, and caterpillars identified above) would be mitigated by the requirement that the tomatoes be grown in a greenhouse. The Australian Quarantine Inspection Service (AQIS) would inspect the greenhouse to ensure its freedom from all pests of concern, and the greenhouse itself would serve as a barrier to the entry of those pests. Therefore, we believe that the following requirements would be adequate to prevent the introduction of quarantine pests into the United States with tomatoes imported from Australia:

- The tomatoes must be grown in greenhouses registered with and inspected by AQIS;
- Two months prior to shipping, AQIS must inspect the greenhouses to establish their freedom from all pests of concern and set and maintain fruit fly traps inside the greenhouses and around the perimeter of the greenhouses. Inside the greenhouses, the traps must be McPhail 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 at the rate of at least four per square kilometer. All traps must be checked at least every 7 days;
- 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;
- Outside of a registered greenhouse, if one fruit fly of any type is found within 2 kilometers, 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 1 month will result in the cancellation of exports from all registered greenhouses within 2 kilometers of the find until the source of the infestation is determined and the fruit fly infestation is eradicated;
- 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; and
- 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 packing house or while awaiting packing. They must be placed in insect-proof cartons 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. Transit through other fruit-fly-supporting areas is prohibited unless the shipping container is sealed by AQIS prior to shipping and the official seal number is recorded on the phytosanitary certificate.

To verify that these requirements are being met, we would require tomatoes from Australia to be accompanied by a phytosanitary certificate issued by AQIS stating that the tomatoes were grown, packed, and shipped in accordance with the requirements described above.

#### Peppers From Spain

Section 319.56–2gg currently allows the importation of peppers from the Almeria Province of Spain under certain conditions to prevent the introduction of Medfly into the United States. Data provided by the Spanish Government show that the Alicante Province of Spain meets the criteria of the regulations and ISPM No. 4 for freedom from Medfly. We believe that the following conditions, which are the same as those contained in the current regulations for peppers from Almeria Province, would be adequate to prevent the introduction of Medfly into the United States with peppers imported from the Alicante Province of Spain:

- The peppers may be shipped only from December 1 through April 30, inclusive;
- Beginning October 1, and continuing through April 30, the Ministry of Agriculture, Fisheries, and Food (MAFF) must set and maintain 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;
- Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Deputy Administrator of Plant Protection and Quarantine, APHIS, 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;

- The peppers must be safeguarded against fruit fly infestation from harvest to export. Such safeguarding includes covering newly harvested peppers with fruit-fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packing the peppers in fruit-fly-proof cartons, or cartons covered with fruit-fly-proof mesh or plastic tarpaulin, and placing those cartons in enclosed shipping containers for transit to the airport and subsequent shipment to the United States;

- The peppers must be packed for shipment within 24 hours of harvest;
- 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

- A phytosanitary certificate issued by MAFF and bearing the declaration, “These peppers were grown in registered greenhouses in the Alicante or Almeria Province in Spain,” must accompany the shipment.

Therefore, we propose to amend § 319.56–2gg(a) by adding the Alicante Province of Spain to the areas of Spain from which peppers may be imported into the United States.

Paragraph (e) of § 319.56–2gg currently requires that the peppers be safeguarded by fruit-fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit-fly-proof containers for transit to the airport and subsequent shipping to the United States. We propose to add to § 319.56–2gg(e) the requirement that the fruit-fly-proof containers must be intact upon arrival in the United States. This requirement will enable us to verify that the imported peppers were packed in accordance with the regulations to prevent infestation by quarantine pests or hitchhikers. We would also make minor changes in this paragraph, such as replacing references to “fruit-fly proof” with “insect-proof,” to improve clarity.

#### Persimmons From the Republic of Korea

We propose to allow persimmons to be imported into the United States from the Republic of Korea under certain conditions, which would be set forth in a new § 319.56–2kk. Persimmons can be the host of several quarantine pests that can be detected upon inspection, including *Conogethes punctiferalis* (yellow peach moth), *Planococcus*

*kraunhia* (Japanese wisteria cottony mealybug), *Stathmopoda masinissa* (persimmon fruit moth), and *Tenuipalpus zhizhilashviliae* (persimmon false spider mite). Data from the Republic of Korea indicate that the orchards meet the criteria of the regulations and ISPM No. 4 for freedom from these pests. If any of these pests are detected in an orchard, exports from that orchard would be canceled until the source of infestation is determined and the infestation is eradicated. We would require that the orchard where persimmons are grown be inspected for quarantine pests by the Korean national plant quarantine service (NPQS) at least once during the growing season and before harvest. We would also require that after harvest, the Korean NPQS inspect the persimmons for quarantine pests before the persimmons are packed for shipment to the United States. In order for us to verify that the persimmons are free of quarantine pests, we would require the persimmons to be accompanied by a phytosanitary certificate issued by the Korean NPQS stating that the fruit has been inspected and is free of quarantine pests. We would require shipping boxes to be labeled "Not for distribution in HI, PR, VI, and Guam."

We believe that the proposed inspection, phytosanitary certificate, and labeling requirements described above would be adequate to prevent the introduction of quarantine pests into the United States with persimmons imported from the Republic of Korea.

