AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further*, That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been—

(1) Freed from sand, soil, and earth;

(2) Subsequently potted and established in sphagnum moss or other packing material approved under §319.37–11 of this chapter that had been stored under shelter and had not been previously used for growing or packing plants;

(3) Grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to prevent infestation through contact with sand, soil, or earth; and

(4) Certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c)(1) through (3) of this section.

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

[24 FR 10777, Dec. 29, 1959, as amended at 66 FR 21054, Apr. 27, 2001; 83 FR 11855, Mar. 19, 2018; 84 FR 29957, June 25, 2019]

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AUTHORITY: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

Subpart A—Preemption

SOURCE: 75 FR 17292, Apr. 6, 2010, unless otherwise noted. Redesignated at 84 FR 2428, Feb. 7, 2019.

§ 319.1 Preemption of State and local laws.

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

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

Subpart B—Requests To Amend The Regulations

SOURCE: Redesignated at 84 FR 2428, Feb. 7, 2019.

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

(a) *Definitions.*

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

(b) *Procedures for submitting requests and supporting information.* Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or

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

(c) *Addresses.* The national plant protection organization of the country from which commodities would be exported must submit the information listed in paragraph (d) of this section to: PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

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

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

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

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

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

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

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

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

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

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

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

(iii) References.

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

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

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

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

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[71 FR 30567, May 30, 2006, as amended at 89 FR 79734, Oct. 1, 2024]

Subpart C—Controlled Import Permits

SOURCE: 78 FR 25568, May 2, 2013, unless otherwise noted. Redesignated at 84 FR 2428, Feb. 7, 2019.

§ 319.6 Controlled import permits.

(a) *Definitions.*

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

Developmental purposes. The evaluation, monitoring, or verification of plant material for plant health risks and/or the adaptability of the material for certain uses or environments.

Experimental purposes. Scientific testing which utilizes collected data and employs analytical processes under controlled conditions to create qualitative or quantitative results.

Therapeutic purposes. The application of specific scientific processes designed to eliminate, isolate, or remove potential plant pests or diseases.

(b) *Purpose and scope.* The regulations in this part prohibit or restrict the importation into the United States of certain plants, plant products, and other articles to prevent the introduction and dissemination of plant pests and noxious weeds within and throughout the United States. The regulations in this subpart provide a process under which a controlled import permit (CIP) may be issued to authorize the importation, for experimental, therapeutic, or developmental purposes, of an article whose importation is prohibited under this part. A CIP may also be issued to authorize, for those same purposes, the importation of an article under conditions that differ from those prescribed in the relevant regulations in this part.

(c) *Application process.* Applications for a CIP are available without charge from the Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), Permit Unit, 4700 River Road Unit 136, Riverdale, MD 20737–1236, or from local PPQ offices. Applications may be submitted by mail, by fax, or electronically and must be submitted at least 60 days prior to arrival of the article at the port of entry. Mailed applications must be submitted to the address above, faxed applications may be submitted to 301–734–4300, and electronic applications may be submitted through the ePermits Web site at *https://epermits.aphis.usda.gov/epermits.*

(1) The completed application for a CIP must provide the following information:

(i) Name, address in the United States, and contact information of the applicant;

(ii) Identity (common and botanical [genus and species] names) of the plant material to be imported, quantity of importation, country of origin, and country shipped from;

(iii) Intended experimental, therapeutic, or developmental purpose for the importation; and

(iv) Intended ports of export and entry, means of conveyance, and estimated date of arrival.

(2) APHIS may issue a CIP if the Administrator determines that the plant pest risks associated with the plant material and its intended experimental, therapeutic, or developmental use can be effectively mitigated. The CIP will contain the applicable conditions for importation and subsequent handling of the plant material if it is deemed eligible to be imported into the United States, including the specifications for the facility where the plant will be held. The plant material may be

imported only if all applicable requirements are met.

(d) *Shipping conditions.* Consignments of plant material to be offered for importation under a CIP must meet the following requirements, unless otherwise specified under the conditions of the CIP:

(1) The plant material must be selected from apparently disease-free and pest-free sources.

(2) The plant material must be free of soil, other foreign matter or debris, other prohibited plants, noxious weed seeds, and living organisms such as parasitic plants, pathogens, insects, snails, and mites.

(3) Fungicides, insecticides, and other treatments such as coatings, dips, or sprayings must not be applied before shipment, unless otherwise specified. Plant materials may be refused entry if they are difficult or hazardous to inspect because of the presence of such treatments. Plant materials must not be wrapped or otherwise packaged in a manner that impedes or prevents adequate inspection or treatment.

(4) The plant material must be moved in an enclosed container or one completely enclosed by a covering adequate to prevent the possible escape or introduction of plant pests during shipment. Any packing material used in the consignment of the plant material must meet the requirements of §319.37–11, and wood packing material used in the consignment must meet the requirements of §319.40–3(b) and (c).

(5) Consignments may be shipped as cargo, by mail or air freight, or hand-carried, as specified in the conditions of the CIP.

(6) The plant material must be offered for importation at the port of entry or plant inspection station as specified in the conditions of the CIP.

(7) A copy of the CIP must accompany each consignment, and all consignments must be labeled in accordance with instructions in the CIP.

(8) Each consignment must be accompanied by an invoice or packing list indicating its contents.

(e) *Post-importation conditions.* (1) At the approved facility where the plant material will be maintained following its importation, plant material imported under a CIP must be identified and labeled as quarantined material to be used only in accordance with a valid CIP.

(2) Plant material must be stored in a secure place or in the manner indicated in the CIP and be under the supervision and control of the permit holder. During regular business hours, properly identified officials, either Federal or State, must be allowed to inspect the plant material and the facilities in which the plant material is maintained.

(3) The permit holder must keep the permit valid for the duration of the authorized experimental, therapeutic, or developmental purpose. The PPQ Permit Unit must be informed of a change in contact information for the permit holder within 10 business days of such change.

(4) Plant material imported under a CIP must not be moved or distributed to another person without prior authorization from the PPQ Permit Unit.

(5) Should the permit holder leave the institution in which the plant material imported under a CIP is kept, the plant material must be destroyed unless, prior to the departure of the original permit holder, another person assumes responsibility for the continued maintenance of the plant material and such person obtains a new CIP for the plant material. Should the permit holder be otherwise unavailable to maintain the plant material for which the CIP was issued, the plant material must be destroyed unless another person assumes responsibility for the continued maintenance of the plant material and such person obtains a new CIP for the plant material. Permission to move or distribute plant material that was authorized for importation under a CIP to another person must be obtained by contacting the PPQ Permit Unit.

(6) CIPs issued by APHIS are valid for a period of 1 year. The permittee may request the existing permit be renewed for up to an additional 2 years prior to the expiration of the CIP and if no adverse indications exist from the previous year.

(f) Failure to comply with all of the conditions specified in the CIP or any

applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of future permits, and civil or criminal penalties for the permit holder.

(g) *Denial, withdrawal, cancellation, or revocation of permit.* The Administrator may deny a permit application in accordance with § 319.7–3, and a permit may be withdrawn, canceled, or revoked in accordance with § 319.7–4.

(1) *Action upon cancellation or revocation of permit.* Upon cancellation or revocation of a permit, the permittee must surrender, destroy, or remove all regulated plant material covered by the permit in accordance with § 319.7–4(e).

(2) *Appeal of denial or revocation.* Any person whose application for a permit has been denied or whose permit has been revoked may appeal the denial or revocation in accordance with § 319.7–5.

(Approved by the Office of Management and Budget under control number 0579–0384)

[78 FR 25568, May 2, 2013, as amended at 79 FR 19807, Apr. 10, 2014; 81 FR 40150, June 21, 2016; 83 FR 11855, Mar. 19, 2018]

Subpart D—Permits: Allocation, Issuance, Denial, and Revocation

SOURCE: 78 FR 19807, Apr. 10, 2014, unless otherwise noted. Redesignated at 84 FR 2428, Feb. 7, 2019.

§ 319.7 Definitions.

The following definitions apply to this subpart:

Administrative instructions. Published documents related to the enforcement of this part and issued under authority of the Plant Protection Act, as amended (7 U.S.C. 7701 *et seq.*), by the Administrator.

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Applicant. A person at least 18 years of age who, on behalf of him- or herself or another person, submits an application for a permit to import into the United States or move interstate a regulated article in accordance with this part.

Approved. Approved by the Administrator of the Animal and Plant Health Inspection Service.

Article. Any material or tangible objects that could harbor or be a vector of plant pests or noxious weeds.

Consignment. A quantity of plants, plant products, and/or other articles being moved from one country to another authorized when required, by a single permit. A consignment may be composed of one or more commodities or lots.

Country of origin. The country where the plants, or plants from which the plant products are derived, were grown or where the non-plant articles were produced.

Enter, entry. To move into, or the act of movement into, the commerce of the United States.

Import, importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of the Animal and Plant Health Inspection Service or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

Intended use. The purpose for the importation of the regulated article, including, but not limited to, consumption, propagation, or research purposes.

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

Means of conveyance. Any personal property used for or intended for use for the movement of any other personal property.

Move. To carry, enter, import, mail, ship, or transport; to aid, abet, cause,

or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment; or to allow any of the activities described in this definition.

Oral authorization. Verbal permission to import that may be granted by an inspector at the port of entry.

Permit. A written authorization, including by electronic methods, to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Administrator.

Permittee. The person who, on behalf of self or another person, is legally the importer of an article, meets the requirements of § 319.7–2(f), and is responsible for compliance with the conditions for the importation that is the subject of a permit issued in accordance with this part.

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

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

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

Plant product. Any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of *plant*, or any manufactured or processed plant or plant part.

Port of entry. A port at which a specified shipment or means of conveyance is accepted for entry or admitted without entry into the United States for transit purposes.

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

PPQ. The Plant Protection and Quarantine Program, Animal and Plant Health Inspection Service of the United States Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines and regulations.

Regulated article. Any material or tangible object regulated by this part for entry into the United States or interstate movement.

Soil. The unconsolidated material from the earth's surface that consists of rock and mineral particles mixed with organic material and that supports or is capable of supporting biotic communities.

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

Treatment. A procedure approved by the Administrator for neutralizing infestations or infections of plant pests or diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

United States. All of the States.

§ 319.7–1 Applying for a permit.

(a) Persons who wish to import regulated articles into the United States must apply for a permit, unless the regulated articles are not subject to a requirement under this part that a permit be issued prior to a consignment's arrival. An applicant for a permit to import regulated articles into the United States in accordance with this part must be:

(1) Capable of acting in the capacity of the permittee in accordance with § 319.7–2(e), or must designate a permittee who is so capable should the permit be issued;

(2) Applying for a permit on behalf of self or on behalf of another person as permittee; and

(3) At least 18 years of age.

(b) Permit applications must be submitted by the applicant in writing or

electronically through one of the means listed at *http://www.aphis.usda.gov/plant_health/permits/index.shtml* in advance of the action(s) proposed on the permit application.

(c) The application for a permit must contain the following information:

(1) Legal name, address, and contact information of the applicant, and affirmation by the applicant that the applicant is at least 18 years of age;

(2) The same information of the permittee if different from the applicant, and, if the permittee is an individual, affirmation by the permittee that the permittee is at least 18 years of age;

(3) Specific type of regulated article (common and scientific names, if applicable);

(4) Country of origin;

(5) Intended use of the regulated article;

(6) Intended port(s) of first arrival; and

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

(d) The application for a permit may also require the following information:

(1) Means of conveyance;

(2) Quantity of the regulated article;

(3) Estimated date of arrival;

(4) Name, address, and contact information of any broker or subsequent custodian of the regulated article;

(5) Exporting country from which the article is to be moved, when not the country of origin; and

(6) Any other information determined to be necessary by APHIS to inform the decision to issue the permit.

(e) Application for a permit to import regulated articles into the United States must be submitted at least 30 days prior to arrival of the article at the port of entry.

(1) If, through no fault of the importer, a consignment of regulated articles subject to a requirement under this part that a permit be issued prior to a consignment's arrival arrives at a U.S. port before a permit is received, the consignment may be held, under suitable safeguards prescribed by the inspector, in custody at the risk and expense of the importer pending issuance of a permit or authorization from APHIS.

(2) An oral authorization may be granted by an inspector at the port of entry for a consignment, provided that:

(i) All applicable entry requirements are met;

(ii) Proof of application for a written permit is provided to the inspector; and

(iii) PPQ verifies that the application for a written permit has been received and that PPQ intends to issue the permit.

§ 319.7–2 Issuance of permits and labels.

(a) Upon receipt of an application, APHIS will issue a permit if, after review of the application, APHIS determines that the regulated articles are eligible to be imported into the United States under any applicable conditions. The permit will specify the applicable conditions of entry and the port of entry, and a copy will be provided to the permittee. The permit will only be valid for the time period indicated on the permit.

(b) The applicant for a permit for the importation of regulated articles into the United States must designate the person who will be named as the permittee upon the permit's issuance. The applicant and the permittee may be the same person or different persons.

(c) The act, omission, or failure of the permittee as an officer, agent, or person acting for or employed by any other person within the scope of his or her employment or office will be deemed also to be the act, omission, or failure of the other person.

(d) Failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of any future permits, and civil or criminal penalties for the permittee.

(e) The permittee will remain responsible for the consignment regardless of any delegation to a subsequent custodian of the importation.

(f) A permittee must:

(1) If an individual, be at least 18 years of age and have and maintain an address in the United States that is specified on the permit and be physically present during normal business hours at that address during any periods when articles are being imported or moved interstate under the permit; or

(2) If another legal entity, maintain an address or business office in the United States with a designated individual for service of process; and

(3) Serve as the contact for the purpose of communications associated with the movement of the regulated article for the duration of the permit. The PPQ Permit Unit must be informed of a change in contact information for the permittee within 10 business days of such change;

(4) Ensure compliance with the applicable regulatory requirements and permit conditions associated with the movement of the regulated article for the duration of the permit;

(5) Provide written or electronic acknowledgment and acceptance of permit conditions when APHIS requests such acknowledgment;

(6) Serve as the primary contact for communication with APHIS regarding the permit; and

(7) Maintain all conditions of the permit for the entirety of its prescribed duration.

(g) The regulated article may be imported only if all applicable requirements of the permit issued for the importation of the regulated article or any other documents or instructions issued by APHIS are met and complied with as determined by APHIS.

(h) In accordance with the regulations in this part, labels may be issued to the permittee for the importation of regulated articles. Such labels may contain information about the shipment's nature, origin, movement conditions, or other matters relevant to the permit and will indicate that the importation is authorized under the conditions specified in the permit.

(1) If issued, the quantity of labels will be sufficient for the permittee to attach one to each parcel. Labels must be affixed to the outer packaging of the parcel.

(2) Importations without such required labels will be refused entry into the United States, unless a label is not required and not issued for the importation.

(i) Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary to mitigate or address any plant pest or noxious weed risks.[1]

(j) A permit application may be withdrawn at the request of the applicant prior to the issuance of the permit.

(k) A permit may be canceled after issuance at the request of the permittee.

(l) A permit may be amended if APHIS finds that the permit is incomplete or contains factual errors.

(m) In accordance with Section 7734 of the Plant Protection Act, as amended (7 U.S.C. 7701 *et seq.*), the actions, omissions, or failures of any agent of the permittee may be deemed the actions, omissions, or failures of a permittee as well; and that failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of any future permits, and civil or criminal penalties for the permittee.

§ 319.7–3 Denial of permits.

(a) APHIS may deny an application for a permit to import a regulated article into the United States. A denial, including the reason for the denial, will be provided in writing, including by electronic methods, to the applicant as promptly as circumstances permit. The denial of a permit may be appealed in accordance with § 319.7–5.

(b) APHIS may deny an application for a permit to import a regulated article:

(1) If APHIS determines that the applicant is not likely to abide by permit conditions. Factors that may lead to

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

such a determination include, but are not limited to, the following:

(i) The applicant, or a partnership, firm, corporation, or other legal entity in which the applicant has a substantial interest, financial or otherwise, has not complied with any permit that was previously issued by APHIS;

(ii) APHIS determines that issuing the permit would circumvent any order revoking or denying a permit under the Plant Protection Act;

(iii) APHIS determines that the applicant has previously failed to comply with any APHIS regulation;

(iv) APHIS determines that the applicant has previously failed to comply with any Federal, State, or local law, regulation, or instruction concerning the importation of prohibited or restricted foreign agricultural products;

(v) APHIS determines that the applicant has failed to comply with the laws or regulations of a national plant protection organization or equivalent body, as these pertain to plant health;

(vi) APHIS determines that the applicant has made false or fraudulent statements or provided false or fraudulent records to APHIS; or

(vii) The applicant has been convicted or has pled nolo contendere to any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity.

(2) If the application for a permit contains information that is found to be materially false, fraudulent, deceptive, or misrepresentative;

(3) If APHIS concludes that the actions proposed under the permit would present an unacceptable risk to plants and plant products because of the potential for introduction or dissemination of a plant pest or noxious weed within the United States;

(4) If the importation is adverse to the conduct of an eradication, suppression, control, or phytosanitary program of APHIS or a program recognized by APHIS;

(5) If the importation is not in compliance with any applicable import regulations or any administrative instructions or measures, including, but not limited to, all the requirements of this part; or

(6) If a State executive official, or a State plant protection official authorized to do so, objects to the movement in writing and provides specific, detailed information that there is a risk the movement will result in the dissemination of a plant pest or noxious weed into the State, and APHIS determines that such plant pest risk cannot be adequately addressed or mitigated.

§ 319.7–4 Withdrawal, cancellation, and revocation of permits.

(a) *Withdrawal of an application.* If the applicant wishes to withdraw a permit application before issuance of a permit, he or she must provide the request in writing to APHIS. APHIS will provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

(b) *Cancellation of permit by permittee.* If a permittee wishes to cancel a permit after its issuance, he or she must provide the request in writing to APHIS. APHIS will provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and cancellation of the permit.

(c) *Revocation of permit by APHIS.* APHIS may revoke any outstanding permit to import regulated articles into the United States. A revocation, including the reason for the revocation, will be provided in writing, including by electronic methods, to the permittee as promptly as circumstances permit. The revocation of a permit may be appealed in accordance with § 319.7–5.