#### Permits

Currently, § 319.56–3, "Applications for permits for importation of fruits and vegetables," and § 319.56–4, "Issuance of permits," explain the permit procedures for importing fruits and vegetables. We are proposing to combine and revise these sections to clarify and update our permit procedures. These provisions would be placed in a new § 319.56–3 "Applications for permits for importation of fruits and vegetables; issuance of permits."

The current regulations provide the option that applications may be made by telegraph. To update the regulations, we would provide the public an option to apply for and obtain permits electronically. We would issue electronic permits if the importer applied electronically, and written permits if the importer applied in writing. We would also add a provision that oral permits may be issued in cases where no other importations are considered and the commodity is admissible with only inspection. We

would clarify the permit application and issuance process, explaining that permits can be either general or specific. General permits are provided for specified items in § 319.56–2(b), (c), and (d), and specific permits are required for all other fruits and vegetables that are enterable under the regulations.

We propose to add a new section § 319.56–4, "Amendment, denial, or withdrawal of permits." Section 319.56–4 would provide that the Administrator may amend, deny, or withdraw a permit at any time if he or she has determined that it was necessary to do so due to the risk of introducing quarantine pests into the United States. This change would provide APHIS with additional flexibility to prevent the introduction of quarantine pests into the United States. In addition, this section would also provide procedures for appealing or requesting hearings concerning the amendment, denial, or withdrawal of permits. This section would be similar to the provisions in § 319.8–3 for foreign cotton and covers and § 319.40–4 for logs, lumber, and other unmanufactured wood.

#### Inspection and Other Requirements at the Port of First Arrival

Section 319.56–6 of the current regulations contains requirements for the inspection and disinfection of imported fruits and vegetables at the port of first arrival. This section provides, among other things, that all imported fruits and vegetables, as a condition of entry, must be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by an inspector. Paragraph (b), "Assembly for inspection," currently reads, "The owner or agent of the owner shall assemble imported fruits and vegetables for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector." This requirement is necessary so that an inspector can examine the fruits and vegetables to determine if they are free of pests and otherwise eligible for entry or if they require treatment as a condition of entry.

To improve compliance with and enforcement of the regulations, we propose to amend paragraph (b) to specify that imported fruits and vegetables must be fully disclosed at the port of first arrival. The owner or agent would have to disclose the type, quantity, and country of origin of all fruits and vegetables contained in a shipment on an invoice or similar document and provide that document to an inspector prior to moving the fruit or

vegetable from the port. We would also make nonsubstantive amendments to the paragraph to improve readability.

Currently, paragraph (d) of § 319.56–6, "Release for movement," provides that imported fruits and vegetables may not be moved from the port of first arrival until an inspector has released them, has determined that they need to be reinspected, cleaned, or treated at the port of first arrival or at another place, or has determined that they must be exported from the United States. We propose to amend the paragraph to make it clear that a fruit or vegetable may not be moved from the port of arrival until an inspector has authorized its movement. We also propose to specify additional alternatives under which an inspector may authorize the movement of a fruit or vegetable (*i.e.*, after an inspector has waived inspection of a fruit or vegetable or determined that it needs to be destroyed at another location). The amended paragraph would provide that a fruit or vegetable may only be moved from a port of arrival after an inspector has:

- Inspected the fruit or vegetable and released it;
- Ordered treatment at the port of first arrival and, after treatment, released it;
- Authorized movement to another location for treatment, further inspection, or destruction;
- Ordered the fruit or vegetable to be re-exported; or
- Waived the inspection.

We believe these changes would improve compliance with and enforcement of the regulations.

#### Miscellaneous Changes

The treatment schedule for fumigating apples and pears from Australia and New Zealand with methyl bromide in § 319.56–2j(a)(2) incorrectly lists the exposure period to methyl bromide as 2½ hours. The correct 2-hour exposure period is contained in the PPQ Treatment Manual, which is incorporated by reference in § 300.1. Given that the treatment schedule is in the PPQ Treatment Manual, we propose to remove the treatment schedule from § 319.56–2j(a)(2) and refer to the PPQ Treatment Manual. This would eliminate duplication of the treatment procedures and eliminate the error contained in § 319.56–2j(a)(2). We would replace references to the treatment in § 319.56–2j(a)(2) with references to the PPQ Treatment Manual and make other nonsubstantive changes in § 319.56–2j.



**Executive Order 12866 and Regulatory Flexibility Act**

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

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

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

We are proposing to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to such disinfection at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables would be required to meet other special conditions. This action would provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and spread of quarantine pests.

We are also proposing to recognize areas in several countries as free from certain fruit flies; remove the Province of Arica in Chile as an area free from Medfly; amend the packing requirements for certain commodities; expand locations in the northeastern United States where cold treatment can be conducted; update and clarify restrictions on entry of fruits and vegetables; update and clarify permit procedures including amendment,

denial, or withdrawal of permits; require full disclosure of fruits and vegetables at the port of first arrival and clarify the conditions under which they are released for movement; and make other miscellaneous changes.