(d) APHIS may revoke a permit to import a regulated article if:

(1) Information is received subsequent to the issuance of the permit of circumstances that APHIS determines would constitute cause for the denial of an application under § 319.7–3; or

(2) APHIS determines that the permittee has failed to maintain the safeguards or otherwise observe the conditions specified in the permit or in any applicable regulations or administrative instructions, including, but not limited to, all of the requirements of this part.

(e) Upon revocation of a permit, the permittee must, without cost to the Federal Government and in the manner

and method APHIS considers appropriate, either:

(1) Surrender all regulated articles covered by the revoked permit and any other affected plant material to an inspector;

(2) Destroy, under the supervision of an inspector, all regulated articles covered by the revoked permit and any other affected plant material; or

(3) Remove all regulated articles covered by the revoked permit and any other affected plant material from the United States.

[78 FR 19807, Apr. 10, 2014, as amended at 81 FR 5888, Feb. 4, 2016]

§ 319.7–5 Appeal of denial or revocation.

(a) All denials of an application for a permit, or revocations of an existing permit, will be provided in writing, including by electronic methods, as promptly as circumstances permit and will include the reasons for the denial or revocation.

(b) Any person whose application for a permit has been denied or whose permit has been revoked may appeal the decision in writing to APHIS within 10 business days from the date the communication of notification of the denial or revocation of the permit was received. The appeal must state all facts and reasons upon which the person is relying to show that the denial or revocation was incorrect.

(c) APHIS will grant or deny the appeal in writing and will state in writing the reason for the decision. The denial or revocation will remain in effect during the resolution of the appeal.

Subpart E—Foreign Cotton and Covers

SOURCE: Redesignated at 84 FR 2428, Feb. 7, 2019.

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754), the Administrator of the Animal and Plant Health Inspection Service has determined that the unrestricted importation into the United States from all foreign countries and localities of any parts or products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; any other unmanufactured parts of cotton plants; second-hand burlap and other fabrics, shredded or otherwise, that have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (*Pectinophora gossypiella* (Saund.)), the golden nematode of potatoes (*Heterodera rostochiensis* Wr.), the flag smut disease (*Urocystis tritici* Koern.), and other injurious plant diseases and insect pests. Accordingly, to prevent the introduction into the United States of plant pests, the importation of those articles into the United States is prohibited unless they are imported in accordance with the regulations in this subpart or their importation has been authorized for experimental, therapeutic, or developmental purposes by a controlled import permit issued in accordance with § 319.6.

(b) The importation of cotton plants (including any plant parts) that are for planting or capable of being planted is restricted in Subpart H—Plants for Planting of this part.

[78 FR 25569, May 2, 2013, as amended at 83 FR 11855, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

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

The plants and products specified in § 319.8(a) may be imported into Guam without further permit, other than the authorization contained in this paragraph. Sections 319.8–2 and 319.8–3 shall not be applicable to such importations. In addition, such importations need not comply with the requirements of § 319.8–4 relating to notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the

time of importation. Sections 319.8–5 through 319.8–27 shall not be applicable to importations into Guam. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

REGULATIONS; GENERAL

§ 319.8–1 Definitions.

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

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

Approved. Approved by the Administrator.

Approved areas of Mexico. Any areas of Mexico, other than Northwest Mexico and the west coast of Mexico, which are designated by the Administrator as areas in which cotton and cotton products are produced and handled under conditions comparable to those under which like cotton and cotton products are produced and handled in the generally infested pink bollworm regulated area in the United States.

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

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

Authorized. Authorized by the Administrator.

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

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

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

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

Cottonseed. Cottonseed from which the lint has been removed and that is intended for processing or consumption.

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

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

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

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

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

North, northern. When used to designate ports of arrival, these terms mean the port of Norfolk, VA, and all Atlantic Coast ports north thereof, ports along the Canadian border, and Pacific Coast ports in the States of

Washington and Oregon. When used in a geographic sense to designate areas or locations, these terms mean any State in which cotton is not grown commercially. However, when cotton is grown commercially in certain portions of a State, as is the case in Illinois, Kansas, and Missouri, these terms include those portions of such State as may be determined by the Administrator as remote from the main area of cotton production.

Northwest Mexico. All of the State of Baja California, Mexico, and that part of the State of Sonora, Mexico, lying between San Luis Mesa and the Colorado River.

Permit. A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart and in §§ 319.7 through 319.7–5.

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

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

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

Root crop. The underground crop portions of any plants.

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

Seed cotton. Cotton as it comes from the field.

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

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

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

Utilization. Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant authorized by APHIS through a compliance agreement for foreign cotton processing or manufacturing.

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21055, Apr. 27, 2001; 78 FR 25569, May 2, 2013; 79 FR 19870, Apr. 10, 2014; 83 FR 11855, Mar. 19, 2018]

CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

§ 319.8–2 Permit procedure.

(a) Except as otherwise provided for in §§ 319.8–10 and 319.8–18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§ 319.8–6 through 319.8–20. Persons desiring to import cotton or covers under §§ 319.8–6 through 319.8–20 shall, in advance of departure of such material from a foreign port, submit to the Plant Protection and Quarantine Programs an application for a permit in accordance with §§ 319.7 through 319.7–5 . Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

(b) Applications to import lint, linters, or waste at a port[1] other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

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

(d) Permits for importation of any cotton or covers are conditioned upon compliance with all of the conditions specified in the permit and any applicable regulations or administrative instructions of this part.

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983; 78 FR 25570, May 2, 2013; 79 FR 19811, Apr. 10, 2014]

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

§ 319.8–3 Refusal and cancellation of permits.

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

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

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971; 70 FR 33324, June 7, 2005; 78 FR 25570, May 2, 2013]

§ 319.8–4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers, the importer shall submit to an inspector or, in the case of Guam, through the Customs officer of the Government of Guam, notice of such arrival using a form provided for that purpose (Form PPQ–368). Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method.

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

[81 FR 40150, June 21, 2016]

§ 319.8–5 Marking of containers.

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

marked to show the gin or mill of origin unless they are immediately exported.

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

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

§ 319.8–6 Cottonseed cake and cottonseed meal.

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

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

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

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

§ 319.8–8 Lint, linters, and waste.

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

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

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

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

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

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

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

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

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

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

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

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

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

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

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

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not produce cotton,[2] arriving at a northern port, subject to movement to an approved mill or plant.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 78 FR 25570, May 2, 2013; 79 FR 19810, Apr. 10, 2014]

§ 319.8–9 Hull fiber and gin trash.

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

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

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

§ 319.8–10 Covers.

(a) Entry of covers (including bags, slit bags, and parts of bags) which have been used as containers for cotton grown or processed in countries other

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

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

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

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

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

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing

material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

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

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

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

SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

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

§ 319.8–11 From approved areas of Mexico.

(a) Entry of lint, linters, and waste (including gin and oil mill wastes) which were derived from cotton grown in, and which were produced and handled only in approved areas of Mexico[3] may be authorized through Mexican Border ports in Texas named in the permits

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

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

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

(b) Entry of cottonseed or cottonseed hulls in bulk, or in covers that are new or which have not been used previously to contain cotton or unmanufactured cotton products, may be authorized through Mexican Border ports in Texas named in the permits, for movement into the generally infested pink bollworm regulated area when certified by an inspector as having been produced in an approved area and handled subsequently in a manner satisfactory to the inspector. Upon arrival in the generally infested pink bollworm regulated area such cottonseed or cottonseed hulls will be released from further plant quarantine entry requirements and shall become subject immediately to the requirements in § 301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 63 FR 31101, June 8, 1998; 78 FR 25570, May 2, 2013; 79 FR 19810, Apr. 10, 2014]

§ 319.8–12 From the West Coast of Mexico.

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

(a) Compressed lint and linters.

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

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

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

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

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

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

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

[27 FR 5309, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971; 78 FR 25570, May 2, 2013]

§ 319.8–13 From Northwest Mexico.

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

(a) Lint, linters, and waste.

(b) Cottonseed.

(c) Cottonseed hulls.

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

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

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

MISCELLANEOUS PROVISIONS

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

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

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

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

(a) Importation of cotton and covers for exportation, or for transportation and exportation, in accordance with this subpart shall also be subject to §§ 352.1 through 352.8 of this chapter, as amended.

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

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

(1) Inspectors are available to supervise the storage,

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

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

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

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

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998; 78 FR 25570, May 2, 2013; 79 FR 19810, Apr. 10, 2014]

§ 319.8–18 Samples.

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

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

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

§§ 319.8–19—319.8–20 [Reserved]

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

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

§ 319.8–22 Ports of entry or export.

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

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

§ 319.8–23 Treatment.

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

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

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

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

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

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

§ 319.8–24 Collection and disposal of waste.

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

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

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

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

§ 319.8–25 Costs and charges.

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

§ 319.8–26 Material refused entry.

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

or the inspector assume responsibility for the value of material destroyed.

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

Subpart F—Sugarcane

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.15 Notice of quarantine.

(a) The importation into the United States of sugarcane and its related products, including cuttings, canes, leaves and bagasse, from all foreign countries and localities is prohibited, except for importations for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with § 319.6.

(b) The importation of sugarcane plants (including any plant parts) that are for planting or capable of being planted is restricted under Subpart H—Plants for Planting of this part.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21055, Apr. 27, 2001; 78 FR 25570, May 2, 2013; 83 FR 11855, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

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

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

Subpart G—Corn Diseases

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

QUARANTINE

§ 319.24 Notice of quarantine.

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

(b) The importation of corn plants (including any plant parts) that are for planting or capable of being planted is restricted in Subpart H—Plants for Planting of this part.

(c) Except as otherwise provided in this subpart, the importation into the United States of raw or unmanufactured corn seed and all other portions of Indian corn or maize and related plants, including all species of teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca*, *Chionachne*, and *Sclerachne*, from southeastern Asia (including India, Indochina, and the People's Republic of China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Manchuria, Japan, and adjacent islands is prohibited. However, this prohibition does not apply to importations of such items for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with § 319.6.

(d) As used in this subpart, unless the context otherwise requires, the term

''United States'' means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

(e) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 66 FR 21055, Apr. 27, 2001; 78 FR 25570, May 2, 2013; 83 FR 11855, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

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

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

REGULATIONS GOVERNING ENTRY OF INDIAN CORN OR MAIZE

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

Persons contemplating the importation of corn into the United States shall obtain a permit in accordance with §§ 319.7 through 319.7–5.

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

[79 FR 19810, Apr. 10, 2014]

§ 319.24–2 [Reserved]

§ 319.24–3 Marking as condition of entry.

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

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

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

§ 319.24–4 [Reserved]

§ 319.24–5 Condition of entry.

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Protection and Quarantine Programs, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Protection and Quarantine Programs. Corn will be delivered to the permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value of the corn if such value is less than $5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and the satisfaction of an inspector of the Plant Protection and Quarantine Programs; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

Subpart H—Plants for Planting

SOURCE: 83 FR 11856, Mar. 19, 2018, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.37–1 Notice of quarantine.

(a) Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant or

plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to designate the importation of certain taxa of plants for planting as not authorized pending pest risk analysis, as provided in §319.37–4. The Secretary has determined that it is necessary to restrict the importation into the United States of all other plants for planting and to impose additional restrictions on the importation of specific types of plants for planting, in accordance with this subpart and as described in the Plants for Planting Manual.

(c) The importation of plants that are imported for processing or consumption, as determined by an inspector based on documentation accompanying the articles, is not subject to this subpart but may be subject to restrictions elsewhere in this part.

(d) The importation of taxa of plants for planting that are listed in parts 360 and 361 of this chapter is subject to the restrictions in those parts.

(e) The Plant Protection and Quarantine Programs also enforces regulations promulgated under the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) which contain additional prohibitions and restrictions on importation into the United States of plants for planting subject to this subpart (see 50 CFR parts 17 and 23).

(f) Within the Plants for Planting Manual, one or more common names of plants for planting may be given in parentheses after most scientific names (when common names are known) for the purpose of helping to identify the plants for planting represented by such scientific names; however, unless otherwise specified, a reference to a scientific name includes all plants for planting within the taxon represented by the scientific name regardless of whether the common name or names are as comprehensive in scope as the scientific name. When restrictions apply to the importation of a taxon of plants for planting for which there are taxonomic synonyms, those restrictions apply to the importation of all the synonyms of that taxon as well.

§319.37–2 Definitions.

The following definitions apply to this subpart:

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

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

Bulb. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

Consignment. A quantity of plants for planting being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more lots or taxa).

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

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

From. Plants for planting are considered to be ''from'' any country or locality in which they are grown. *Provided,* That plants for planting imported into Canada from another country or locality shall be considered as being solely from Canada if they meet the following conditions:

(1) They are imported into the United States directly from Canada after having been grown for at least 1 year in Canada;

(2) They have never been grown in a country from which their importation would not be authorized pending pest risk analysis under §319.37–4;

(3) They have never been grown in a country, other than Canada, from which it would be subject to certain restrictions on the importation of specific types of plants for planting under §319.37–20, which are listed in the Plants for Planting Manual; *Provided*, that plants for planting that would be subject to postentry quarantine if imported into the United States may be imported from Canada after growth in another country if they were grown in Canada in postentry quarantine under conditions equivalent to those specified in the Plants for Planting Manual; and

(4) They were not imported into Canada in growing media.

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

Lot. A number of units of a single commodity, identifiable by its homogeneity of composition and origin, forming all or part of a consignment.

Mother stock. A group of plants from which plant parts are taken to produce new plants.

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

Noxious weed. Any plant or plant product that can directly or indirectly injure or cause damage to crops (including plants for planting or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

Official control. The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests.

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

Phytosanitary certificate. A document, including electronic versions, that is related to a restricted article and is issued not more than 15 days prior to shipment of the restricted article from the country in which it was grown and that:

(1) Is patterned after the model certificate of the International Plant Protection Convention, a multilateral convention on plant protection under the authority of the Food and Agriculture Organization of the United Nations (FAO);

(2) Is issued by an official of a foreign national plant protection organization in one of the five official languages of the FAO;

(3) Is addressed to the national plant protection organization of the United States (Animal and Plant Health Inspection Service);

(4) Describes the shipment;

(5) Certifies the place of origin for all contents of the shipment;

(6) Certifies that the shipment has been inspected and/or tested according to appropriate official procedures and is considered free from quarantine pests of the United States;

(7) Contains any additional declarations required in the Plants for Planting Manual; and

(8) Certifies that the shipment conforms with the phytosanitary requirements of the United States and is considered eligible for importation pursuant to the laws and regulations of the United States.

Place of production. Any premises or collection of fields operated as a single production or farming unit. This may include production sites that are separately managed for phytosanitary purposes.

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

Plant broker. An entity that purchases or takes possession of plants for planting from an approved place of production for the purpose of exporting those plants without further growing beyond maintaining the plants until export.

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

Plant Protection and Quarantine Programs. The organizational unit within APHIS that is delegated responsibility for enforcing provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*) and related legislation, quarantines, and regulations.

Planting. Any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction, or propagation.

Plants for planting. Plants intended to remain planted, to be planted, or replanted.

Plants for Planting Manual. The document that contains restrictions on the importation of specific types of plants for planting, as provided in § 319.37–20, and other information about the importation of plants for planting as provided in this subpart. The Plants for Planting Manual is available on the internet at *https://acir.aphis.usda.gov/s/plants-for-planting-hub*, or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Information Services and Manuals Unit, 4700 River Road, Riverdale, MD 20737.

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

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

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

Quarantine pest. A plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

Regulated plant. A vascular or nonvascular plant. Vascular plants include gymnosperms, angiosperms, ferns, and fern allies. Gymnosperms include cycads, conifers, and gingko. Angiosperms include any flowering plant. Fern allies include club mosses, horsetails, whisk ferns, spike mosses, and quillworts. Nonvascular plants include mosses, liverworts, hornworts, and green algae.

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

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

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

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

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

Taxon (taxa). Any grouping within botanical nomenclature, such as family, genus, species, or cultivar.

Type of plants for planting. A grouping of plants for planting based on shared characteristics such as biological traits, morphology, botanical nomenclature, or risk factors.

United States. All of the States.

[83 FR 11856, Mar. 19, 2018, as amended at 89 FR 79734, Oct. 1, 2024]

§ 319.37–3 General restrictions on the importation of plants for planting.

(a) The importation of certain taxa of plants for planting is not authorized pending pest risk analysis in accordance with § 319.37–4.

(b) General restrictions that apply to the importation of all plants for planting other than those whose importation is not authorized pending pest risk analysis are found in §§ 319.37–5 through 319.37–11.

(c) In accordance with § 319.37–20, the Administrator may impose restrictions on the importation of specific types of plants for planting. These restrictions are listed in the Plants for Planting Manual. Additional information on restrictions applicable to the importation of specific types of plants for planting can be found in §§ 319.37–20 through 319.37–23.

§ 319.37–4 Taxa of plants for planting whose importation is not authorized pending pest risk analysis.

(a) *Determination by the Administrator.* The importation of certain taxa of plants for planting poses a risk of introducing quarantine pests into the United States. Therefore, the importation of these taxa is not authorized pending the completion of a pest risk analysis, except as provided in paragraph (f) of this section. These taxa are listed in the Plants for Planting Manual. There are two categories of taxa whose importation is not authorized pending pest risk analysis: Taxa of plants for planting that are quarantine pests, and taxa of plants for planting that are hosts of quarantine pests. For taxa of plants for planting that have been determined to be quarantine pests, the list includes the names of the taxa. For taxa of plants for planting that are hosts of quarantine pests, the list includes the names of the taxa, the foreign places from which the taxa's importation is not authorized, and the quarantine pests of concern.

(b) *Addition of taxa.* A taxon of plants for planting may be added to one of the lists of taxa not authorized for importation pending pest risk analysis under this section as follows:

(1) *Data sheet.* APHIS will publish in the FEDERAL REGISTER a document that announces our determination that a taxon of plants for planting is either a quarantine pest or a host of a quarantine pest. This notice will make available a data sheet that details the scientific evidence APHIS evaluated in making the determination that the taxon is a quarantine pest or a host of a quarantine pest. The data sheet will include references to the scientific evidence that APHIS used in making the determination. In our notice, we will provide for a public comment period of a minimum of 60 days on our additions to the list.

(2) *Response to comments.* (i) APHIS will issue a notice after the close of the public comment period indicating that the taxon will be added to the list of taxa not authorized for importation pending pest risk analysis if:

(A) No comments were received on the data sheet;

(B) The comments on the data sheet revealed that no changes to the data sheet were necessary; or

(C) Changes to the data sheet were made in response to public comments, but the changes did not affect APHIS' determination that the taxon poses a risk of introducing a quarantine pest into the United States.