**Availability of Data**

For some of the commodities proposed for importation into the United States in this document, data on the levels of production are unavailable for a number of reasons. Some of these commodities are not produced in significant quantities either in the United States or in the country that would be exporting the commodity to the United States. In fact, many of the fruits and vegetables that could be eligible for importation are produced mainly in a noncommercial setting. Generally, statistical data are less available for commodities produced in small quantities when compared to a country's more widely or commercially produced commodities. The uncertainty surrounding the cost and availability of transportation and the demand for the commodity in the United States increases the difficulty in obtaining estimates of the potential volume of commodities exported from foreign countries to the United States.

**Effects on Small Entities**

Data on the number and size of U.S. producers of the various commodities proposed for importation into the United States in this document are not available. However, since most fruit and vegetable farms are small by Small Business Administration standards, it is likely that the majority of U.S. farms producing the commodities discussed below are small. Potential economic effects that could occur if this proposal is adopted are discussed below by commodity and country of origin.

**Citrus From Australia**

The regulations contain provisions for the importation of citrus from certain areas in Australia. In this document, we are proposing to add new areas in Australia from which citrus may be imported into the United States. In 2001, the United States produced almost 15 million metric tons of citrus, exported 28,012 metric tons, and imported 98,065 metric tons. Australia produced 604,000 metric tons of citrus, which is 4 percent of the total U.S. production, and imported 512 metric tons in 2001. While the volume of Australian citrus exports is unknown, the value of citrus exports is \$37,000, as compared to the U.S. export value of citrus in 2001 of over \$16.5 million. Because the U.S. production of citrus is

supplemented with citrus imports in order to satisfy the domestic demand, we do not believe that allowing the importation of citrus from additional areas in Australia would have a significant effect on either U.S. consumers or producers. In addition, we believe that U.S. consumers of citrus would benefit from the increase in its supply and availability.

**Tomatoes From Australia**

In 2000, the United States produced over 11 million metric tons of tomatoes, exported 208,564 metric tons, and imported 730,063 metric tons. Australia produced 413,617 metric tons of tomatoes, which is less than the U.S. total imports, and exported 3,807 metric tons in 2000. Because the U.S. production of tomatoes is supplemented with tomato imports in order to satisfy the domestic demand, we do not believe that allowing the importation of tomatoes from Australia would have a significant effect on either U.S. consumers or producers.

**Peppers From Chile**

From 1997 to 2000, the United States production of peppers (*Capsicum annum*) increased 30 percent, from 678,000 metric tons to 885,000 metric tons. However, the U.S. demand for imports of peppers increased by 70 percent during the same time period. Although no trade data on peppers from Chile are available, we do not believe that peppers imported from Chile would have a significant impact on U.S. producers or other small entities.

**Fennel From El Salvador**

While no data are available on the production of fennel in the United States or in El Salvador, in 2000, the United States imported fennel seeds valued at a total of \$3,762,000 and exported fennel seed valued at a total of \$80,000, indicating a demand for fennel in the United States. Therefore, we believe that fennel imported into the United States from El Salvador would not have a significant impact on U.S. producers of fennel or on other small entities. We also believe that U.S. consumers of fennel seed would benefit from the increase in supply and availability.

**Rambutan From Guatemala**

There are no data available regarding production of rambutan by the United States. In Guatemala, only one 280,000 square-meter farm commercially produces rambutan. Recent production data for rambutan in Guatemala indicate about 117 metric tons are produced per year. We believe any exports to the

United States would be minimal and would not have any significant economic effect on U.S. producers, whether small or large, or consumers.

#### *Figs From Mexico*

According to the Food and Agriculture Organization of the United Nations, from 1997 to 2000, the United States produced an average of 47,000 metric tons of fresh figs per year. The U.S. production of fresh figs remained stable for those 4 years, but U.S. imports of fresh figs increased from 221 metric tons in 1997 to 427 metric tons in 2000, indicating an increase in the demand for fresh figs in the United States. From 1997 to 2000, Mexico produced an average of 3,000 metric tons of fresh figs per year. If this proposed rule is adopted and importation of figs from Mexico commences, we do not expect a significant economic effect on U.S. producers, whether small or large, or consumers, because the U.S. demand for figs appears to be exceeding the U.S. production of fresh figs.

#### *Citrus From South Africa*

The regulations contain provisions for the importation of citrus from the Western Cape Province of South Africa. In this document, we are proposing to add the Hartswater magisterial district in the Northern Cape Province of South Africa to the areas from which citrus can be imported into the United States. In 2001, the United States produced almost 15 million metric tons of citrus, exported 28,012 metric tons, and imported 98,065 metric tons. South Africa produced 1,420,614 metric tons of citrus, which is 9 percent of the total U.S. production, with no imports or exports in 2001. Because the U.S. production of citrus is supplemented with citrus imports in order to satisfy the domestic demand, we do not believe that expanding the areas from which the United States may import citrus from South Africa would have a significant effect on either U.S. consumers or producers. In addition, we believe that U.S. consumers of citrus would benefit from the increase in its supply and availability.

#### *Peppers From Spain*

From 1997 to 2000, the United States production of peppers (*Capsicum annuum*) increased 30 percent, from 678,000 metric tons to 885,000 metric tons. However, the U.S. demand for imports of peppers increased by 70 percent during the same time period. In 2000, the United States produced 885,630 metric tons of peppers and exported 71,478 metric tons. Of the 346,654 metric tons of peppers that the

United States imported in 2000, 2,269 metric tons, or less than 1 percent, were imported from the Almeria Province of Spain. If this proposed rule is adopted, then the United States could accept imports of peppers from the additional province of Alicante in Spain. Considering that the U.S. production of peppers is supplemented with imports of peppers in order to satisfy the domestic demand, we do not believe that allowing the importation of tomatoes from an additional province in Spain would have a significant effect on either U.S. consumers or producers.