(ii) If comments present information that leads us to determine that the importation of the taxon does not pose a risk of introducing a quarantine pest into the United States, APHIS will not add the taxon to the list of plants for planting whose importation is not authorized pending pest risk analysis. APHIS will issue a notice giving public notice of this determination after the close of the comment period.

(c) *Criterion for listing a taxon of plants for planting as a quarantine pest.* A taxon will be added to the list of taxa whose importation is not authorized pending pest risk analysis if scientific evidence causes APHIS to determine that the taxon is a quarantine pest.

(d) *Criteria for listing a taxon of plants for planting as a host of a quarantine pest.* A taxon will be added to the list of taxa whose importation is not authorized pending pest risk analysis if scientific evidence causes APHIS to determine that the taxon is a host of a quarantine pest. The following criteria

must be fulfilled in order to make this determination:

(1) The plant pest in question must be determined to be a quarantine pest; and

(2) The taxon of plants for planting must be determined to be a host of that quarantine pest.

(e) *Removing a taxon from the list of taxa not authorized pending pest risk analysis.* (1) Requests to remove a taxon from the list of taxa whose importation is not authorized pending pest risk analysis (NAPPRA) must be made in accordance with § 319.5. APHIS will conduct a pest risk analysis in response to such a request. The pest risk analysis will examine the risk associated with the importation of that taxon as well as measures available to mitigate that risk. The pest risk analysis may analyze importation of the taxon from a specific area, country, or countries, or from all areas of the world. The conclusions of the pest risk analysis will apply accordingly.

(2) If the pest risk analysis indicates that the taxon is a quarantine pest or a host of a quarantine pest and the Administrator determines that there are no measures available that adequately mitigate the risk of introducing a quarantine pest into the United States through the taxon's importation, we will continue to list the taxon as not authorized for importation pending pest risk analysis. We will publish a notice making the pest risk analysis available for comment. If comments cause us to change our determination, we will publish another notice in accordance with either paragraph (e)(3) or (4) of this section, as appropriate. If comments do not cause us to change our determination, we will publish a second notice responding to the comments and affirming our determination that the taxon should continue to be listed as NAPPRA.

(3) If the pest risk analysis supports a determination that importation of the taxon be allowed subject to taxon-specific restrictions, APHIS will publish a notice making the pest risk analysis available to the public for comment in accordance with the process in § 319.37–20(c).

(4) If the pest risk analysis supports a determination that importation of the taxon be allowed subject to the general restrictions of this subpart, APHIS will publish a notice announcing our intent to remove the taxon from the list of taxa whose importation is not authorized pending pest risk analysis and making the pest risk analysis supporting the taxon's removal available for public comment.

(i) APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will be subject only to the general restrictions of this subpart if:

(A) No comments were received on the pest risk analysis;

(B) The comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or

(C) Changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination that the importation of the taxon does not pose a risk of introducing a quarantine pest into the United States.

(ii) If information presented by commenters indicates that the pest risk analysis needs to be revised, APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will continue to be listed as not authorized pending pest risk analysis while the information presented by commenters is analyzed and incorporated into the pest risk analysis. APHIS will subsequently publish a new notice announcing the availability of the revised pest risk analysis.

(5) APHIS may also remove a taxon from the list of taxa whose importation is not authorized pending pest risk analysis when APHIS determines that the evidence used to add the taxon to the list was erroneous (for example, involving a taxonomic misidentification).

(f) *Controlled import permits.* Any plants for planting whose importation is not authorized pending pest risk analysis in accordance with this section may be imported or offered for entry into the United States if:

(1) Imported for experimental, therapeutic, or developmental purposes

under the conditions specified in a controlled import permit issued in accordance with §319.6;

(2) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or through any USDA plant inspection station listed in the Plants for Planting Manual;

(3) Imported pursuant to a controlled import permit issued for such plants for planting and kept on file at the port of entry;

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

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

(Approved by the Office of Management and Budget under control number 0579–0380)

§319.37–5 Permits.

(a)(1) Plants for planting may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs, except as provided in the Plants for Planting Manual. Exceptions from the requirement for a written permit will be added, changed, or removed in accordance with §319.37–20.

(2) Plants for planting whose importation is subject to postentry quarantine, as listed in the Plants for Planting Manual, must also be imported under an importer postentry quarantine growing agreement in accordance with §319.37–23(c).

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permits, Permit Unit, 4700 River Road, Unit 133, Riverdale, MD 20737–1236) at least 30 days prior to arrival of the plants for planting at the port of entry. Application forms are available without charge from that address or on the internet at *http://www.aphis.usda.gov/permits/ppq_epermits.shtml*. The completed application shall include the following information:

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

(2) The taxon or taxa and the approximate quantity of plants for planting intended to be imported;

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

(4) Intended United States port of entry;

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

(6) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the plants for planting are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the plants for planting may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the plants for planting.[1]

(d) Any permit that has been issued may be revoked by an inspector or APHIS in accordance with §319.7–4.

(e) Any plants for planting not required to be imported with a permit in accordance with paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral authorization for importation issued by an inspector at the port of entry.

(f) An oral authorization for importation of plants for planting shall be

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

issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such plants for planting are eligible to be imported under an oral authorization, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such plants for planting.

(g) Persons wishing to import plants for planting into the United States for experimental, therapeutic, or developmental purposes must apply for a controlled import permit in accordance with §§ 319.6 and 319.37–3.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0285, and 0579–0319)

§ 319.37–6 Phytosanitary certificates.

(a) *Phytosanitary certificates.* Any plants for planting offered for importation into the United States must be accompanied by a phytosanitary certificate, except as described in paragraphs (b) and (c) of this section. The phytosanitary certificate must identify the genus of the plants for planting it accompanies. When the importation of individual species or cultivars within a genus is restricted in accordance with § 319.37–20, the phytosanitary certificate must also identify the species or cultivar of the plants for planting it accompanies. Otherwise, identification of the species is strongly preferred, but not required. Intergeneric and interspecific hybrids must be designated by placing the multiplication sign ''×'' between the names of the parent taxa. If the hybrid is named, the multiplication sign may instead be placed before the name of an intergeneric hybrid or before the epithet in the name of an interspecific hybrid.

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

(1) The importation of the seed is authorized by a written permit issued in accordance with § 319.37–5.

(2) The seed is not listed as not authorized pending pest risk analysis, as provided in § 319.37–4; is not of any noxious weed species listed in part 360 of this chapter; is not subject to restrictions on specific types of plants for planting as provided in § 319.37–20; is not restricted under the regulations in parts 330 and 340 of this chapter; and meets the requirements of part 361 of this chapter.

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

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

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

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

(iv) The seeds are free from pesticides;

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

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

(vii) At the time of importation, the shipment is sent to either the Plant Germplasm Quarantine Center in Beltsville, MD, or a USDA plant inspection station.

(c) *Importation of other plants for planting without phytosanitary certificates.* (1) The Administrator may authorize the importation of types of plants for planting without a phytosanitary certificate if the plants for planting are accompanied by equivalent documentation agreed upon by the Administrator and the NPPO of the exporting country as sufficient to establish the eligibility of the plants for importation into the United States. The documentation must be provided by the NPPO or refer to documentation provided by the NPPO. The documentation must be agreed upon before the plants for planting are exported from the exporting country to the United States.

(2) The Administrator may impose additional restrictions on the importation of plants for planting that are not

accompanied by a phytosanitary certificate to ensure that the plants are appropriately identified and free of quarantine pests.

(3) The Plants for Planting Manual lists types of plants for planting that are not required to be accompanied by a phytosanitary certificate; the countries from which their importation without a phytosanitary certificate is authorized; the approved documentation of eligibility for importation; and any additional conditions on their importation.

(4) Types of plants for planting may be added to or removed from the list of plants for planting that are not required to be accompanied by a phytosanitary certificate in accordance with § 319.37–20. The requirements for importing types of plants for planting without a phytosanitary certificate may also be changed by a notice issued in accordance with § 319.37–20. The notice published for comment will describe the documentation agreed upon by the Administrator and the NPPO of the exporting country and any additional restrictions to be imposed on the importation of the type of plants for planting.

(Approved by the Office of Management and Budget under control numbers 0579–0142, 0579–0190, 0579–0285, and 0579–0319)

§ 319.37–7 Marking and identity.

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

(1) General nature and quantity of the contents;

(2) Country and locality where grown;

(3) Name and address of shipper, owner, or person shipping or forwarding the plants for planting;

(4) Name and address of consignee;

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

(6) Number of written permit authorizing the importation, if one was required under § 319.37–5.

(b) Any consignment of plants for planting for importation by mail shall be plainly and correctly addressed and mailed to the Plant Protection and Quarantine Programs at a port of entry listed in the Plants for Planting Manual as approved to receive imported plants for planting, shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents;

(2) Country and locality where grown;

(3) Name and address of shipper, owner, or person shipping or forwarding the plants for planting; and

(4) Number of written permit authorizing the importation, if one was required under § 319.37–5.

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

(Approved by the Office of Management and Budget under control numbers 0579–0190 and 0579–0319)

§ 319.37–8 Ports of entry: Approved ports, notification of arrival, inspection, and refusal of entry.

(a) *Approved ports of entry.* Any plants for planting required to be imported under a written permit in accordance with § 319.37–5(a), if not precleared, must be imported or offered for importation only at a USDA plant inspection station, unless the Plants for Planting Manual indicates otherwise. Ports of entry through which plants for planting must pass through before arriving at these USDA plant inspection stations are listed in the Plants for Planting Manual. All other plants for planting may be imported or offered for importation at any Customs designated port of entry indicated in 19 CFR 101.3(b)(1). Exceptions may be listed in § 330.104 of this chapter. Plants for planting that are required to be imported under a written permit that are

also precleared in the country of export are not required to enter at an inspection station and may enter through any Customs port of entry. Exceptions may be listed in § 330.104 of this chapter.

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

(c) *Inspection and treatment.* Any plants for planting may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the plants for planting were grown, and must undergo treatment in accordance with part 305 of this chapter if treatment is ordered by the inspector. Any plants for planting found upon inspection to contain or be contaminated with quarantine pests that cannot be eliminated by treatment will be denied entry at the first United States port of arrival and must be destroyed or shipped to a point outside the United States.

(d) *Disposition of plants for planting not in compliance with this subpart.* The importer of any plants for planting denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, treat in accordance with part 305 of this chapter, or apply other safeguards to the plants for planting, as prescribed by an inspector, to prevent the introduction into the United States of quarantine pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the plants for planting, whether the plants for planting are a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the plants for planting.

(e) *Removal of plants for planting from port of first arrival.* No person shall remove any plants for planting from the port of first arrival unless and until notice is given to the collector of customs by the inspector that the plants for planting has satisfied all requirements under this subpart.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0310, and 0579–0319)

§ 319.37–9 Treatment of plants for planting; costs and charges for inspection and treatment; treatments applied outside the United States.

(a) The services of a Plant Protection and Quarantine inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[2] No charge will be made to the importer for Government-owned or -controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the regulations in this subpart. The Plant Protection and Quarantine Programs will not be responsible for any costs or charges, other than those indicated in this section.

(b) Any treatment performed in the United States on plants for planting must be performed at the time of importation into the United States. Treatment shall be performed by an inspector or under an inspector's supervision at a Government-operated special inspection facility, except that an importer may have such treatment performed at a nongovernmental facility if the treatment is performed at nongovernment expense under the supervision of an inspector and in accordance with part 305 of this chapter and in accordance with any treatment required by an inspector as an emergency measure in order to prevent the dissemination of any quarantine pests. However, treatment may be performed

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

at a nongovernmental facility only in cases of unavailability of government facilities and only if, in the judgment of an inspector, the plants for planting can be transported to such nongovernmental facility without the risk of introduction into the United States of quarantine pests.

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

(Approved by the Office of Management and Budget under control number 0579–0190)

§319.37–10 Growing media.

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

(b)(1) Plants for planting from Canada may be imported in any growing medium, except as restricted in the Plants for Planting Manual. Restrictions on growing media for specific types of plants for planting imported from Canada will be added, changed, or removed in accordance with §319.37–20.

(2) Plants for planting from an area of Canada regulated by the national plant protection organization of Canada for a soil-borne plant pest may only be imported in an approved growing medium if the phytosanitary certificate accompanying it contains an additional declaration that the plant was grown in a manner to prevent infestation by that soil-borne plant pest.

(c) Certain types of plants for planting growing solely in certain growing media listed in the Plants for Planting Manual may be imported established in such growing media. The Administrator has determined that the importation of the specified types of plants for planting in these growing media does not pose a risk of introducing quarantine pests into the United States. If the Administrator determines that a new growing medium may be added to the list of growing media in which imported plants for planting may be established, or that a growing medium currently listed for such purposes is no longer suitable for establishment of imported plants for planting, APHIS will publish in the FEDERAL REGISTER a notice that announces our proposed determination and requests comment on the change. After the close of the comment period, APHIS will publish another notice informing the public of the Administrator's decision on the change to the list of growing media in which imported types of plants for planting may be established.

(d) Certain types of plants for planting, as listed in the Plants for Planting Manual, may be imported when they are established in a growing medium approved by the Administrator and they are produced in accordance with additional requirements specified in the Plants for Planting Manual. Changes to the list of plants for planting that may be imported in growing media, and to the requirements for the importation of those types of plants for planting, will be made in accordance with §319.37–20.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0439, 0579–0454, 0579–0458, and 0579–0463)

[83 FR 11856, Mar. 19, 2018, as amended at 84 FR 29958, June 25, 2019]

§319.37–11 Packing and approved packing material.

(a) Plants for planting for importation into the United States must not be packed in the same container as plants for planting whose importation into the United States is not authorized pending pest risk analysis in accordance with §319.37–4.

(b) Any plants for planting at the time of importation or offer for importation into the United States shall not be packed in a packing material unless the plants were packed in the packing material immediately prior to shipment; such packing material is free from sand, soil, or earth (except as designated in the Plants for Planting

Manual); has not been used previously as packing material or otherwise; and is approved by the Administrator as not posing a risk of introducing quarantine pests. Approved packing materials are listed in the Plants for Planting Manual.

(c) If the Administrator determines that a new packing material may be added to the list of packing materials, or that a packing material currently listed should no longer be approved, APHIS will publish in the FEDERAL REGISTER a notice that announces our proposed determination and requests comment on the change. After the close of the comment period, APHIS will publish another notice informing the public of the Administrator's decision on the change to the list of approved packing materials.

(Approved by the Office of Management and Budget under control number 0579–0190)

§§ 319.37–12—319.37–19 [Reserved]

§ 319.37–20 Restrictions on the importation of specific types of plants for planting.

(a) *Plant type-specific restrictions.* In addition to the general restrictions in this subpart, the Administrator may impose additional restrictions on the importation of specific types of plants for planting necessary to effectively mitigate the risk of introducing quarantine pests into the United States through the importation of specific plants for planting. Additional restrictions may be placed on the importation of the entire plant or on certain plant parts. A list of the types of plants for planting whose importation is subject to additional restrictions, and the specific restrictions that apply to the importation of each type of plants for planting, may be found in the Plants for Planting Manual.

(b) *Basis for changing restrictions.* The Administrator may determine that it is necessary to add, change, or remove restrictions on the importation of a specific type of plants for planting, based on the risk of introducing a quarantine pest through the importation of that type of plants for planting. The Administrator will make this determination based on the findings of a pest risk analysis or on other scientific evidence.

(c) *Process for adding, changing, or removing restrictions.* Restrictions on the importation of a specific type of plants for planting beyond the general restrictions in §§ 319.37–5 through 319.37–11 will be changed through the following process:

(1) *Document describing restrictions.* APHIS will publish in the FEDERAL REGISTER a notice that announces our proposed determination that it is necessary to add, change, or remove restrictions on the importation of a specific type of plants for planting. This notice will make available for public comment a document describing the restrictions that the Administrator has determined are necessary and how these restrictions will mitigate the risk of introducing quarantine pests into the United States.

(2) *Response to comments.* APHIS will issue a second notice after the close of the public comment period on the notice described in paragraph (c)(1) of this section. This notice will inform the public of the specific restrictions, if any, that the Administrator has determined to be necessary in order to mitigate the risk of introducing quarantine pests into the United States through the importation of the type of plants for planting. In response to the public comments submitted, the Administrator may implement the restrictions described in the document made available by the initial notice, amend the restrictions in response to public comment, or determine that changes to the restrictions on the importation of the type of plants for planting are unnecessary.

(d) *Previously imposed restrictions on specific types of plants for planting.* Types of plants for planting whose importation was subject to specific restrictions by specific regulation as of April 18, 2018, will continue to be subject to those restrictions, except as changed in accordance with the process specified in paragraph (c) of this section. The restrictions are found in the Plants for Planting Manual.

§ 319.37–21 Integrated pest risk management measures.

If a type of plants for planting is a host of a quarantine pest or pests, APHIS may require the type of plants for planting to be produced in accordance with integrated pest risk management measures as a condition of importation. This section sets out a general framework for integrated pest risk management measures. When APHIS determines that integrated measures are necessary to mitigate risk, APHIS will use this framework to develop integrated pest risk management measures that mitigate the quarantine pest risks associated with that type of plants for planting through the process described in § 319.37–20.

(a) *Responsibilities of the place of production.* The place of production is responsible for identifying, developing, and implementing procedures that meet the requirements of both the NPPO of the exporting country and APHIS. Participants in the export program must be approved by the NPPO or its designee and APHIS. Approval will be conferred by the NPPO or its designee and APHIS after the participant meets the conditions required for integrated pest risk management. Approval will be withdrawn if the participant fails to meet the conditions at any time. All documentation required under paragraphs (a)(5) and (6) of this section will be maintained by the exporting place of production and made available to official representatives of the NPPO of the exporting country and APHIS upon request. The place of production must be open to necessary and reasonable audit, monitoring, and evaluation of compliance by the NPPO of the exporting country and APHIS. The management of the place of production will be responsible for complying with the integrated pest risk management measures. Management must specify the roles and responsibilities of its personnel to perform program activities. The place of production must notify the NPPO of the exporting country of deficiencies detected during internal audits. The NPPO of the exporting country will be responsible for ensuring that the place of production is in compliance with the integrated pest risk management measures.