#### *Tomatoes From Spain*

In 2000, the United States produced over 11 million metric tons of tomatoes, exported 208,564 metric tons, and imported 730,063 metric tons. Of the tomatoes imported into the United States, 5,650 metric tons, or less than 1 percent, were imported from Spain. Considering that the U.S. production of tomatoes is supplemented with imports of tomatoes in order to satisfy the domestic demand, we do not believe that allowing the importation of pink or red tomatoes from the municipalities of Albuñol and Carchuna in the Granada Province in Spain would have a significant effect on either U.S. consumers or producers.

#### **Request for Data**

Due to the unavailability of data, we are unable to determine the effect this proposed rule would have on U.S. producers or consumers of several commodities. Therefore, we are requesting the public to provide APHIS with any available data regarding the production of the following commodities in the United States and in the following countries:

- Rambutan from Belize.
- Longan from China.
- Cape gooseberries and yellow pitaya from Colombia.
- Rambutan from Costa Rica.
- German chamomile, loroco, oregano or sweet marjoram, parsley, rambutan, rosemary, waterlily or lotus, and yam-bean or Jicama root from El Salvador.
- Waterlily or lotus, fennel, and German chamomile from Guatemala.
- Rambutan, German chamomile, loroco, waterlily or lotus, yam-bean, basil, and oregano from Honduras.
- Rambutan from Mexico.
- Rambutan, German chamomile, loroco, waterlily or lotus, fennel, and yard-long bean from Nicaragua.
- Rambutan from Panama.
- Persimmons from Spain.

#### *Persimmons From the Republic of Korea*

In the United States, persimmons are a specialty crop produced on a small

scale mainly in California and Texas; thus, no data on the U.S. production of persimmons are available. Therefore, we are unable to determine the effect this proposed rule would have on U.S. producers or consumers of persimmons. We are requesting the public to provide APHIS with any available data regarding production of persimmons in the United States. In 2000, Korea produced 288,000 metric tons of persimmons, imported 2 metric tons, and exported 4,258 metric tons.

#### *Yam-bean From Nicaragua*

There are no data available regarding production of yam-bean or Jicama root in the United States. While the production of yam-bean or Jicama root in Nicaragua has remained stable for the past 3 years at approximately 133,000 metric tons per year, we are unable to determine the effect any potential imports of yam-bean would have on U.S. producers or consumers. We are requesting the public to provide APHIS with any available data regarding production of yam-bean in the United States.

This proposed rule contains information collection requirements, which have been submitted for approval to the Office of Management and Budget (see "Paperwork Reduction Act" below).

#### **Executive Order 12988**

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

#### **Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments

to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 02-026-1. Please send a copy of your comments to: (1) Docket No. 02-026-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

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

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

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

- (1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.1248 hours per response.

*Respondents:* U.S. importers of fruits and vegetables; plant health officials of exporting countries.

*Estimated annual number of respondents:* 626.

*Estimated annual number of responses per respondent:* 2.7635.

*Estimated annual number of responses:* 1,730.

*Estimated total annual burden on respondents:* 216 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

## 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, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 300 and 319 as follows:

## PART 300—INCORPORATION BY REFERENCE

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

**Authority:** 7 U.S.C. 7701-7772; 7 CFR 2.22, 2.80, and 371.3.

2. In § 300.1, paragraph (a) would be amended as follows:

a. In paragraph (a)(3), by removing the word "and."

b. In paragraph (a)(4), by removing the period and adding the word "; and" in its place.

c. By adding a new paragraph (a)(5) to read as follows:

### § 300.1 Plant Protection and Quarantine Treatment Manual.

(a) \* \* \*  
(5) Treatments T101-k-2, T101-k-2-1, T106-e, T107-a, and T107-j dated \_\_\_\_\_.  
\* \* \* \* \*

3. A new § 300.5 would be added to read as follows:

### § 300.5 International Standards for Phytosanitary Measures.

(a) The International Standards for Phytosanitary Measures No. 4,

"Requirements for the establishment of pest free areas," which was published February 1996 by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization 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.

(b) *Availability.* Copies of International Standards for Phytosanitary Measures No. 4:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC; or

(2) May be obtained by writing to Phytosanitary Issues Management, Operational Support, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; or

(3) May be viewed on the APHIS Web site at <http://www.aphis.usda.gov/ppq/pim/standards/>.

## PART 319—FOREIGN QUARANTINE NOTICES

4. The authority citation for part 319 would be revised to read as follows:

**Authority:** 7 U.S.C. 450, 7711-7714, 7718, 7731, 7732, 7751-7754, and 7760; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

### § 319.56 [Amended]

5. In § 319.56, paragraph(a)(2), the words "injurious insects, including fruit and melon flies (Tephritidae)" would be removed and the words "quarantine pests" would be added in their place.