(1) *Pest management program.* The place of production must develop and implement an approved pest management program that contains ongoing pest monitoring and procedures for the exclusion and control of plant pests. The place of production must obtain material used to produce plants for planting from sources that are free of quarantine pests and that are approved by the NPPO of the exporting country and APHIS. All sources of plants for planting and the phytosanitary status of those plants must be well-documented and the program for producing plants for planting carefully monitored.

(2) *Training.* A training program approved by the NPPO of the exporting country and APHIS must be established, documented, and regularly conducted at the place of production. The training program must ensure that all those involved in the export program possess specific knowledge related to the relevant components of the program and a general understanding of its requirements.

(3) *Internal audits.* The place of production must perform, or designate parties to perform internal audits that ensure that a plan approved and documented by APHIS and the NPPO of the exporting country is being followed and is achieving the appropriate level of pest management.

(4) *Traceability.* The place of production must implement a procedure approved by APHIS and the NPPO of the exporting country or its designee that documents and identifies plants from propagation through harvest and sale to ensure that plants can be traced forward and back from the place of production. Depending on the nature of the quarantine pests, the system may need to account for:

(i) The origin and pest status of mother stock;

(ii) The year of propagation and the place of production of all plant parts that make up the plants for planting intended for export;

(iii) Geographic location of the place of production;

(iv) Location of plants for planting within the place of production;

(v) The plant taxon; and

(vi) The purchaser's identity.

(5) *Documentation of program procedures.* The place of production must develop a manual approved by the NPPO of the exporting country and APHIS that guides the place of production's operation and that includes the following components:

(i) Administrative procedures (including roles and responsibilities and training procedures);

(ii) Pest management plan;

(iii) Place of production internal audit procedures;

(iv) Management of noncompliant product or procedures;

(v) Traceability procedures; and

(vi) Recordkeeping systems.

(6) *Records.* A place of production must maintain records on its premises as specified by APHIS and the NPPO of the exporting country. These records must be made available to APHIS and the NPPO of the exporting country upon request. These documents include all the elements described in this paragraph (a) and copies of all internal and external audit documents and reports.

(b) *Responsibilities of APHIS and the NPPO of the exporting country.* APHIS and the NPPO of the exporting country are responsible for collaborating to establish program requirements, including workplans and compliance agreements as necessary, for recognizing and implementing particular import programs. Technically justified modifications to the program may be negotiated. The administration of program requirements must include such elements as clarification of terminology, testing and retesting requirements, eligibility, the nomenclature of certification levels, horticultural management, isolation and sanitation requirements, inspection, documentation, identification and labeling, quality assurance, noncompliance and remedial measures, and postentry quarantine requirements. The criteria for approving, suspending, removing, and reinstating approval for a particular program should be jointly developed and agreed upon by APHIS and the NPPO of the exporting country. Information should be exchanged between APHIS and the NPPO of the exporting country through officially designated points of contact.

(c) *Responsibilities of the NPPO of the exporting country.* (1) The NPPO of the exporting country must provide sufficient information to APHIS to support the evaluation and acceptance of export programs. This may include:

(i) Specific identification of the commodity, place of production, and expected volume and frequency of consignments;

(ii) Relevant production, harvest, packing, handling, and transport details;

(iii) Pests associated with the plant including prevalence, distribution, and damage potential;

(iv) Risk management measures proposed for a pest management program; and

(v) Relevant efficacy data.

(2) A phytosanitary certificate should be issued by the NPPO of the exporting country unless APHIS and the NPPO of the exporting country agree to use other documentation in accordance with § 319.37–6(c).

(3) Other responsibilities of the NPPO of the exporting country include:

(i) Establishing and maintaining compliance agreements as necessary;

(ii) Oversight and enforcement of program provisions;

(iii) Arrangements for monitoring and audit; and

(iv) Maintaining appropriate records.

(d) *Responsibilities of plant brokers trading in plants for planting produced in accordance with integrated pest risk management measures.* Plant brokers trading in plants for planting produced in accordance with integrated pest risk management measures must be approved by the NPPO of the exporting country or its designee. The list of plant brokers must be provided to APHIS upon request. Approval may only be conferred by the NPPO or its designee after the participant demonstrates that it can meet the requirements of this paragraph (d). Approval must be withdrawn if the participant fails to meet the conditions at any time. Plant brokers must ensure the traceability of export consignments to an approved place of production or production site. Brokers must maintain the phytosanitary status of the plants equivalent to an approved place of production from purchase, storage, and

transportation to the export destination. Plant brokers must document these processes for verifying status and maintaining traceability.

(e) *External audits.* APHIS and the NPPO of the exporting country will agree to the requirements for external audits.

(1) *APHIS audits.* APHIS will evaluate the integrated pest risk management measures of the NPPO of the exporting country before acceptance. This could consist of documentation review, site visits, and inspection and testing of plants produced under the system. Following approval, APHIS or its designee will monitor and periodically audit the system to ensure that it continues to meet the stated objectives. Audits will include inspection of imported plants for planting, site visits, and review of the integrated pest risk management measures and internal audit processes of the place of production and the NPPO of the exporting country.

(2) *Audits by the NPPO of the exporting country.* The NPPO must arrange for audits of the exporting system. Audits may be conducted by the NPPO or its designee and may consist of inspection and testing of plants for planting and the documentation and management practices as they relate to the program. Audits should verify that:

(i) The places of production in the program are free of quarantine pests;

(ii) Program participants are complying with the specified standards;

(iii) The integrated pest management measures continue to meet APHIS requirements; and

(iv) Arrangements with designees are complied with.

(f) *Noncompliance.* (1) The exporting NPPO must notify APHIS of noncompliance within the integrity of the system or noncompliance by a place of production that affects the phytosanitary integrity of the commodity. The requirements for notification will be determined between the NPPO of the exporting country and APHIS.

(2) Regulatory responses to program failures will be based on existing bilateral agreements. Contingency plans may be established in advance to ensure that alternative measures are available in the event that all or part of a program fails. APHIS will specify the consequences of noncompliance to the NPPO of the exporting country. The NPPO must specify the consequences of noncompliance to the participants in the program. These may vary depending on the nature and severity of the infraction. In addition, remedial measures should be specified to enable a suspended or decertified place of production or plant broker to become eligible for reinstatement or recertification.

(3) Places of production or plant brokers that do not meet the conditions of the program must be suspended. Plants for planting must not be exported from a place of production or a plant broker that has failed to meet the program requirements.

(4) The effectiveness of remedial measures taken must be verified before reinstatement to the program by the exporting NPPO and, where appropriate, by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0190)

§ 319.37–22 Trust fund agreements.

If APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of plants for planting and APHIS services are to be funded by the NPPO of the exporting country or a private export group, then the NPPO or the private export group must enter into a trust fund agreement with APHIS that is in effect at the time APHIS' services are needed. Under the agreement, the NPPO of the exporting country or the private export group must pay in advance all estimated costs that APHIS expects to incur in providing inspection services in the exporting country. These costs will include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing services. The agreement must require the NPPO of the exporting country or region or a private export group to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. The agreement must

further specify that, if the deposit is not sufficient to meet all costs incurred by APHIS, the NPPO of the exporting country or a private export group must deposit with APHIS, before the services will be completed, a certified or cashier's check for the amount of the remaining costs, as determined by APHIS. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the NPPO of the exporting country or region or a private export group, or held on account.

(Approved by the Office of Management and Budget under control number 0579–0190)

§ 319.37–23 Postentry quarantine.

(a) *Postentry quarantine.* One specific restriction that may be placed upon the importation of a type of plants for planting in accordance with § 319.37–20 is that it be grown in postentry quarantine. The Plants for Planting Manual lists the taxa required to be imported into postentry quarantine. Plants for planting grown in postentry quarantine must be grown under postentry quarantine conditions specified in paragraphs (c) and (d) of this section, and may be imported or offered for importation into the United States only:

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

(2) If an importer postentry quarantine growing agreement has been completed and submitted to Plant Protection and Quarantine in accordance with paragraph (c) of this section. The agreement must be signed by the person (the importer) applying for the importation of the plants for planting in accordance with § 319.6; and,

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

(b) *State postentry quarantine agreement.* Plants for planting required to undergo postentry quarantine in accordance with § 319.37–20 may only be imported if destined for postentry quarantine growing in a State which has entered into a written agreement with the Animal and Plant Health Inspection Service, signed by the Administrator or his or her designee and by the State Plant Regulatory Official. In accordance with the laws of individual States, inspection and other postentry quarantine services provided by a State may be subject to charges imposed by the State. A list of States that have entered into a postentry quarantine agreement in accordance with this paragraph can be found in the Plants for Planting Manual.

(c) *Importer postentry quarantine growing agreements.* Any plants for planting required to be grown under postentry quarantine conditions, as well as any increase therefrom, shall be grown in accordance with an importer postentry quarantine growing agreement signed by the person (the importer) applying for a written permit in accordance with § 319.37–5 for importation of the plants for planting and submitted to Plant Protection and Quarantine. On each importer postentry quarantine growing agreement, the person shall also obtain the signature of the State Plant Regulatory Official for the State in which plants for planting covered by the agreement will be grown. The importer postentry quarantine growing agreement shall specify the kind, number, and origin of plants to be imported; the conditions specified in the Plants for Planting Manual under which the plants for planting will be grown, maintained, and labeled; and the reporting requirements in the case of abnormal or dead plants for planting. The agreement shall certify to APHIS and to the State in which the plants for planting are grown that the signer of the agreement will comply with the conditions of the agreement for the postentry quarantine growing period prescribed for the type of plants for planting in the Plants for Planting Manual.

(d) *Applications for permits.* A completed importer postentry quarantine agreement shall accompany the application for a written permit for plants for planting required to be grown under postentry quarantine conditions. Importer postentry quarantine agreement forms are available without charge

from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Unit, 4700 River Road, Unit 136, Riverdale, MD 20737–1236 or on the internet at *http://www.aphis.usda.gov/permits/ppq_epermits.shtml*.

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

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

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

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Subpart I—Logs, Lumber, and Other Wood Articles

SOURCE: 60 FR 27674, May 25, 1995, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.40–1 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Port of first arrival. The area (such as a seaport, airport, or land border station) where a person or a means of conveyance first arrives in the United

States, and where inspection of regulated articles is carried out by inspectors.

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

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

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

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

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

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

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

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

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

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

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

Wooden handicraft. A commodity class of articles derived or made from natural components of wood, twigs, and vines, and including bamboo poles and garden stakes. Handicrafts include the following products where wood is present: Carvings, baskets, boxes, bird houses, garden and lawn/patio furniture (rustic), potpourri, artificial trees (typically artificial ficus trees), trellis towers, garden fencing and edging, and other items composed of wood.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998; 65 FR 21127, Apr. 20, 2000; 69 FR 55732, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 70 FR 33324, June 7, 2005; 72 FR 30467, June 1, 2007; 77 FR 12443, Mar. 1, 2012; 78 FR 25571, May 2, 2013]

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

(a) *Permit required.* Except for regulated articles exempted from this requirement by paragraph (c) of this section or §319.40–3, no regulated article may be imported unless a specific permit has been issued for importation of

the regulated article in accordance with § 319.40–4, and unless the regulated article meets all other applicable requirements of this subpart and any requirements specified by APHIS in the specific permit.

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

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

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

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

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

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

(c) *Regulation of articles imported for propagation or human consumption.* The requirements of this subpart do not apply to regulated articles that are allowed importation in accordance with Subpart H—Plants for Planting of this part or to regulated articles imported for human consumption that are allowed importation in accordance with Subpart L—Fruits and Vegetables of this part.

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

(1) Imported for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with § 319.6;

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

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

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

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

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

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

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

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[60 FR 27674, May 25, 1995, as amended at 63 FR 13485, Mar. 20, 1998; 64 FR 45866, Aug. 23, 1999; 69 FR 52418, Aug. 26, 2004; 69 FR 61587, Oct. 20, 2004; 71 FR 40878, July 19, 2006; 72 FR 39501, July 18, 2007; 78 FR 25571, May 2, 2013; 83 FR 11865, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

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

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

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

(A) Regulated articles of the subfamilies Aurantioideae, Rutoideae, and

Toddalioideae of the botanical family Rutaceae; and

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

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

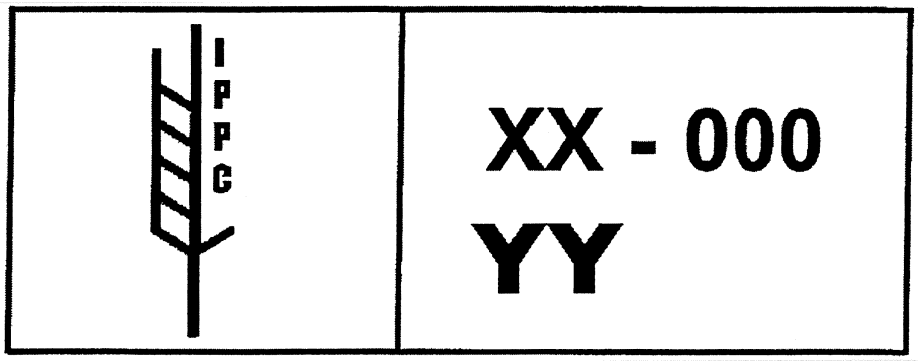
(2) Commercial shipments allowed in paragraph (a)(1) of this section are subject to the inspection and other requirements in §319.40–9 and must be accompanied by an importer document stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

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

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

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

(2) *Marking.* The wood packaging material must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark that indicates that the article meets the requirements of this paragraph. The mark must be approved by the International Plant Protection Convention in its International Standards for Phytosanitary Measures to certify that wood packaging material has been subjected to an approved measure, and must include a unique graphic symbol, the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the producer of the wood packaging material, and an abbreviation disclosing the type of treatment (*e.g.*, HT for heat treatment or MB for methyl bromide fumigation). The currently approved format for the mark is as follows, where XX would be replaced by the country code, 000 by the producer number, and YY by the treatment type (HT or MB):



(3) *Immediate reexport of regulated wood packaging material without required mark.* An inspector at the port of first arrival may order the immediate reexport of regulated wood packaging material that is imported without the

mark required by paragraph (b)(2) of this section, in addition to or in lieu of any port of first arrival procedures required by § 319.40–9 of this part.

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

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

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

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

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

(a) *Application procedure.* An application for a permit must be obtained and submitted in accordance with §§ 319.7 through 319.7–5.

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

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

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

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

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

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

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[60 FR 27674, May 25, 1995, as amended at 66 FR 21056, Apr. 27, 2001; 69 FR 52418, Aug. 26, 2004; 79 FR 19810, Apr. 10, 2014; 81 FR 40150, June 21, 2016]

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

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

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

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

(B) The logs must be debarked in accordance with § 319.40–7(b) prior to fumigation.

(C) The logs and any regulated wood packaging material to be used with the logs during shipment to the United States must be fumigated in accordance with part 305 of this chapter within 45 days following the date the trees are felled and prior to arrival of the logs in the United States, in the holds or in sealable containers. Fumigation must be conducted in the same sealable container or hold in which the logs and regulated wood packaging material are exported to the United States.

(D) During shipment to the United States, no other regulated article is permitted on the means of conveyance with the logs, unless the logs and the other regulated articles are in separate holds or separate sealed containers, or, if the logs and other regulated articles are mixed in a hold or sealed container, the other regulated articles either have been heat treated with moisture reduction in accordance with part 305 of this chapter, or have been fumigated in the hold or sealable container in accordance with paragraph (b)(1)(i)(C) of this section.

(ii) *Requirements upon arrival in the United States.* The following requirements apply upon arrival of the logs in the United States.

(A) The logs must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the logs are completely processed at a facility in the United States that operates under a compliance agreement in accordance with § 319.40–8.

(B) The logs must be moved from the port of first arrival to the facility that operates under a compliance agreement in accordance with § 319.40–8 by as direct a route as reasonably possible.

(iii) *Requirements at the processing facility.* The logs must be consigned to a facility operating under a compliance agreement in accordance with § 319.40–8 that includes the following requirements:

(A) Logs or any products generated from logs, including lumber, must be heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(B) The logs, including sawdust, wood chips, or other products generated from the logs in the United States, must be processed in accordance with paragraph (b)(1)(iii) of this section within 60 days from the time the logs are released from the port of first arrival.

(C) Sawdust, wood chips, and waste generated by sawing or processing the logs must be disposed of by burning,

heat treatment in accordance with part 305 of this chapter , heat treatment with moisture reduction in accordance with part 305 of this chapter , or other processing that will destroy any plant pests associated with the sawdust, wood chips, and waste. Composting and use of the sawdust, wood chips, and waste as mulch are prohibited unless composting and use as mulch are preceded by fumigation in accordance with part 305 of this chapter , heat treatment in accordance with part 305 of this chapter , or heat treatment with moisture reduction in accordance with part 305 of this chapter . Wood chips, sawdust, and waste may be moved in enclosed trucks for processing at another facility operating under a compliance agreement in accordance with § 319.40–8.

(2) *Raw lumber*. Raw lumber, including regulated wood packaging material imported as cargo, from Chile or New Zealand derived from Monterey or Radiata pine (*Pinus radiata*) logs and raw lumber from New Zealand derived from Douglas-fir (*Pseudotsuga menziesii*) logs may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than regulated wood packaging material) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers; *Except for* mixed shipments of logs and raw lumber fumigated in accordance with part 305 of this chapter and moved in accordance with paragraph (b)(1)(i)(D) of this section. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40–8 that requires the raw lumber to be heat treated in accordance with part 305 of this chapter or heat treated with moisture reduction in accordance with part 305 of this chapter before any cutting, planing, or sawing of the raw lumber, and within 30 days from the time the lumber is released from the port of first arrival.

(c) *Tropical hardwoods*—(1) *Debarked*. Tropical hardwood logs and lumber that have been debarked in accordance with § 319.40–7(b) may be imported subject to the inspection and other requirements of § 319.40–9.

(2) *Not debarked*. Tropical hardwood logs that have not been debarked may be imported if fumigated in accordance with part 305 of this chapter prior to arrival in the United States.

(3) *Not debarked; small lots*. Tropical hardwood logs that have not been debarked may be imported into the United States, other than into Hawaii, Puerto Rico, or the Virgin Islands of the United States, if imported in a lot of 15 or fewer logs and subject to the inspection and other requirements of § 319.40–9.

(d) *Temperate hardwoods*. Temperate hardwood logs and lumber (with or without bark) from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported if fumigated in accordance with part 305 of this chapter prior to arrival in the United States and subject to the inspection and other requirements of § 319.40–9.

(e) *Regulated articles associated with exclusively tropical climate pests*. Regulated articles that have been identified by a plant pest risk assessment as associated solely with plant pests that can successfully become established only in tropical or subtropical climates may be imported if:

(1) The regulated article is imported only to a destination in the continental United States; and,

(2) the regulated article is not imported into any tropical or subtropical areas of the United States specified in the permit.

(f) Cross-ties (railroad ties) from all places, except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer, may be imported if completely free of bark and accompanied by an importer document stating that the cross-ties will be pressure treated with a preservative within 30 days following the date of importation at a U.S. facility under compliance agreement. Cross-ties (railroad ties) may also be imported if heat treated in accordance with part 305 of this chapter.

(g) through (k) [Reserved]

(l) *Cross-ties (railroad ties) and pine and fir lumber from Mexican States adjacent to the United States/Mexico border.*[1] Cross-ties (railroad ties) 8 inches or less at maximum thickness and lumber derived from pine and fir may be imported from Mexican States adjacent to the United States/Mexico border into the United States if they:

(1) Originate from Mexican States adjacent to the United States/Mexico border;

(2) Are 100 percent free of bark; and

(3) Are fumigated in accordance with part 305 of this chapter prior to arrival in the United States.

(m) [Reserved]

(n) *Regulated articles of the genus Fraxinus from Canada.* Except for articles prohibited under paragraph (n)(4) of this section, regulated articles of the genus *Fraxinus* (ash) from Canada may be imported in accordance with this paragraph (n) and subject to the certification requirements in §319.40–2(a) and the inspection and other requirements in §319.40–9. Articles being moved from counties or municipal regional counties in Canada not regulated for the emerald ash borer (EAB) may not transit an EAB-regulated area in Canada en route to the United States unless they are moving directly through the EAB-regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the regulated area between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the emerald ash borer.

(1) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated by the Canadian Government for the emerald ash borer require a permit issued under §319.40–2(a) and must be accompanied by a certificate bearing an additional declaration that the articles in the shipment were:

(i) Debarked, and vascular cambium removed to a depth of 1.27 cm (½ inch) during the debarking process; or

(ii) Heat treated in accordance with part 305 of this chapter. The phytosanitary certificate accompanying such articles must describe the treatment method employed.

(2) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer require a permit issued under §319.40–2(a) and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(3) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originated in a county or municipal regional county free of the emerald ash borer.

(4) The importation of ash wood chips or bark chips larger than 1 inch diameter in any two dimensions that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer is prohibited.

(5) Ash wood chips or bark 1 inch or less in diameter that originate in an area regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under §319.40–2(a) and a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

[1] Cross-ties (railroad ties) may also be imported in accordance with paragraph (f) of this section, or may be imported if heat treated in accordance with §319.40–7(c).

(6) Ash wood chips or bark chips that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under §319.40–2(a), and a valid certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(7) Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originates in a Province or Territory free of the emerald ash borer.

(o) *Wooden handicrafts from China.* Wooden handicrafts more than 1 centimeter in diameter may be imported into the United States from China only in accordance with this paragraph and all other applicable provisions of this title. Wooden handicrafts less than 1 centimeter in diameter are exempt from the requirements of this paragraph, but are still subject to all other applicable provisions of this chapter.

(1) *Treatment.* Wooden handicrafts must be treated in accordance with part 305 of this chapter.

(2) *Identification tag.* All packages in which wooden handicrafts are shipped must be labeled with a merchandise tag containing the identity of the product manufacturer. The identification tag must be applied to each shipping package in China prior to exportation and remain attached to the shipping package until it reaches the location at which the wooden handicraft will be sold in the United States.

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§319.40–6 Universal importation options.

(a) *Logs.* Logs may be imported if prior to importation the logs have been debarked in accordance with §319.40–7(b) and heat treated in accordance with part 305 of this chapter. During the entire interval between treatment and export, the logs must be stored and handled in a manner which excludes any access to the logs by plant pests.

(b) *Lumber*—(1) *Heat treated or heat treated with moisture reduction.* Lumber that prior to importation has been heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter, may be imported in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the lumber, unless the lumber and the other regulated articles are in separate holds or separate sealed containers, or, if the lumber and other regulated articles are mixed in a hold or sealed container, all the regulated articles have been heat treated in accordance with part 305 of this chapter , or heat treated with moisture reduction in accordance with part 305 of this chapter. Lumber on the vessel's deck must be in a sealed container, unless it has been heat treated with moisture reduction in accordance with part 305 of this chapter

(ii) If lumber has been heat treated in accordance with part 305 of this chapter , that fact must be stated on the importer document, or by a permanent marking on each piece of lumber in the form of the letters ''HT'' or the words ''Heat Treated.'' If lumber has been heat treated with moisture reduction in accordance with part 305 of this chapter, that fact must be stated on the importer document, or by a permanent marking, on each piece of lumber or on the cover of bundles of lumber, in the form of the letters ''KD'' or the words ''Kiln Dried.''

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of

Cancer may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with §319.40–8 that requires the raw lumber to be heat treated in accordance with part 305 of this chapter or heat treated with moisture reduction in accordance with part 305 of this chapter , within 30 days from the time the lumber is released from the port of first arrival. Heat treatment must be completed before any cutting, planing, or sawing of the raw lumber.

(c) *Wood chips and bark chips*—(1) *From Chile (pine) and South America (eucalyptus).* Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs and wood chips from South America that are derived from temperate species of *Eucalyptus* may be imported in accordance with paragraph (c)(2) of this section or in accordance with the following requirements:

(i) The wood chips must be accompanied by a certificate stating that the wood chips meet the requirements in paragraphs (c)(1)(i)(A) through (c)(1)(i)(C) of this section.

(A) The wood chips were treated with a surface pesticide treatment in accordance with part 305 of this chapter within 24 hours after the log was chipped and were retreated with a surface pesticide treatment in accordance with part 305 of this chapter if more than 30 days elapsed between the date of the first treatment and the date of export to the United States.

(B) The wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and the logs used to make the wood chips were debarked in accordance with §319.40–7(b) before being chipped.

(C) No more than 45 days elapsed from the time the trees used to make the wood chips were felled to the time the wood chips were exported.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips. Wood chips on the vessel's deck must be in a sealed container.

(iii) The wood chips must be consigned to a facility in the United States that operates under a compliance agreement in accordance with §319.40–8. The following requirements apply upon arrival of the wood chips in the United States:

(A) Upon arrival in the United States, the wood chips must be unloaded by a conveyor that is covered to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips must have a procedure in place to retrieve any chips that fall during unloading.

(B) If the wood chips must be transported after arrival, the chips must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance or from being blown off the means of conveyance by wind.

(C) The wood chips must be stored at the facility on a paved surface and must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area must not be adjacent to wooded areas.

(D) The wood chips must be processed within 45 days of arrival at the facility. Any fines or unusable wood chips must be disposed of by burning within 45 days of arrival at the facility.

(2) *From locations other than certain places in Asia.* Wood chips and bark chips from any place except places in Asia that are east of 60° east longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(i) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(B) Fumigated with methyl bromide in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter , or heat treated with moisture reduction in accordance with part 305 of this chapter.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; *Except that:* If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(iii) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(iv) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with § 319.40–8. The wood chips or bark chips must be burned, heat treated in accordance with part 305 of this chapter, heat treated with moisture reduction in accordance with part 305 of this chapter, or otherwise processed in a manner that will destroy any plant pests associated with the wood chips or bark chips within 30 days of arrival at the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with part 305 of this chapter , heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with part 305 of this chapter.

(d) *Wood mulch, humus, compost, and litter.* Wood mulch, humus, compost, and litter may be imported if accompanied by an importer document stating that the wood mulch, humus, compost, or litter was fumigated in accordance with part 305 of this chapter, heat treated in accordance with part 305 of this chapter, or heat treated with moisture reduction in accordance with § 319.40–7(d).

(e) *Cork and bark.* Cork and cork bark, cinnamon bark, and other bark to be used for food, manufacture of medicine, or chemical extraction may be imported if free from rot at the time of importation and subject to the inspection and other requirements of § 319.40–9.

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§ 319.40–7 Treatments and safeguards.

(a) *Certification of treatments or safeguards.* If APHIS determines that a document required for the importation of regulated articles is inaccurate, the regulated articles which are the subject of the certificate or other document shall be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of regulated articles in accordance with this subpart from a country in which an inaccurate certificate is issued, and APHIS may determine not to allow the importation of any or all regulated articles from any such country, until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

(b) *Debarking.* Except for raw lumber, no more than 2 percent of the surface of all regulated articles in a lot may retain bark, with no single regulated article retaining bark on more than 5 percent of its surface. For raw lumber, debarking must remove 100 percent of the bark.

(c) *Treatments.* Treatment of regulated articles under this subpart must be conducted in accordance with part 305 of this chapter.

(d) *Preservatives.* All preservative treatments that use a preservative product that is registered by the United States Environmental Protection Agency are authorized for treatment of regulated articles imported in accordance with this subpart. Preservative treatments must be performed in accordance with label directions approved by the United States Environmental Protection Agency.

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[60 FR 27674, May 25, 1999, as amended at 64 FR 59604, Nov. 3, 1999; 65 FR 21128, Apr. 20, 2000; 67 FR 8465, Feb. 25, 2002; 69 FR 2295, Jan. 15, 2004; 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005; 75 FR 4252, Jan. 26, 2010]

§ 319.40–8 Processing at facilities operating under compliance agreements.

(a) Any person who operates a facility in which imported regulated articles are processed may enter into a compliance agreement to facilitate the importation of regulated articles under this subpart. The compliance agreement shall specify the requirements necessary to prevent spread of plant pests from the facility, requirements to ensure the processing method effectively destroys plant pests, and the requirements for the application of chemical materials in accordance with part 305 of this chapter. The compliance agreement shall also state that inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and of this subpart. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person whose compliance agreement has been canceled requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

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[60 FR 27674, May 25, 1995, as amended at 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005]

§ 319.40–9 Inspection and other requirements at port of first arrival.

(a) *Procedures for all regulated articles.* (1) All imported regulated articles shall be inspected at the port of first arrival. If the inspector finds signs of plant pests on or in the regulated article, or finds that the regulated article may have been associated with other articles infested with plant pests, the regulated article shall be cleaned or treated as required by an inspector, and the regulated article and any products of the regulated article shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(2) Regulated articles shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(3) If an inspector finds that an imported regulated article is so infested with a plant pest that, in the judgment of the inspector, the regulated article

cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(4) No person shall move any imported regulated article from the port of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the regulated article:

(i) Is in compliance with all applicable regulations and has been inspected and found to be apparently free of plant pests;[2] or,

(ii) Has been inspected and the inspector requires reinspection, cleaning, or treatment of the regulated article at a place other than the port of first arrival.

(b) *Notice of arrival; visual examination of regulated articles at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of regulated articles imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in any specific permit issued by APHIS[3]. This notice may be by any authorized method. The notice must include the number of any specific permit issued for the regulated articles; the name, if any, of the means of conveyance carrying the regulated articles; the type and quantity of the regulated articles; the expected date of arrival; the country of origin of the regulated articles; the name and the number, if any, of the dock or area where the regulated articles are to be unloaded; and the name of the importer or broker at the port of arrival.

(2) Imported regulated articles which have been debarked in accordance with § 319.40–7(b) and can be safely and practically inspected will be visually examined for plant pests by an inspector at the port of first arrival. If plant pests are found on or in the regulated articles or if the regulated article cannot be safely and practically inspected, the regulated articles must be treated in accordance with part 305 of this chapter.

(c) *Marking and identity of regulated articles.* Any regulated article, at the time of importation shall bear on the outer container (if in a container), on the regulated article (if not in a container), or on a document accompanying the regulated article the following information:

(1) General nature and quantity of the regulated articles;

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

(3) Name and address of the person importing the regulated article;

(4) Name and address of consignee of the regulated article;

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

(6) Number of the permit (if one was issued) authorizing the importation of the regulated article into the United States.

(d) *Sampling for plant pests at port of first arrival.* Any imported regulated article may be sampled for plant pests at the port of first arrival. If an inspector finds it necessary to order treatment of a regulated article at the port of first arrival, any sampling will be done prior to treatment.

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§ 319.40–10 Costs and charges.

The services of an inspector during regularly assigned hours of duty and at

[2] Certain regulated articles may also be subject to ''Subpart L—Fruits and Vegetables,'' or to the noxious weed regulations under part 360 of this chapter, or to Endangered Species Act regulations under parts 355 and 356 of this chapter and 50 CFR parts 17 and 23.

[3] A list of APHIS Officers in Charge may be obtained from the Administrator, c/o Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737.

the usual places of duty shall be furnished without cost to the importer.[4] The inspector may require the importer to furnish any labor, chemicals, packing materials, or other supplies required in handling regulated articles under this subpart. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50111, Sept. 18, 1998; 69 FR 52418, Aug. 26, 2004; 69 FR 55733, Sept. 16, 2004; 79 FR 19810, Apr. 10, 2014]

§319.40–11 Plant pest risk assessment standards.

When evaluating a request to import a regulated article not allowed importation under this subpart, or a request to import a regulated article under conditions other than those prescribed by this subpart, APHIS will conduct the following analysis to determine the plant pest risks associated with each requested importation in order to determine whether or not to issue a permit under this subpart or to propose regulations establishing conditions for the importation into the United States of the regulated article.

(a) *Collecting commodity information.* (1) APHIS will evaluate the application for information describing the regulated article and the origin, processing, treatment, and handling of the regulated article; and

(2) APHIS will evaluate history of past plant pest interceptions or introductions (including data from foreign countries) associated with the regulated article.

(b) *Cataloging quarantine pests.* For the regulated article specified in an application, APHIS will determine what plant pests or potential plant pests are associated with the type of tree from which the regulated article was derived, in the country and locality from which the regulated article is to be exported. A plant pest that meets one of the following criteria is a quarantine pest and will be further evaluated in accordance with paragraph (c) of this section:

(1) Non-indigenous plant pest not present in the United States;

(2) Non-indigenous plant pest, present in the United States and capable of further dissemination in the United States;

(3) Non-indigenous plant pest that is present in the United States and has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States;

(4) Native species of the United States that has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States; or

(5) Non-indigenous or native plant pest that may be able to vector another plant pest that meets one of the criteria in paragraphs (b)(1) through (4) of this section.

(c) *Determining which quarantine pests to assess.* (1) APHIS will divide quarantine pests identified in paragraph (b) of this section into groups depending upon where the plant pest is most likely to be found. The plant pests would be grouped as follows:

(i) Plant pests found on the bark;

(ii) Plant pests found under the bark; and

(iii) Plant pests found in the wood.

(2) APHIS will subdivide each of the groups in paragraph (c)(1) of this section into associated taxa.

(3) APHIS will rank the plant pests in each group in paragraph (c)(2) of this section according to plant pest risk, based on the available biological information and demonstrated plant pest importance.

(4) APHIS will identify any plant pests ranked in paragraph (c)(3) of this section for which plant pest risk assessments have previously been performed in accordance with this section. APHIS will conduct individual plant pest risk assessments for the remaining plant pests, starting with the highest ranked plant pest(s) in each group.

[4] Provisions relating to costs for other services of an inspector, including services related to extra inspection and separation of cargo from packing material for shipments that arrive without meeting the requirements of this subpart as required, are contained in part 354 of this chapter.

(5) The number of plant pests in each group to be evaluated through individual plant pest risk assessment will be based on biological similarities of members of the group as they relate to measures taken in connection with the importation of the regulated article to mitigate the plant pest risk associated with the regulated article. For example, if the plant pest risk assessment for the highest ranked plant pest indicates a need for a mitigation measure that would result in the same reduction of risk for other plant pests ranked in the group, the other members need not be subjected to individual plant pest risk assessment.

(d) *Conducting individual plant pest risk assessments.* APHIS will evaluate each of the plant pests identified in paragraph (c)(4) of this section by:

(1) Estimation of the probability of the plant pest being on, with, or in the regulated article at the time of importation;

(2) Estimation of the probability of the plant pest surviving in transit on the regulated article and entering the United States undetected;

(3) Estimation of the probability of the plant pest colonizing once it has entered into the United States;

(4) Estimation of the probability of the plant pest spreading beyond any colonized area; and

(5) Estimation of the damage to plants that could be expected upon introduction and dissemination within the United States of the plant pest.

(e) *Estimating unmitigated overall plant pest risk.* APHIS will develop an estimation of the overall plant pest risk associated with importing the regulated article based on compilation of individual plant pest risk assessments performed in accordance with paragraph (d) of this section.

(f) *Evaluating available requirements to determine whether they would allow safe importation of the regulated article.* The requirements of this subpart, and any other requirements relevant to the regulated article and plant pests involved, will be compared with the individual plant pest risk assessments in order to determine whether particular conditions on the importation of the regulated article would reduce the plant pest risk to an insignificant level. If APHIS determines that the imposition of particular conditions on the importation of the regulated article could reduce the plant pest risk to an insignificant level, and determines that sufficient APHIS resources are available to implement or ensure implementation of the conditions, APHIS will implement rulemaking to allow importation of the requested regulated article under the conditions identified by the plant pest risk assessment process.

Subpart J—Indian Corn or Maize, Broomcorn, and Related Plants

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

QUARANTINE

§ 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (Ostrinia nubilalis Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) To prevent the introduction of these plant pests, the following articles may not be imported into the United States except in accordance with this subpart: The raw or unmanufactured stalk and all other parts of Indian corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum* sudanensis), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

(c) The Administrator may authorize the importation of articles otherwise prohibited under paragraph (b) of this section under conditions specified in a controlled import permit issued in accordance with § 319.6.

(d) The importation of plants (including any plant parts) of any of the taxa listed in paragraph (b) of this section that are for planting or capable of being planted is restricted under Subpart H—Plants for Planting of this part.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001; 78 FR 25571, May 2, 2013; 83 FR 11865, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

§ 319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part 319, disposition may be made in accordance with § 330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in § 319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section and without other restriction under this subpart, but such importations are subject to the requirements of § 319.37–6(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of § 319.56–3.