6. Section 319.56-1 would be amended by adding, in alphabetical order, new definitions for *general permit*, *permit*, *quarantine pest*, and *specific permit* to read as follows:

### § 319.56-1 Definitions.

\* \* \* \* \*

*General permit.* An authorization contained in § 319.56-2(b), (c), or (d) 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.

\* \* \* \* \*

*Permit.* A written or oral authorization, including by electronic methods, to import fruits or vegetables in accordance with the regulations in this subpart.

\* \* \* \* \*

*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.

*Specific permit.* An authorization issued by APHIS to a person to import a particular fruit or vegetable from a specified country in accordance with the requirements of this subpart and any additional conditions that may be assigned.

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

a. In paragraph (e), by revising the introductory text to read as set forth below.

b. In paragraph (e)(1), by removing the words “injurious insects, including fruit and melon flies (Tephritidae)” and adding the words “quarantine pests” in their place.

c. In paragraph (e)(2), by removing the words “injurious insects that attack it” and adding the words “quarantine pests” in their place.

d. In paragraph (e)(3), by removing the words “, its importation can be authorized without risk, ”; and by removing the words “injurious insects” and adding the words “quarantine pests” in their place.

e. In paragraph (e)(4), by removing the words “, its importation can be authorized without risk,”; by removing the words “certain injurious insects”, “injurious insects”, and “certain insects” and adding the words “quarantine pests” in their place.

f. By revising paragraphs (f) and (h) to read as set forth below.

g. In paragraph (j), by adding the words “except Arica” immediately after the words “all Provinces in Chile”.

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

(e) Any other fruit or vegetable, except those restricted to certain countries and districts by special quarantine,<sup>1</sup> other orders, or provisions of the regulations in this subpart<sup>2</sup> now in force, and by any restrictive order or regulation as may hereafter be promulgated, may be imported from any country under a permit issued in accordance with this subpart and upon compliance with the regulations in this subpart, at the ports authorized in the permit, if the U.S. Department of Agriculture, after reviewing evidence presented to it, is

<sup>1</sup> The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

<sup>2</sup> Fruits and vegetables from designated countries or localities that are subject to specific import requirements prescribed elsewhere in this subpart are not subject to the regulations in this section unless specified otherwise. Such fruits and vegetables are, however, subject to all other general requirements contained in other sections of this subpart.

satisfied that the fruit or vegetable either:

\* \* \* \* \*

(f) Before the Administrator may authorize importation of a fruit or vegetable under § 319.56–2(e)(3) or (4), he or she must determine that the fruit or vegetable is being imported from an area that meets the requirements of 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. ISPM No. 4 is available by writing to USDA, APHIS, PPQ, Phytosanitary Issues Management, 4700 River Road Unit 140, Riverdale, MD 20737–1236, or on the Internet at: <http://www.aphis.usda.gov/ppq/pim/standards/>.

\* \* \* \* \*

(h) The Administrator has determined that the following areas in Mexico meet the criteria of paragraphs (e) and (f) of this section with regard to the plant pests *Ceratitis capitata*, *Anastrepha ludens*, *A. serpentina*, *A. obliqua*, and *A. fraterculus*: Comondú, La Paz, Loreto, Los Cabos, and Mulegé in the State of Baja California Sur; the municipalities of Bachiniva, Casas Grandes, Cuahutemoc, Guerrero, Namiquipa, and Nuevo Casas Grandes in the State of Chihuahua; the municipalities of Ahome, Choix, El Fuerte, Guasave, and Sinaloa de Leyva in the State of Sinaloa; and the municipalities of Altar, Atil, Bacum, Benito Juárez, Caborca, Cajeme, Carbo, Empalme, Etchojoa, Guaymas, Hermosillo, Huatabampo, Navojoa, Pitiquito, Plutarco Elias Calles, Puerto Penasco, San Luis Rio Colorado, San Miguel, and San Ignacio Rio Muerto in the State of Sonora. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the pests named in this paragraph.

\* \* \* \* \*

8. In § 319.56–2d, paragraph (b)(1) would be revised to read as follows:

#### **§ 319.56–2d Administrative instructions for cold treatments of certain imported fruits.**

\* \* \* \* \*

(b) \* \* \*

(1) *Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit must be both precooled and refrigerated after

arrival only in cold storage warehouses approved by the Administrator and located in the area north of 39° longitude and east of 104° latitude or at one of the following ports: The maritime ports of Wilmington, NC, Seattle, WA, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Washington Dulles International Airport, Chantilly, VA. Fruit that is to be refrigerated in transit must be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel. Refrigeration must be completed in the container, compartment, or room in which it is begun.

\* \* \* \* \*

9. Section § 319–56–2j would be amended as follows:

a. By revising paragraph (a)(2) to read as set forth below.

b. In paragraph (a)(4), by removing the words “this section” and “paragraph (a)(2) of this section” and adding the words “the PPQ Treatment Manual” in their place; by adding the words “or she” immediately after the word “he”; and by removing the word “insect” and adding the word “quarantine” in its place.

c. In paragraph (a)(5), by adding the words “or her” immediately after the word “his”.

d. In paragraph (a)(6), by removing the words “paragraph (a)(2) of this section” and adding the words “the PPQ Treatment Manual” in their place.