[24 FR 10788, Dec. 29, 1959, as amended at 72 FR 39501, July 18, 2007; 83 FR 11865, Mar. 19, 2018]

§ 319.41b Administrative instructions prescribing conditions for entry of broomstraw without treatment.

Broomstraw, sometimes referred to as ''combed stalkless'', when consisting of individual straws entirely free from stems, stalks, stubs of stalks, and leaves, may be imported from all countries without seasonal limitation through ports of entry designated in the permit, provided it is bundled and baled to prevent breakage and scattering and to facilitate inspection, in the following manner:

(a) The broomstraw shall be assembled into bundles with the base of the individual straws at the same end, no alternating of layers being permitted.

(b) Each bundle shall be securely tied to prevent breakage.

(c) Individual bundles shall be compacted, grouped into bales, and so arranged that the butt of each bundle is exposed on the outside of the bale.

(d) Each bale shall be securely bound to prevent shifting or loosening of the bundles in transit.

(e) Broomstraw found upon inspection at the port of entry to contain stems, stalks, stubs of stalks, or leaves shall be sterilized under the supervision of an inspector. Broomstraw contaminated in the aforesaid manner, from countries other than those on the North or South American Continents or the West Indies, shall be considered as broomcorn and shall be subject to compliance with § 319.41–3(b).

[25 FR 12809, Dec. 14, 1960]

RULES AND REGULATIONS

§ 319.41–1 Plant products permitted entry.[1]

Except as restricted from certain countries and localities by special quarantines and other orders now in force,[2] and by such as may hereafter be promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41–5:

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,[3] and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

(c) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

(d) Immature, dehusked ''baby'' sweet corn may be imported from Zambia in accordance with § 319.56–2f(a).

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 71 FR 29769, May 24, 2006]

§ 319.41–2 Application for permits.

Persons contemplating the importation of any of the articles specified in § 319.41–1(b) shall first make application to the Plant Protection and Quarantine Program for a permit in accordance with §§ 319.7 through 319.7–5.

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

[79 FR 19810, Apr. 10, 2014]

§ 319.41–3 Issuance of permits.

(a) On approval by the Administrator of the application mentioned in § 319.41–2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Administrator for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, New York, and Norfolk, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will

[1] Except as provided in § 319.41–6 the regulations in this subpart do not authorize importations through the mails.

[2] The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Except as provided for in paragraph (c) for corn seed from New Zealand, seed and all other portions in the raw or unmanufactured state of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), jobs-tears (Coix), Polytoca, Chionachne, Sclerachne, and Trilobachne, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

(c) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction. (§ 319.24.).

[3] A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b)(2), permits will be issued for ports where the Plant Protection and Quarantine Programs maintains an inspection service and for such other ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41–1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

[24 FR 10788, Dec. 29, 1959, as amended at 33 FR 11811, Aug. 21, 1968; 36 FR 24917, Dec. 24, 1971; 78 FR 25571, May 2, 2013]

§ 319.41–4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the U.S. Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

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

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

§ 319.41–5 Condition of entry.

(a) The entry of the articles covered by § 319.41–1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Protection and Quarantine Programs, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or treatment in accordance with part 305 of this chapter, as the inspector may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment in accordance with part 305 of this chapter, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment in accordance with part 305 of this chapter is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value, if such value be less than $5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

(c) Should a shipment requiring sterilization or other treatment in accordance with part 305 of this chapter under the provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment in accordance with part 305 of this chapter are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment in accordance with part 305 of this chapter are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in § 319.41–1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment in accordance with part 305 of this chapter as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such treatment of the included stems as in the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in § 319.41–1 (b)(2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment in accordance with part 305 of this chapter or may refuse entry.

[24 FR 10788, Dec. 29, 1959, as amended at 75 FR 4252, Jan. 26, 2010]

§ 319.41–6 Importations by mail.

In addition to entries by freight or express provided for in § 319.41–5, importations are permitted by mail of mature corn on the cob from the countries specified in § 319.41–1(b)(2), and clean shelled corn and clean seed of the other plants covered by § 319.41, provided that a permit has been issued for the importation in accordance with §§ 319.7 through 319.7–5 and all conditions of the permit are met.

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

[79 FR 19810, Apr. 10, 2014]

Subpart K—Rice

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

QUARANTINE

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given:

(1) That injurious fungal diseases of rice, including downy mildew (*Sclerospora macrospora*), leaf smut (*Entyloma oryzae*), blight (*Oospora oryzetorum*), and glume blotch (*Melanomma glumarum*), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of rice straw and rice hulls; and

(2) That the unrestricted importation of rice straw and rice hulls may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) To prevent the introduction into the United States of the plant pests and diseases indicated above, the Secretary has determined that it is necessary to restrict the importation of rice straw and rice hulls from all foreign locations, except as otherwise provided in this subpart.

(c) The Administrator may authorize the importation of articles otherwise prohibited by this subpart under conditions specified in a controlled import permit issued in accordance with § 319.6.

(d) The importation of seed or paddy rice is restricted under Subpart H—Plants for Planting of this part.

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

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001; 78 FR 25571, May 2, 2013; 83 FR 11865, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port of entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55–6 and 319.55–7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

RULES AND REGULATIONS

§ 319.55–1 Definitions.

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Protection and Quarantine Programs of the United States Department of Agriculture.

§ 319.55–2 Application for permit.

Application for a permit to import from any country rice straw or rice hulls may be made to the Plant Protection and Quarantine Programs in accordance with §§ 319.7 through 319.7–5.

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

[79 FR 19811, Apr. 10, 2014, as amended at 83 FR 11865, Mar. 19, 2018]

§ 319.55–3 Ports of entry.

(a) For importations of rice straw and rice hulls, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(b) Pending development of adequate treating facilities in Guam, rice straw and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(c) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for treatment are available, or it shall be refused entry.

[79 FR 19811, Apr. 10, 2014, as amended at 83 FR 11865, Mar. 19, 2018]

§ 319.55–4 [Reserved]

§ 319.55–5 Notice of arrival by permittee.

Immediately upon the arrival of a shipment at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel and the designation of the dock where the shipment is to be landed.

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

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

§ 319.55–6 Inspection and disinfection at port of arrival.

(a) [Reserved]

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and

to treatment in accordance with part 305 of this chapter at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Protection and Quarantine Programs and, as a further condition of entry, in order to permit effective treatment in accordance with part 305 of this chapter, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(3) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(4) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

[24 FR 10788, Dec. 29, 1959, as amended at 75 FR 4252, Jan. 26, 2010; 83 FR 11865, Mar. 19, 2018]

§ 319.55–7 Importations by mail.

Importations of rice straw and rice hulls may be made by mail or cargo, provided that a permit has been issued for the importation in accordance with §§ 319.7 through 319.7–5 and all conditions of the permit are met.

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

[83 FR 11865, Mar. 19, 2018]

Subpart L—Fruits and Vegetables

SOURCE: 72 FR 39501, July 18, 2007, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.56–1 Notice of quarantine.

(a) Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to prohibit the importation into the United States of fruits and vegetables and associated plants and portions of plants except as provided in this part.

§ 319.56–2 Definitions.

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

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

Commercial consignment. A lot of fruits or vegetables that an inspector identifies as having been imported for sale and distribution. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Commodity. A type of plant, plant product, or other regulated article being moved for trade or other purpose.

Consignment. A quantity of plants, plant products, and/or other articles,

including fruits or vegetables, being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more commodities or lots).

Continental United States. The 48 contiguous States, Alaska, and the District of Columbia.

Country of origin. Country where the plants from which the plant products are derived were grown.

Frozen fruit or vegetable. Any variety of raw fruit or vegetable preserved by commercially acceptable freezing methods in such a way that the commodity remains at −6.7 °C (20 °F) or below for at least 48 hours prior to release.

Fruits and vegetables. A commodity class for fresh parts of plants intended for consumption or processing and not for planting.

Import and importation. To move into, or the act of movement into, the territorial limits of the United States.

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

Lot. A number of units of a single commodity, identifiable by its homogeneity of composition and origin, forming all or part of a consignment.

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

Noncommercial consignment. A lot of fruits or vegetables that an inspector identifies as having been imported for personal use and not for sale.

Permit. A written, oral, or electronically transmitted authorization to import fruits or vegetables in accordance with this subpart.

Phytosanitary certificate. A document, including electronic versions, that is related to a consignment and that:

(1) Is patterned after the model certificate of the International Plant Protection Convention (IPPC), a multilateral convention on plant protection under the authority of the Food and Agriculture Organization of the United Nations (FAO);

(2) Is issued by an official of a foreign national plant protection organization in one of the five official languages of the FAO;

(3) Is addressed to the plant protection service of the United States (Animal and Plant Health Inspection Service);

(4) Describes the consignment;

(5) Certifies the place of origin for all contents of the consignment;

(6) Certifies that the consignment has been inspected and/or tested according to appropriate official procedures and is considered to be free from quarantine pests of the United States;

(7) Contains any additional declarations required by this subpart; and

(8) Certifies that the consignment conforms with the phytosanitary requirements of the United States and is considered eligible for importation pursuant to the laws and regulations of the United States.

Phytosanitary measure. Any legislation, regulation, or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests.

Plant litter and debris. Discarded or decaying organic matter; detached leaves, twigs, or stems that do not add commercial value to the product.

Port of first arrival. The first port within the United States where a consignment is offered for consumption entry or offered for entry for immediate transportation in bond.

Portions of plants. Stalks or stems, including the pediculus, pedicel, peduncle, raceme, or panicle, that are normally attached to fruits or vegetables.

Quarantine pest. A pest of potential economic importance to the area endangered by it and not yet present there, or present but not widely distributed there and being officially controlled.

United States. All of the States of the United States, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, and any other

territory or possession of the United States.

[72 FR 39501, July 18, 2007, as amended at 73 FR 10972, Feb. 29, 2008; 80 FR 55018, Sept. 14, 2015; 83 FR 46638, Sept. 14, 2018]

§ 319.56–3 General requirements for all imported fruits and vegetables.

All fruits and vegetables that are allowed importation under this subpart must be imported in accordance with the following requirements, except as specifically provided otherwise in this subpart.

(a) *Freedom from unauthorized plant parts.* All fruits and vegetables imported under this subpart, whether in commercial or noncommercial consignments, must be free from plant litter or debris and free of any portions of plants that are specifically prohibited in the regulations in this subpart.

(b) *Permit.* (1) All fruits and vegetables imported under this subpart, whether commercial or noncommercial consignments, must be imported under permit issued by APHIS, must be imported under the conditions specified in the permit, and must be imported in accordance with all applicable regulations in this part; *except* for:

(i) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, except certain acorns and chestnuts subject to § 319.56–11 of this subpart;

(ii) Fruits and vegetables grown in Canada (except potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road, which are prohibited importation into the United States); and

(iii) Fruits and vegetables, except mangoes, grown in the British Virgin Islands that are imported into the U.S. Virgin Islands.

(2) Persons contemplating the importation of any fruits or vegetables under this subpart must apply for a permit in accordance with §§ 319.7 through 319.7–5.

(c) *Ports of entry.* (1) Fruits and vegetables must be imported into specific ports if so required by this subpart or by part 305 of this chapter, or if so required by a permit issued in accordance with this section and with §§ 319.7 through 319.7–5 for the importation of the particular fruit or vegetable. If a permit issued for the importation of fruits or vegetables names specific port(s) where the fruits or vegetables must be imported, the fruits and vegetables may only be imported into the port(s) named in the permit. If a permit issued for the importation of fruits or vegetables does not name specific port(s) where the fruits or vegetables must be imported, the fruits and vegetables may be imported into any port referenced in paragraph (c)(2) of this section.

(2) Fruits and vegetables imported under this subpart may be imported into any port listed in 19 CFR 101.3(b)(1), except as otherwise provided by part 319 or by a permit issued in accordance with part 319, and except as provided in § 330.104 of this chapter. Fruits and vegetables that are to be cold treated at ports in the United States may only be imported into specific ports as provided in part 305 of this chapter.

(d) *Inspection, treatment, and other requirements.* All imported fruits or vegetables are subject to inspection, are subject to such disinfection at the port of first arrival as may be required by an inspector, and are subject to reinspection at other locations at the option of an inspector. If an inspector finds plants or portions of plants, or a plant pest or noxious weed, or evidence of a plant pest or noxious weed on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests or noxious weeds, the owner or agent of the owner of the fruit or vegetable must clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable is also subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place until all applicable requirements of this subpart have been accomplished.

(1) *Notice of arrival; assembly for inspection.* Any person importing fruits and vegetables into the United States must offer those agricultural products for inspection and entry at the port of first arrival. The owner or agent must

assemble the fruits and vegetables for inspection at the port of first arrival, or at any other place designated by an inspector, and in a manner designated by the inspector. All fruits and vegetables must be accurately disclosed and made available to an inspector for examination. The owner or the agent must provide an inspector with the name and address of the consignee and must make full disclosure of the type, quantity, and country and locality of origin of all fruits and vegetables in the consignment, either orally for noncommercial consignments or on an invoice or similar document for commercial consignments.

(2) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited, or is not accompanied by required documentation, or is so infested with a plant pest or noxious weed that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot or consignment may be refused entry into the United States.

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

(i) Released it;

(ii) Ordered treatment at the port of first arrival and, after treatment, released the fruit or vegetable;

(iii) Authorized movement of the fruit or vegetable to another location for treatment, further inspection, or destruction; or

(iv) Ordered the fruit or vegetable to be reexported.

(4) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, recall, destruction, or other action with regard to imported fruits or vegetables while the consignment is in foreign commerce, the inspector will issue an emergency action notification (PPQ Form 523) to the owner of the fruits or vegetables or to the owner's agent. The owner must, within the time and in the manner specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed to prevent the introduction of plant pests or noxious weeds into the United States.

(e) *Costs and charges.* APHIS will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.[1] The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, destruction, or other measures ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

(f) *APHIS not responsible for damage.* APHIS assumes no responsibility for any damage to fruits or vegetables that results from the application of treatments or other measures required under this subpart (or under part 305 of this chapter) to protect against the introduction of plant pests into the United States.

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

[72 FR 39501, July 18, 2007, as amended at 73 FR 10972, Feb. 29, 2008; 75 FR 4252, Jan. 26, 2010; 79 FR 19811, Apr. 10, 2014]

§ 319.56–4 Authorization of certain fruits and vegetables for importation.

(a) *Determination by the Administrator.* No fruit or vegetable is authorized importation into the United States unless the Administrator has determined that the risk posed by each quarantine pest associated with the fruit or vegetable can be reasonably mitigated by the application of one or more phytosanitary measures designated by the Administrator and the fruit or vegetable is imported into the United States in accordance with, and as stipulated in, the permit issued by the Administrator.

(b) *Designated phytosanitary measures.* (1) The fruits and vegetables are subject to phytosanitary treatments, which could include, but are not limited to, pest control treatments in the

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

field or growing site, and post-harvest treatments.

(2) The fruits and vegetables are subject to growing area pest mitigations, which could include, but are not limited to detection surveys, trapping requirements, pest exclusionary structures, and field inspections.

(3) The fruits and vegetables are subject to safeguarding and movement mitigations, which could include, but are not limited to, safeguarded transport, box labeling, limited distribution, insect-proof boxes, and importation as commercial consignments only.

(4) The fruits and vegetables are subject to administrative mitigations, which could include, but are not limited to, registered fields or orchards, registered growing sites, registered packinghouses, inspection in the country of origin by an inspector or an official of the national plant protection organization of the exporting country, and operational workplan monitoring.

(5) The fruits and vegetables are subject to any other measures deemed appropriate by the Administrator.

(c) *Authorized fruits and vegetables*—(1) *Comprehensive list.* The name and origin of all fruits and vegetables authorized importation under this section, as well as the applicable requirements for their importation, may be found on the internet at *https://acir.aphis.usda.gov/s/*''

(2) *Fruits and vegetables authorized importation prior to October 15, 2018.* Fruits and vegetables that were authorized importation under this subpart either directly by permit or by specific regulation as of October 15, 2018 may continue to be imported into the United States under the same requirements that applied before October 15, 2018, except as provided in paragraph (c)(4) of this section.

(3) *Other fruits and vegetables.* Fruits and vegetables not already authorized for importation as described in paragraph (c)(2) of this section may be authorized importation only after:

(i) APHIS has analyzed the pest risk posed by the importation of a fruit or vegetable from a specified foreign region and has determined that the risk posed by each quarantine pest associated with the fruit or vegetable can be reasonably mitigated by the application of one or more phytosanitary measures;

(ii) APHIS has made its pest risk analysis and determination available for public comment for at least 60 days through a notice published in the FEDERAL REGISTER; and

(iii) The Administrator has announced his or her decision in a subsequent FEDERAL REGISTER notice to authorize the importation of the fruit or vegetable subject to the phytosanitary measures specified in the notice.

(4) *Changes to phytosanitary measures.* (i) If the Administrator determines that the phytosanitary measures required for a fruit or vegetable that has been authorized importation under this subpart are no longer sufficient to reasonably mitigate the pest risk posed by the fruit or vegetable, APHIS will prohibit or further restrict importation of the fruit or vegetable. APHIS will also publish a notice in the FEDERAL REGISTER advising the public of its finding. The notice will specify the amended importation requirements, provide an effective date for the change, and will invite public comment on the subject.

(ii) If the Administrator determines that any of the phytosanitary measures required for a fruit or vegetable that has been authorized importation under this subpart are no longer necessary to reasonably mitigate the pest risk posed by the fruit or vegetable, APHIS will make new pest risk documentation available for public comment, in accordance with paragraph (c)(3) of this section, prior to allowing importation of the fruit or vegetable subject to the phytosanitary measures specified in the notice.

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

[83 FR 46638, Sept. 14, 2018, as amended at 89 FR 79734, Oct. 1, 2024]

§ 319.56–5 Pest-free areas.

As provided elsewhere in this subpart, certain fruits and vegetables may be imported into the United States provided that the fruits or vegetables originate from an area that is free of a specific pest or pests. In some cases, fruits or vegetables may only be imported if the area of export is free of all quarantine pests that attack the fruit or vegetable. In other cases, fruits and

vegetables may be imported if the area of export is free of one or more quarantine pests that attack the fruit or vegetable, and provided that the risk posed by the remaining quarantine pests that attack the fruit or vegetable is mitigated by other specific phytosanitary measures contained in the regulations in this subpart.

(a) *Application of international standard for pest free areas.* APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standard for Phytosanitary Measures No. 4, ''Requirements for the establishment of pest free areas.'' The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in §300.5 of this chapter.

(b) *Survey protocols.* APHIS must approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

(c) *Determination of pest freedom.* (1) For an area to be considered free of a specified pest for the purposes of this subpart, the Administrator must determine, and announce in a notice or rule published in the FEDERAL REGISTER for 60 days public comment, that the area meets the criteria of paragraphs (a) and (b) of this section.

(2) The Administrator will announce his or her decision in a subsequent FEDERAL REGISTER notice. If appropriate, APHIS would begin issuing permits for importation of the fruit or vegetable from a pest-free area because:

(i) No comments were received on the notice or

(ii) The comments on the notice did not affect the overall conclusions of the notice and the Administrator's determination of risk.

(d) *Decertification of pest-free areas; reinstatement.* If a pest is detected in an area that is designated as free of that pest, APHIS would publish in the FEDERAL REGISTER a notice announcing that the pest-free status of the area in question has been withdrawn, and that imports of host crops for the pest in question are subject to application of an approved treatment for the pest. If a treatment for the pest is not available, importation of the host crops would be prohibited. In order for a decertified pest-free area to be reinstated, it would have to meet the criteria of paragraphs (a) and (b) of this section.

(e) *General requirements for fruits and vegetables imported from pest-free areas.* (1) *Labeling.* Each box of fruits or vegetables that is imported into the United States from a pest-free area under this subpart must be clearly labeled with:

(i) The name of the orchard or grove of origin, or the name of the grower; and

(ii) The name of the municipality and State in which the fruits or vegetables were produced; and

(iii) The type and amount of fruit the box contains.

(2) *Phytosanitary certificate.* A phytosanitary certificate must accompany the imported fruits or vegetables, and must contain an additional declaration that the fruits originate from a pest-free area that meets the requirements of paragraphs (a) and (b) of this section.

(3) *Safeguarding.* If fruits or vegetables are moved from a pest-free area into or through an area that is not free of that pest, the fruits or vegetables must be safeguarded during the time they are present in a non-pest-free area by being covered with insect-proof mesh screens or plastic tarpaulins, including while in transit to the packinghouse and while awaiting packaging. If fruits or vegetables are moved through an area that is not free of that pest during transit to a port, they must be packed in insect-proof cartons or containers or be covered by insect-proof mesh or plastic tarpaulins during transit to the port and subsequent export to the United States. These safeguards described in this section must be intact upon arrival in the United States.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0316 and 0579–0293)

§ 319.56–6 Trust fund agreements.

If APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of fruits or vegetables and APHIS services are to be funded by the national plant protection organization (NPPO) of the exporting country or a private export group, then the NPPO or the private export group must enter into a trust fund agreement with APHIS that is in effect at the time the fruits or vegetables are exported. Under the agreement, the NPPO of the exporting country or the private export group must pay in advance all estimated costs that APHIS expects to incur in providing inspection services in the exporting country. These costs will include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing services. The agreement must require the NPPO of the exporting country or region or a private export group to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. The agreement must further specify that, if the deposit is not sufficient to meet all costs incurred by APHIS, the NPPO of the exporting country or a private export group must deposit with APHIS, before the services will be completed, a certified or cashier's check for the amount of the remaining costs, as determined by APHIS. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the NPPO of the exporting country or region or a private export group, or held on account.

§ 319.56–7 Territorial applicability and exceptions.

(a) The regulations in this subpart apply to importations of fruits and vegetables into any area of the United States, except as provided in this section.

(b) *Importations of fruits and vegetables into Guam.* (1) The following fruits and vegetables may be imported into Guam without treatment, except as may be required under § 319.56–3(d), and in accordance with all the requirements of this subpart as modified by this section:

(i) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(ii) All fruits and vegetables from Palau and the Federated States of Micronesia (FSM), except *Artocarpus* spp. (breadfruit, jackfruit, and chempedak), citrus, curacao apple, guava, Malay or mountain apple (*Syzygium* spp.), mango, and papaya, and except dasheen from the Yap district of FSM and from Palau, and bitter melon (*Momordica charantia*) from Palau. The excepted products are approved for entry into Guam after treatment in accordance with part 305 of this chapter.

(iii) *Allium* (without tops), artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons from Japan and Korea.

(iv) Leafy vegetables, celery, and potatoes from the Philippine Islands.

(v) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops) from Australia.

(vi) Arrowroot, asparagus, bean sprouts, broccoli, cabbage, carrots (without tops), cassava, cauliflower, celery, chives, cow-cabbage, dasheen, garlic, gingerroot, horseradish, kale, kudzu, leek, lettuce, onions, Portuguese cabbage, turnip, udo, water chestnut, watercress, waterlily root, and yam bean root from Taiwan.

(vii) Lettuce from Papua New Guinea.

(viii) Carrots (without tops), celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits from New Zealand.

(ix) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(x) Green corn on the cob.

(xi) All other fruits and vegetables approved for entry into any other part or port of the United States, and except any which are specifically designated in this subpart as not approved.

(2) An inspector in Guam may accept an oral application and issue an oral permit for products listed in paragraph (a) of this section, which is deemed to fulfill the requirements of §319.56–3(b) of this subpart. The inspector may waive the documentation required in §319.56–3 for such products whenever the inspector finds that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(3) The provisions of §319.56–11 do not apply to chestnuts and acorns imported into Guam, which are enterable into Guam without permit or other restriction under this subpart. If chestnuts or acorns imported under this paragraph are found infected, infested, or contaminated with any plant pest and are not subject to disposal under this subpart, disposition may be made in accordance with §330.106 of this chapter.

(4) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting §319.56–3(a).

(c) *Importation of fruits and vegetables into the U.S. Virgin Islands.* (1) Fruits and vegetables grown in the British Virgin Islands may be imported into the U.S. Virgin Islands in accordance with §319.56–3, except that:

(i) Such fruits and vegetables are exempt from the permit requirements of §319.56–3(b); and

(ii) Mangoes grown in the British Virgin Islands are prohibited entry into the U.S. Virgin Islands.

(2) Okra produced in the West Indies may be imported into the U.S. Virgin Islands without treatment but are subject to inspection at the port of arrival.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

§§319.56–8—319.56–9 [Reserved]

§319.56–10 Importation of fruits and vegetables from Canada.

(a) *General permit for fruits and vegetables grown in Canada.* Fruits and vegetables grown in Canada and offered for entry into the United States will be subject to the inspection, treatment, and other requirements of §319.56–3(d), but may otherwise be imported into the United States without restriction under this subpart; provided, that:

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

(2) Potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with §319.37–20.

(b) [Reserved]

(Approved by the Office of Management and Budget under control number 0579–0316)

[72 FR 39501, July 18, 2007, as amended at 83 FR 11865, Mar. 19, 2018]

§319.56–11 Importation of dried, cured, or processed fruits, vegetables, nuts, and legumes.

(a) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit, phytosanitary certificate, or other compliance with this subpart, except as specifically provided otherwise in this section or elsewhere in this part.

(b) *Acorns and chestnuts*—(1) *From countries other than Canada and Mexico; treatment required.* Acorns and chestnuts intended for purposes other than propagation, except those grown in and shipped from Canada and Mexico, must be imported into the United States under permit, and subject to all the requirements of §319.56–3, and must be treated in accordance with part 305 of this chapter.[2]

(2) *From Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes

[2] Acorns and chestnuts imported into Guam are subject to the requirements of §319.56–7(b).

other than propagation may be imported in accordance with paragraph (a) of this section.

(3) *For propagation.* Acorns and chestnuts from any country may be imported for propagation only in accordance with the applicable requirements in §§ 319.37–1 through 319.37–23.

(c) *Macadamia nuts.* Macadamia nuts in the husk or shell are prohibited importation into the United States unless the macadamia nuts were produced in, and imported from, St. Eustatius.

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010; 83 FR 11866, Mar. 19, 2018]

§ 319.56–12 Importation of frozen fruits and vegetables.

Frozen fruits and vegetables may be imported into the United States in accordance with § 319.56–3. Such fruits and vegetables must be held in accordance with the requirements for importing frozen fruits and vegetables in part 305 of this chapter..

[72 FR 39501, July 18, 2007, as amended at 75 FR 4252, Jan. 26, 2010]

Subpart M—Wheat Diseases

SOURCE: 70 FR 8231, Feb. 18, 2005, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019

§ 319.59–1 Definitions.

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

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

From. An article is considered to be ''from'' any country or locality in which it was grown.

Grain. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) used for consumption or processing and not for planting.

Hay. Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

Host crops. Plants or plant parts, including grain, seed, or hay, of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*).

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

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

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

Seed. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) used for propagation.

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

Straw. The vegetative material left after the harvest of host crops. Straw is generally used as animal feed or bedding, as mulch, or for erosion control.

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

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005; 78 FR 25571, May 2, 2013; 83 FR 11866, Mar. 19, 2018]

§ 319.59–2 General import prohibitions; exceptions.

(a) [Reserved]

(b) Articles listed in § 319.59–3 as prohibited importation pending risk evaluation, and articles regulated for Karnal bunt in § 319.59–4(a) may be imported for experimental, therapeutic, or developmental purposes under a controlled import permit issued in accordance with § 319.6 if:

(1) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Center East, Beltsville, MD 20705, or through any USDA plant inspection station listed in accordance with § 319.37–8(a);

(2) Imported pursuant to a controlled import permit issued for such article and kept on file at the National Plant Germplasm Inspction Station;

(3) Imported under conditions of treatment, processing, growing, shipment, or disposal specified on the controlled import permit and found by the Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases, injurious insects, and other plant pests, and

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

(c) The importation of any host crops (including seed and any other plant parts) that are for planting or capable of being planted is restricted under Subpart H—Plants for Planting of this part.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005; 72 FR 43523, Aug. 6, 2007; 78 FR 25571, May 2, 2013; 83 FR 11866, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

§ 319.59–3 Articles prohibited importation pending risk evaluation.

The articles listed in paragraph (a) of this section from the countries and localities listed in paragraph (b) of this section are prohibited from being imported or offered for entry into the United States, except as provided in § 319.59–2(b), pending the completion of an evaluation by APHIS of the potential pest risks associated with the articles. The national plant protection organization of any listed country or locality may contact APHIS[1] to initiate the preparation of a risk evaluation. If supported by the results of the risk evaluation, APHIS will take action to remove that country or locality from the list in paragraph (b) of this section.

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass): Straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour.

(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005; 83 FR 11866, Mar. 19, 2018]

§ 319.59–4 Karnal bunt.

(a) *Regulated articles.* The following are regulated articles for Karnal bunt:

(1) Conveyances, including trucks, railroad cars, and other containers used to move host crops from a region listed in paragraph (b)(1) of this section that test positive for Karnal bunt through the presence of bunted kernels;

(2) Plant parts, including grain, straw, or hay, of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) from a region listed in paragraph (b)(1) of this section, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to

[1] Requests should be submitted in writing to Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236.

movement and are intended for use indoors;

(3) *Tilletia indica* (Mitra) Mundkur;

(4) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(5) Seed conditioning equipment and storage/handling equipment that has been used in the production of wheat, durum wheat, or triticale seed found to contain the spores of *Tilletia indica*.

(b)(1) Karnal bunt is known to occur in the following regions: Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, and South Africa.

(2) The Administrator may recognize an area within a region listed in paragraph (b)(1) of this section as an area free of Karnal bunt whenever he or she determines that the area meets the requirements of the International Standard for Phytosanitary Measures (ISPM) No. 4, ''Requirements for the establishment of pest free areas.'' The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in § 300.5 of this chapter. APHIS will publish a notice in the FEDERAL REGISTER and maintain on an APHIS Web site a list of the specific areas that are approved as areas in which Karnal bunt is not known to occur in order to provide the public with current, valid information. Areas listed as being free from Karnal bunt are subject to audit by APHIS to verify that they continue to merit such listing.

(c) *Handling, inspection and phytosanitary certificates.* Unless otherwise prohibited under § 319.59–3 of this subpart, any articles described in paragraph (a)(2) of this section that are from a region listed in paragraph (b)(1) of this section may be imported into the United States subject to the following conditions:

(1) The articles must be from an area that has been recognized, in accordance with paragraph (b)(2) of this section, to be an area free of Karnal bunt, or the articles have been tested and found to be free of Karnal bunt;

(2) The articles have not been commingled prior to arrival at a U.S. port of entry with articles from areas where Karnal bunt is known to occur;

(3) The articles offered for entry must be made available to an inspector for examination and remain at the port until released, or authorized further movement pending release, by an inspector; and

(4) The articles must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that includes the following additional declaration: ''These articles originated in an area where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores.''

(d) *Treatments.* (1) Prior to entry into the United States, the following articles must be cleaned by removing any soil and plant debris that may be present.

(i) All conveyances and mechanized harvesting equipment used for storing and handling wheat, durum wheat, or triticale that tested positive for Karnal bunt based on bunted kernels.

(ii) All grain storage and handling equipment used to store or handle seed that has tested spore positive or grain that has tested bunted-kernel positive.

(iii) All seed-conditioning equipment used to store or handle seed that has tested spore-positive.

(2) Articles listed in paragraphs (d)(1)(i) and (d)(1)(ii) of this section will require disinfection in addition to cleaning prior to entry into the United States if an inspector or an official of the plant protection organization of the country of origin determines that disinfection is necessary to prevent the spread of Karnal bunt. Disinfection is required for all seed conditioning equipment covered under paragraph (d)(1)(iii) prior to entry into the United States.

(3) Items that require disinfection prior to entry into the United States must be disinfected in accordance with part 305 of this chapter.

(Approved by the Office of Management and Budget under control number 0579–0240)

[70 FR 8231, Feb. 18, 2005, as amended at 75 FR 4253, Jan. 26, 2010; 83 FR 11866, Mar. 19, 2018]

Subpart N—Packing Materials

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

QUARANTINE

§319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named in this paragraph (a), exceptions to the prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Organic decaying vegetative matter from all countries, unless the matter is expressly authorized to be used as a packing material in this part. Exceptions to the prohibitions in paragraphs (a)(1) through (7) of this section may be authorized in the case of specific materials which has been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) The following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations in this subpart:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by §319.59 of this part from any country or locality listed in §319.59–2 of this part.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(c) The importation of plants and plant products that are prohibited or restricted under paragraphs (a) and (b) of this section may be authorized for experimental, therapeutic, or developmental purposes under conditions specified in a controlled import permit issued in accordance with §319.6.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

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

[24 FR 10788, Dec. 29, 1959, as amended at 26 FR 9333, Oct. 4, 1961; 36 FR 24917, Dec. 24, 1971; 60 FR 27682, May 25, 1995; 63 FR 31102, June 8, 1998; 78 FR 25571, May 2, 2013; 84 FR 29958, June 25, 2019]

§319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in §319.69.

(a) Plants and products designated in §319.69(a)(1), (3), (4), and (5) and (b)(1) and (3) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may

be made in accordance with § 330.106 of this chapter.

(b) Corn and allied plants listed in § 319.69(a)(2) may be imported into Guam subject to the requirements of §§ 319.69–2, 319.69–3, and 319.69–4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37–11.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27682, May 25, 1995; 62 FR 65009, Dec. 10, 1997; 83 FR 11866, Mar. 19, 2018]

RULES AND REGULATIONS

§ 319.69–1 Definitions.

(a) *Packing materials.* The expression ''packing material'', as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word ''packing'', as used in the expression ''packing materials'', shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.[1]

(b) *Inspector.* An inspector of the U.S. Department of Agriculture.

[75 FR 17292, Apr. 6, 2010, as amended at 84 FR 29958, June 25, 2019]

§ 319.69–2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

§ 319.69–3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

§ 319.69–4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, the inspector may refuse entry to the shipment, or the inspector may seize and destroy or otherwise dispose of such packing material, or the inspector may require it to be replaced, or sterilized, or otherwise treated.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33326, June 7, 2005]

§ 319.69–5 Types of organic decaying vegetative matter authorized for packing.

The following types of organic decaying vegetative matter are authorized as safe for packing:

(a) Peat;

(b) Peat moss; and

(c) Osmunda fiber.

[84 FR 29958, June 25, 2019]

Subpart O—Coffee

SOURCE: 63 FR 65650, Nov. 30, 1998, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.73–1 Definitions.

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

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

Sample. Unroasted coffee not for commercial resale. Intended use includes, but is not limited to, evaluation, testing, or market analysis.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

Unroasted coffee. The raw or unroasted seeds or beans of coffee intended for processing.

[63 FR 65650, Nov. 30, 1998, as amended at 83 FR 11866, Mar. 19, 2018]

[1] Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

§ 319.73–2 Products prohibited importation.

(a) To prevent the spread of the coffee berry borer *Hypothenemus hampei* (Ferrari) and the fungus *Hemileia vastatrix* (Berkely and Broome), which causes an injurious rust disease, the following articles are prohibited importation into Hawaii and Puerto Rico, except as provided in § 319.73–3 of this subpart:

(1) Unroasted coffee;

(2) Coffee leaves; and

(3) Empty sacks previously used for unroasted coffee.

(b) The importation of any coffee plants (including bare seeds, seeds in pulp, and any other plant parts) that are for planting or capable of being planted is restricted under Subpart H—Plants for Planting of this part.

[63 FR 65650, Nov. 30, 1998, as amended at 83 FR 11866, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

§ 319.73–3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) *Mail.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico en route to other destinations and that are packaged to prevent the escape of any plant pests may proceed without action by an inspector. Packaging that would prevent the escape of plant pests includes, but is not limited to, sealed cartons, airtight containers, or vacuum packaging. Samples of unroasted coffee received by mail but not packaged in this manner are subject to inspection and safeguard by an inspector. These samples must be returned to origin or forwarded to a destination outside Hawaii or Puerto Rico in a time specified by an inspector and in packaging that will prevent the escape of any plant pests. If this action is not possible, the samples must be destroyed.

(b) *Cargo.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico as cargo and that remain on the carrier may proceed to a destination outside Hawaii or Puerto Rico without action by an inspector. Samples may be transshipped in Puerto Rico or Hawaii only after an inspector determines that they are packaged to prevent the escape of any plant pests. Samples that are not packaged in this manner must be rewrapped or packaged in a manner prescribed by an inspector to prevent the escape of plant pests before the transshipment will be allowed.