#### **§ 319.56–2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.<sup>3</sup>**

(a) \* \* \*

(2) *Approved fumigation.* Fumigation with methyl bromide must be in accordance with the PPQ Treatment Manual, which is incorporated by reference in § 300.1 of this chapter.

\* \* \* \* \*

#### **§ 319.56–2p [Amended]**

10. Section 319.56–2p would be amended as follows:

a. In paragraph (a)(3)(i), by adding the words “(including Hispaniola)” immediately after the words “the Greater Antilles”.

b. In paragraph (f), by removing the words “injurious insects” and adding the words “quarantine pests” in their place.

<sup>3</sup> Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements of § 319.56–2d.

**§ 319.56–2q [Amended]**

11. Section 319.56–2q would be amended as follows:

a. In the introductory text and paragraph (a), by adding the words “the Hartswater magisterial district in the Northern Cape Province or” immediately before the words “the Western Cape Province”.

b. In paragraph (b), by removing the words “genus *Ceratitis*” and adding the words “genera *Ceratitidis*” in their place.

12. In § 319.56–2t, the table would be amended as follows:

a. By adding entries, in alphabetical order, under Belize, for rambutan; under Chile, for pepper; under Costa Rica, for rambutan; under El Salvador, for fennel, German chamomile, loroco, oregano or sweet marjoram, parsley, rambutan, rosemary, waterlily or lotus, and yam-bean or Jicama root; under Guatemala, for fennel, German chamomile, rambutan, and waterlily or lotus; under Honduras, for basil, German chamomile, loroco, oregano or sweet marjoram, rambutan, waterlily or lotus, and yam-bean or Jicama root; under Mexico, for fig and rambutan; under Nicaragua, for

fennel, German chamomile, loroco, rambutan, waterlily or lotus, yam-bean or Jicama root; and under Panama, for rambutan to read as set forth below.

b. Under Guatemala, by placing the entry for “Jicama” in alphabetical order.

c. By revising, under Guatemala, the entries for loroco and rosemary, and, under Spain, the entry for tomatoes, 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)
Belize	*	*	*
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the Belizean department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of the Belizean department of agriculture. Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
Chile	*	*	*
	Pepper .....	<i>Capsicum annum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the Chilean department of agriculture stating that the fruit originated in a fruit- fly-free area—see § 319.56–2(j).)
Costa Rica	*	*	*
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the Costa Rican department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of the Costa Rican department of agriculture. Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
El Salvador	*	*	*
	Fennel .....	<i>Foeniculum vulgare</i> .....	Leaf and stem. (Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
	German chamomile .....	<i>Matricaria recutita</i> and <i>Matricaria chamomilla</i> .	Flower and leaf. (Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
	Loroco .....	<i>Fernaldia</i> spp. ....	Flower, leaf, and stem.
	Oregano or sweet marjoram.	<i>Origanum</i> spp. ....	Leaf and stem. (Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
	Parsley .....	<i>Petroselinum crispum</i> .....	Leaf and stem. (Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”).
	*	*	*

Country/locality	Common name	Botanical name	Plant part(s)
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by El Salvador's department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of El Salvador's department of agriculture. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Rosemary .....	<i>Rosmarinus officinalis</i> .....	Leaf and stem. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Waterlily or lotus .....	<i>Nelumbo nucifera</i> .....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Yam-bean or Jicama root ..	<i>Pachyrhizus</i> spp. ....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
*	*	*	*
Guatemala			
*	*	*	*
	Fennel .....	<i>Foeniculum vulgare</i> .....	Leaf and stem. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	German chamomile .....	<i>Matricaria chamomilla</i> and <i>Matricaria recutita</i> .	Flower and leaf. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Loroco .....	<i>Fernaldia</i> spp. ....	Flower and leaf.
*	*	*	*
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the Guatemalan department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of the Guatemalan department of agriculture. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
*	*	*	*
	Rosemary .....	<i>Rosmarinus officinalis</i> .....	Leaf and stem. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
*	*	*	*
	Waterlily or lotus .....	<i>Nelumbo nucifera</i> .....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
*	*	*	*
Honduras			
*	*	*	*
	Basil .....	<i>Ocimum basilicum</i> .....	Leaf and stem. (Must be accompanied by a phytosanitary certificate issued by the Honduran department of agriculture stating that the fruit is free from <i>Planococcus minor</i> . Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
*	*	*	*
	German chamomile .....	<i>Matricaria chamomilla</i> and <i>Matricaria recutita</i> .	Flower and leaf. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Loroco .....	<i>Fernaldia</i> spp. ....	Flower and leaf.
	Oregano or sweet marjoram.	<i>Origanum</i> spp. ....	Leaf and stem. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").

Country/locality	Common name	Botanical name	Plant part(s)
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the Honduran department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of the Honduran department of agriculture. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Waterlily or lotus .....	<i>Nelumbo nucifera</i> .....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Yam-bean or Jicama root ..	<i>Pachyrhizus</i> spp .....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI and Guam.").
Mexico			
	Fig .....	<i>Ficus carica</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating that the fruit originated in a fruit-fly-free area-see § 319.56-2(h). Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit were removed from the shipment prior to export under the supervision of the national plant protection organization of Mexico. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
Nicaragua			
	Fennel .....	<i>Foeniculum vulgare</i> .....	Leaf and stem. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	German chamomile .....	<i>Matricaria chamomilla</i> and <i>Matricaria recuita</i> .	Flower and leaf. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Loroco .....	<i>Fernaldia</i> spp. ....	Leaf and stem.
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be lappaceum accompanied by a phytosanitary certificate issued by the Nicaraguan department of agriculture stating that (1) the fruit is free from <i>Coccus moestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of the Nicaraguan department of agriculture. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
Panama	Waterlily or lotus .....	<i>Nelumbo nucifera</i> .....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
	Yam-bean or Jicama root ..	<i>Pachyrhizus</i> spp. ....	Roots without soil. (Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
	Rambutan .....	<i>Nephelium lappaceum</i> .....	Fruit. (Must be accompanied by a phytosanitary certificate issued by Panama's department of agriculture stating that (1) the fruit is free from <i>Coccus molestus</i> , <i>C. viridis</i> , <i>Dysmicoccus neobrevipes</i> , <i>Planococcus lilacinus</i> , <i>P. minor</i> , and <i>Pseudococcus landoi</i> ; and (2) all damaged fruit was removed from the shipment prior to export under the supervision of Panama's department of agriculture. Shipping boxes must be labeled "Not for distribution in HI, PR, VI, and Guam.").
Spain	*	*	*
*	*	*	*
	Tomato .....	<i>Lycopersicon esculentum</i> ..	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from Almeria Province, Murcia Province, or the municipalities of Albulol and Carchuna in Granada Province and only in accordance with § 319.56-2dd of this subpart).
*	*	*	*

\* \* \* \* \*

13. In § 319.56-2u, paragraph (b)(7) would be revised and new paragraphs (b)(8) and (b)(9) would be added to read as follows:

**§ 319.56-2u Conditions governing the entry of lettuce and peppers from Israel.**

(b) \* \* \*

(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. If the shipping containers will be moved through any fruit-fly-supporting areas during transit, the shipping containers must be secured with a numbered seal applied by DPPI and the seal number recorded on the

phytosanitary certificate required by paragraph (b)(9) of this section.

(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 shipment of peppers must be accompanied by a phytosanitary certificate issued by the Israeli Ministry of Agriculture stating that the conditions of paragraphs (b)(1) through (b)(7) of this section have been met.

14. In § 319.56-2v, paragraph (a)(1) would be revised to read as follows:

**§ 319.56-2v Conditions governing the entry of citrus from Australia.**

(a) \* \* \*

(1) The Riverland district of South Australia, defined as the county of Hamley and the geographical

subdivisions, called "hundreds," of Bookpurnong, Cadell, Eba, Fisher, Forster, Gordon, Hay, Holder, Katarapko, Loveday, Markaranka, Morook, Murbko, Murtho, Nildottie, Paisley, Parcoola, Paringa, Pooginook, Pyap, Ridley, Skurray, Stuart, and Waikerie and the Parish of Onley in the Shire of Mildura, Victoria;

\* \* \* \* \*

15. In § 319.56-2x, the table would be amended by adding, in alphabetical order, under China, an entry for longan; a new entry for Colombia; under Nicaragua, an entry for yard-long-bean; and under Spain, an entry for persimmon, to read as follows:

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

\* \* \* \* \*

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
China	*	*	*
*	*	*	*
	Longan .....	<i>Dimocarpus longan</i> .....	Fruit.
Colombia .....	Cape gooseberries .....	<i>Physalis peruviana</i> .....	Fruit.
	Yellow pitaya .....	<i>Selenicereus megalanthus</i> .....	Fruit.
*	*	*	*
Nicaragua	*	*	*
*	*	*	*
	Yard-long-bean .....	<i>Vigna unguiculata</i> .....	Pod.
*	*	*	*
Spain	*	*	*



Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
	Persimmons .....	<i>Diospyros khaki</i> .....	Fruit.
*	*	*	*

16. Section 319.56–2dd would be amended as follows:

a. In paragraphs (a)(1) and (a)(7), by adding the words “Province, the Murcia Province, or the municipalities of Albuñol and Carchuna in the Granada” immediately after the word “Almeria”.

b. By revising paragraphs (a)(6), (b)(5), (c)(6), and (d)(2) to read as set forth below.

c. By adding a new paragraph (e) to read as set forth below.

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

\* \* \* \* \*

(a) \* \* \*

(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 packing house and while awaiting packaging. They must be packed in insect-proof cartons 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. Transit through other fruit fly supporting areas is prohibited unless the shipping containers are sealed by MAFF before shipment and the official seal number is recorded on the phytosanitary certificate; and

\* \* \* \* \*

(b) \* \* \*

(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 packing house and while awaiting packing. They must be packed in insect-proof cartons or covered by insect-proof mesh screen or plastic tarpaulin. These safeguards must be intact upon arrival in the United States. At all times of the year, transit through other fruit fly supporting areas is prohibited unless the insect-proof containers are sealed by SRPV before shipment and the official seal numbers are recorded on the phytosanitary certificate; and

\* \* \* \* \*

(c) \* \* \*

(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 packing house 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 export to the United States. These safeguards must be intact upon arrival in the United States. Transit through other fruit fly supporting areas is prohibited unless the containers are sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment and the official seal is recorded on the phytosanitary certificate; and

\* \* \* \* \*

(d) \* \* \*

(2) 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 packing house and awaiting packing. They must be packed in insect-proof cartons 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

\* \* \* \* \*

(e) *Tomatoes from Australia.* Tomatoes (fruit) (*Lycopersicon esculentum*) may be imported into the United States from Australia only under the following conditions:

(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 McPhail 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 at the rate of at least four per square kilometer. 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 any type is found within 2 kilometers, 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 1 month will result in the cancellation of exports from all registered greenhouses within 2 kilometers of the find 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 packing house or while awaiting packing. They must be placed in insect-proof cartons 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. Transit through other fruit-fly-supporting areas is prohibited unless the shipping container is sealed prior to shipping by AQIS and the official seal is recorded on the phytosanitary certificate; and

(7) Each shipment 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 § 319.56–2dd(e) of 7 CFR.”

\* \* \* \* \*

17. Section 319.56–2gg would be amended as follows:

a. In paragraphs (a) and (h), by adding the words “Alicante or” before the words “Almeria Province”.

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

**§ 319.56–2gg Administrative instructions; conditions governing the entry of peppers from Spain.**

\* \* \* \* \*

(e) The peppers must be safeguarded from harvest to export by insect-proof mesh or plastic tarpaulin, including while in transit to the packing house 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;

\* \* \* \* \*

18. A new § 319.56–2kk would be added to read as follows:

**§ 319.56–2kk Persimmons from the Republic of Korea.**

Persimmons (fruit) (*Disopyros khaki*) may be imported into the United States from the Republic of Korea only under the following conditions:

(a) The 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 Korean national plant quarantine service (NPQS) 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 shipment of persimmons must be accompanied by a phytosanitary certificate issued by the Korean NPQS stating that the fruit is free of *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashiviliae*.

(d) Shipping boxes must be labeled “Not for distribution in HI, PR, VI, and Guam.”

(e) 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.

19. Section 319.56–3 would be revised to read as follows:

**§ 9.56–3 Applications for permits for importation of fruits and vegetables; issuance of permits.**

(a) *Permit required.* Except for fruits or vegetables that may be imported under the general permit provided in § 319.56–2(b), (c), and (d), no fruits or

vegetables may be imported unless a specific permit has been issued for the fruits or vegetables and unless the fruits or vegetables meet all other applicable requirements of this subpart and any other requirements specified by APHIS in the specific permit.

(b) *Applying for a permit.* Applications must be submitted in writing or electronically and should be made in advance of the proposed shipment and provided to the Plant Protection and Quarantine program.<sup>1</sup> Applications must include the country or locality of origin of the fruits or vegetables, the port of first arrival, the name and address of the importer in the United States, and the identity and quantity of the fruit or vegetable.

(c) *Issuance of permits.* If APHIS approves the application, APHIS will issue a permit specifying the conditions applicable to the importation of the fruit or vegetable.

(d) Oral permits may be issued in cases where no other importations are considered and the commodity is admissible with only inspection. Fruits and vegetables arriving in the United States without a permit may be allowed to enter the United States if all applicable entry requirements are met and proof of application for a permit has been supplied to an inspector. (Approved by the Office of Management and Budget under control number 0579–0049)

20. Section 319.56–4 would be revised to read as follows:

**§ 319.56–4 Amendment, denial, or withdrawal of permits.**

(a) The Administrator may amend, deny, or withdraw a permit at any time if he or she has determined that conditions exist that present an unacceptable risk of the fruit or vegetable introducing quarantine pests 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 permit.

(b) 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 shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. A permit withdrawal will remain in effect pending resolution of the appeal or the hearing.

21. In § 319.56–6, paragraphs (b) and (d) would be revised to read as follows:

**§ 319.56–6 Inspection and other requirements at the port of first arrival.**

\* \* \* \* \*

(b) *Assembly for inspection.* Any person moving fresh fruits and vegetables into the United States must offer those agricultural products for entry at the U.S. port of first arrival. The owner or the agent must make full disclosure of the type, quantity, and country of origin of all fruits and vegetables in the shipment on an invoice or similar document and present that document to an inspector prior to moving the fruits or vegetables from the port. All fruits and vegetables must be accurately invoiced and made available to an inspector for examination. 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.

\* \* \* \* \*

(d) *Release for movement.* No person may move a fruit or vegetable from the U.S. port of first arrival unless an inspector has:

(1) Inspected the fruit or vegetable and released it;

(2) Ordered treatment at the port of first arrival and, after treatment, released it;

(3) Authorized movement to another location for treatment, further inspection, or destruction;

(4) Ordered the fruit or vegetable to be re-exported; or

(5) Waived the inspection.

\* \* \* \* \*

Done in Washington, DC, this 26th day of September, 2002.

**Peter Fernandez,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–24847 Filed 9–27–02; 10:34 am]

**BILLING CODE 3410–34–P**

<sup>1</sup> Application for permits to import fruit and vegetables under this subpart may be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road, Unit 136, Riverdale, MD 20737–1236; online on the APHIS Import Authorization System, <https://Web01.aphis.usda.gov/IAS.nsf/>; or by fax (301) 734–5786.