(c) Other mail, cargo, and baggage shipments of articles covered by § 319.73–2 arriving in Puerto Rico or Hawaii may not be unloaded or transshipped in Puerto Rico or Hawaii and are subject to inspection and other applicable requirements of the Plant Safeguard Regulations (part 352 of this chapter).

§ 319.73–4 Costs.

All costs of inspection, packing materials, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart will be borne by the owner, importer, or agent of the owner or importer, including a broker. The services of an inspector during regularly assigned hours of duty and at the usual places of duty will be furnished without cost to the importer.

Subpart P—Cut Flowers

SOURCE: 64 FR 38110, July 15, 1999, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.74–1 Definitions.

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

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

Cut flower. The highly perishable commodity known in the commercial flower-producing industry as a cut flower, which is the severed portion of a plant, including the inflorescence and any parts of the plant attached to it, in a fresh state and not for planting. This

definition does not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; or Christmas greenery, such as holly, mistletoe, and Christmas trees.

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

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

[64 FR 38110, July 15, 1999, as amended at 78 FR 25571, May 2, 2013; 83 FR 11866, Mar. 19, 2018]

§ 319.74–2 Conditions governing the entry of cut flowers.

(a) *Inspection*. All cut flowers imported into the United States must be made available to an inspector for examination at the port of first arrival and must remain at the port of first arrival until released, or authorized further movement, by an inspector.

(b) *Actions to prevent the introduction of plant pests; notice by an inspector*. If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported cut flowers that are found to be infested with injurious plant pests or infected with diseases, the inspector will provide an emergency action notification (PPQ Form 523) to the importer, owner, or agent or representative of the importer or owner of the cut flowers. The importer, owner, or agent or representative of the importer or owner must, within the time specified in the PPQ Form 523 and at his or her own expense, destroy the cut flowers, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments, clean, or apply other safeguards to the cut flowers as prescribed by the inspector on the PPQ Form 523. Further, if the importer, owner, or agent or representative of the importer or owner fails to follow the conditions on PPQ Form 523 by the time specified on the form, APHIS will arrange for destruction of the cut flowers, and the importer, owner, or agent or representative of the importer or owner will be responsible for all costs incurred. Cut flowers that have been cleaned or treated must be made available for further inspection, cleaning, and treatment at the option of the inspector at any time and place indicated by the inspector before the requirements of this subpart will have been met. Neither the Department of Agriculture nor the inspector may be held responsible for any adverse effects of treatment on imported cut flowers.

(c) *Fumigation for agromyzids*. Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) must be fumigated at the time of importation with methyl bromide in accordance with part 305 of this chapter, with the following exceptions:

(1) Fumigation will not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids.

(2) Fumigation will not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

(d) *Chrysanthemum white rust hosts*. (1) The following *Chrysanthemum*, *Leucanthemella*, and *Nipponanthemum* spp. are considered to be hosts of chrysanthemum white rust:

Accepted name of susceptible species	Synonyms	Common name
Chrysanthemum arcticum L.	*Arctanthemum arcticum* (L.) Tzvelev and *Dendranthema arcticum* (L.) Tzvelev.	Arctic chrysanthemum and arctic daisy.
Chrysanthemum boreale (Makino) Makino.	*Chrysanthemum indicum* L. var. *boreale* Makino and *Dendranthema boreale* (Makino) Ling ex Kitam.	
Chrysanthemum indicum L.	*Dendranthema indicum* (L.) Des Moul.	
Chrysanthemum japonense Nakai ..	*Dendranthema japonense* (Nakai) Kitam. and *Dendranthema occidentali-japonense* Kitam.	Nojigiku.

Accepted name of susceptible species	Synonyms	Common name
Chrysanthemum japonicum Makino	*Chrysanthemum makinoi* Matsum. & Nakai and *Dendranthema japonicum* (Makino) Kitam.	Ryuno-giku.
Chrysanthemum × *morifolium* Ramat.	*Anthemis grandiflorum* Ramat., *Anthemis stipulacea* Moench, *Chrysanthemum sinense* Sabine ex Sweet, *Chrysanthemum stipulaceum* (Moench) W. Wight, *Dendranthema* × *grandiflorum* (Ramat.) Kitam., *Dendranthema* × *morifolium* (Ramat.) Tzvelev, and *Matricaria morifolia* Ramat.	Florist's chrysanthemum, chrysanthemum, and mum.
Chrysanthemum pacificum Nakai ...	*Ajania pacifica* (Nakai) K. Bremer & Humphries and *Dendranthema pacificum* (Nakai) Kitam.	Iso-giku.
Chrysanthemum shiwogiku Kitam ..	*Ajania shiwogiku* (Kitam.) K. Bremer & Humphries and *Dendranthema shiwogiku* (Kitam.) Kitam.	Shio-giku.
Chrysanthemum yoshinaganthum Makino ex Kitam.	*Dendranthema yoshinaganthum* (Makino ex Kitam.) Kitam.	
Chrysanthemum zawadskii Herbich subsp. *yezoense* (Maek.) Y. N. Lee.	*Chrysanthemum arcticum* subsp. maekawanum Kitam, *Chrysanthemum arcticum* var. *yezoense* Maek. [basionym], *Chrysanthemum yezoense* Maek. [basionym], *Dendranthema yezoense* (F. Maek.) D. J. N. Hind, and *Leucanthemum yezoense* (Maek.) á. Löve & D. Löve.	
Chrysanthemum zawadskii Herbich subsp. *zawadskii.*	*Chrysanthemum sibiricum* Turcz. ex DC., nom. inval., *Dendranthema zawadskii* (Herbich) Tzvelev, and *Dendranthema zawadskii* var. *zawadskii.*	
Leucanthemella serotina (L.) Tzvelev.	*Chrysanthemum serotinum* L., *Chrysanthemum uliginosum* (Waldst. & Kit. ex Willd.) Pers., and *Pyrethrum uliginosum* (Waldst. & Kit. ex Willd.).	Giant daisy or high daisy.
Nipponanthemum nipponicum (Franch. ex Maxim.) Kitam.	*Chrysanthemum nipponicum* (Franch. ex Maxim.) Matsum. and *Leucanthemum nipponicum* Franch. ex Maxim.	Nippon daisy or Nippon-chrysanthemum.

(2) Chrysanthemum white rust is considered to exist in the following regions: Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.

(3) Cut flowers of any species listed in paragraph (d)(1) of this section may be imported into the United States from any region listed in paragraph (d)(2) of this section only under the following conditions:

(i) The flowers must be grown in a production site that is registered with the national plant protection organization (NPPO) of the country in which the production site is located or with the NPPO's designee, and the NPPO or its designee must provide a list of registered sites to APHIS.

(ii) Each shipment of cut flowers must be accompanied by a phytosanitary certificate or equivalent documentation, issued by the NPPO of the country of origin or its designee, that contains an additional declaration stating that the place of production as well as the consignment have been inspected and found free of *Puccinia horiana*.

(iii) Box labels and other documents accompanying shipments of cut flowers must be marked with the identity of the registered production site.

(iv) APHIS-authorized inspectors must also be allowed access to production sites and other areas necessary to monitor the chrysanthemum white rust-free status of the production sites.

(4) Cut flowers not meeting these conditions will be refused entry into the United States. The detection of chrysanthemum white rust in a shipment of cut flowers from a registered production site upon arrival in the

United States will result in the prohibition of imports originating from the production site until such time when APHIS and the NPPO of the exporting country, can agree that the eradication measures taken have been effective and that the pest risk within the production site has been eliminated.

(e) *Irradiation.* Cut flowers and foliage that are required under this part to be treated or subjected to inspection to control one or more of the plant pests for which irradiation is an approved treatment under part 305 of this chapter may instead be treated with irradiation. Irradiation treatment must be conducted in accordance with the requirements of part 305 of this chapter. There is a possibility that some cut flowers could be damaged by such irradiation.

(f) *Refusal of entry.* If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease that, in the judgment of the inspector, they cannot be cleaned or treated, or if they contain soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(Approved by the Office of Management and Budget under control number 0579–0271)

[64 FR 38110, July 15, 1999, as amended at 71 FR 4464, Jan. 27, 2006; 72 FR 15811, Apr. 3, 2007; 75 FR 4253, Jan. 26, 2010]

§ 319.74–3 Importations for experimental or similar purposes.

Cut flowers may be imported for experimental, therapeutic, or developmental purposes under conditions specified in a controlled import permit issued in accordance with § 319.6.

[78 FR 25571, May 2, 2013]

§ 319.74–4 Costs and charges.

The Animal and Plant Health Inspection Service, U.S. Department of Agriculture, will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty (provisions relating to costs for other services of an inspector are contained in 7 CFR part 354). The importer, owner, or agent or representative of the importer or owner of cut flowers is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including the costs of any labor, chemicals, packing materials, or other supplies required.

Subpart Q—Khapra Beetle

SOURCE: Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.75 Restrictions on importation of regulated articles; disposal of articles refused importation.

(a) The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any regulated article unless in conformity with all of the applicable restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If the article is not promptly safeguarded, removed from the United States, or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

(c) A regulated article may be imported without complying with other restrictions under this subpart if:

(1) Imported for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with § 319.6;

(2) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or through any USDA plant inspection station listed in § 319.37–8(a); and

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 66 FR 21057, Apr. 27, 2001; 72 FR 43523, Aug. 6, 2007; 78 FR 25572, May 2, 2013; 79 FR 19811, Apr. 10, 2014; 83 FR 11866, Mar. 19, 2018]

§ 319.75–1 Definitions.

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

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

From. An article is considered to be ''from'' any country or locality in which it originated or any country(ies) or locality(ies) in which it was offloaded prior to arrival in the United States.

Import. (importation, imported). To import or move into the United States.

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

Person. Any individual, corporation, company, society, association or other organized group.

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

Plant gum. Any of numerous colloidal polysaccharide substances of plant origin that are gelatinous when moist but harden on drying. Plant gums include but are not limited to acacia gum, guar gum, gum arabic, locust gum and tragacanth gum.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

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

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

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985; 66 FR 21057, Apr. 27, 2001; 78 FR 25572, May 2, 2013; 19811, Apr. 10, 2014; 79 FR 77841, Dec. 29, 2014; 83 FR 11866, Mar. 19, 2018]

§ 319.75–2 Regulated articles.[1]

(a) The following articles are regulated articles from all countries designated in accordance with paragraph (c) of this section as infested with khapra beetle and are subject to mandatory treatment in accordance with § 319.75–4:

(1) Seeds of the plant family Cucurbitaceae[2] if in shipments greater than 2 ounces, if not for propagation;

(2) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted and moist);

(3) Plant gums and plant gum seeds shipped as bulk cargo (in an unpackaged state);

(4) Used jute or burlap bagging not containing cargo;

(5) Used jute or burlap bagging that is used as a packing material (such as filler, wrapping, ties, lining, matting, moisture retention material, or protection material), and the cargo for which the used jute or burlap bagging is used as a packing material; and

(6) Whole chilies (*Capsicum* spp.), whole red peppers (*Capsicum* spp.), and cumin seeds (*Cuminum cyminum*) when packed in new jute or burlap bagging;

(b) The following articles are regulated articles from all countries designated in accordance with paragraph (c) of this section as infested with khapra beetle or that have the potential to be infested with khapra beetle and are prohibited entry into the United States in passenger baggage and personal effects. Commercial shipments must be accompanied by a phytosanitary certificate issued in accordance with § 319.75–9 and containing an additional declaration stating: ''The shipment was inspected and found free of khapra beetle (*Trogoderma granarium*).''

(1) Rice (*Oryza sativa*); and

(2) Chick peas (*Cicer* spp.), safflower seeds (*Carthamus tinctorius*), and soybeans (*Glycine max*).

(c) The Administrator will designate a country or an area under a specific jurisdictional authority as infested with khapra beetle when we receive official notification from the country or area that it is infested or when we intercept the pest in a commercial shipment from that country. The Administrator will publish the list of countries or areas under a specific jurisdictional authority found to be infested with khapra beetle on the Plant Protection and Quarantine Web site, *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/kb.pdf*. After a change is made to the list of infested countries or areas, we will publish a notice in the FEDERAL REGISTER informing the public that the change has occurred.

[79 FR 77841, Dec. 29, 2014, as amended at 80 FR 43010, July 21, 2015; 83 FR 11866, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019]

§ 319.75–3 Permits.

A regulated article may be imported only after issuance of a written permit or oral authorization by the Plant Protection and Quarantine Programs in accordance with §§ 319.7 through 319.7–5.

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

[79 FR 19811, Apr. 10, 2014]

§ 319.75–4 Treatments.

Prior to moving into the United States from the port of entry, a regulated article listed in § 319.75–2(a) shall be treated for possible infestation with khapra beetle in accordance with part 305 of this chapter.

[79 FR 77841, Dec. 29, 2014]

[1] The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of Subpart L—Fruits and Vegetables of this part, and the importation of any restricted articles that are for planting or capable of being planted is restricted under Subpart H—Plants for Planting of this part.

[2] Seeds of the plant family Cucurbitaceae include but are not limited to: *Benincasa hispida* (wax gourd), *Citrullus lanatus* (watermelon), *Cucumis melo* (muskmelon, cantaloupe, honeydew), *Cucumis sativus* (cucumber), *Cucurbita pepo* (pumpkin, squashes, vegetable marrow), *Lagenaria siceraria* (calabash, gourd), *Luffa cylindrica* (dishcloth gourd), *Momordica charantia* (bitter melon), and *Sechium edule* (chayote).

§ 319.75–5 Marking and identity.

(a) Any regulated article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the regulated article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

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

(4) Name and address of consignee,

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

(b) Any regulated article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

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

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983; 79 FR 19811, Apr. 10, 2014]

§ 319.75–6 Arrival notification.

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

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

[46 FR 38334, July 27, 1981, as amended at 48 FR 57466, Dec. 30, 1983; 79 FR 19811, Apr. 10, 2014]

§ 319.75–7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] The importer shall be responsible for arrangements for treatments required under § 319.75–4. Any treatment required under § 319.75–4 for a regulated article shall be performed at the port of entry by a nongovernmental fumigator at the importer's expense, and shall be performed under the supervision of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[46 FR 38334, July 27, 1981, as amended at 79 FR 19811, Apr. 10, 2014; 84 FR 2429, Feb. 7, 2019]

§ 319.75–8 Ports of entry.

Any regulated article shall be imported only at a Customs designated port of entry indicated in 19 CFR 101.3(b)(1) and found by the Administrator and specified on the permit issued pursuant to § 319.75–3 to have a nongovernmental fumigator available at the port to treat such regulated article pursuant to § 319.75–4. It is the responsibility of the importer to arrange with the nongovernmental fumigator for treatment of the article.

[46 FR 38334, July 27, 1981, as amended at 72 FR 43523, Aug. 6, 2007; 78 FR 25572, May 2, 2013;79 FR 19811, Apr. 10, 2014; 83 FR 11866, Mar. 19, 2018]

§ 319.75–9 Inspection and phytosanitary certificate of inspection.

(a) Any fruit, vegetable, or other plant product designated as a regulated article and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any fruit, vegetable, seed, or other plant product designated as a regulated article which is accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

(c) Any fruit, vegetable, seed, or other plant product designated as a regulated article and grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

[50 FR 8707, Mar. 5, 1985, as amended at 79 FR 19811, Apr. 10, 2014; 83 FR 11866, Mar. 19, 2018]

Subpart R—Gypsy Moth Host Material from Canada

SOURCE: 64 FR 45866, Aug. 23, 1999, unless otherwise noted. Redesignated at 84 FR 2429, Feb. 7, 2019.

§ 319.77–1 Definitions.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Canadian infested area. Any area of Canada listed as a gypsy moth infested area in § 319.77–3 of this subpart.

Canadian noninfested area. Any area of Canada that is not listed as a gypsy moth infested area in § 319.77–3 of this subpart.

Certification of origin. A signed, accurate statement certifying the area in which a regulated article was produced or grown. The statement may be provided directly on the shipping documents accompanying shipments of commercial wood products from Canada, or may be provided on a separate certificate.

Gypsy moth. The insect known as the gypsy moth, Lymantria dispar (Linnaeus), in any stage of development.

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

Mobile home. Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

Outdoor household articles. Articles associated with a household that are generally kept or used outside the home. Examples of outdoor household articles are awnings, barbeque grills, bicycles, boats, dog houses, firewood, garden tools, hauling trailers, outdoor furniture and toys, recreational vehicles and their associated equipment, and tents.

Phytosanitary certificate. A document issued by an official authorized by the national government of Canada that contains a description of the regulated article intended for importation into the United States and that certifies that the article has been thoroughly inspected or treated, is believed to be free from plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States. A phytosanitary certificate must be addressed to the Animal and Plant Health Inspection Service and may be issued no more than 14 days prior to the shipment of the regulated article.

Recreational vehicles. Vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as temporary places of dwelling.

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

U.S. infested area. Any area of the United States listed as a gypsy moth generally infested area in § 301.45–3 of this chapter.

U.S. noninfested area. Any area of the United States that is not listed as a gypsy moth generally infested area in § 301.45–3 of this chapter.

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38175, June 20, 2000]

§ 319.77–2 Regulated articles.

In order to prevent the spread of gypsy moth from Canada into noninfested areas of the United States, the gypsy moth host materials listed in paragraphs (a) through (e) of this section are designated as regulated articles. Regulated articles may be imported into the United States from

Canada only under the conditions described in § 319.77–4 of this subpart.

(a) Trees without roots (e.g., Christmas trees), unless they were greenhouse-grown throughout the year;

(b) Logs with bark attached;

(c) Pulpwood with bark attached;

(d) Bark and bark products;

(e) Outdoor household articles;

(f) Mobile homes and their associated equipment; and

(g) Stone and quarry products.

[64 FR 45866, Aug. 23, 1999, as amended at 71 FR 40878, July 19, 2006; 83 FR 11866, Mar. 19, 2018; 84 FR 29958, June 25, 2019]

§ 319.77–3 Gypsy moth infested areas in Canada.

The following areas in Canada are known to be infested with gypsy moth:

(a) *Province of New Brunswick*—(1) *Charlotte County*. That portion of Charlotte County that includes the following parishes: Campobello Island, Dumbarton, Dufferin, Grand Manan Island, St. Andrews, St. Croix, St. David, St. George, St. James, St. Patrick, and St. Stephen.

(2) *Kings County*. That portion of Kings County that includes the following parishes: Greenwich, Kars, and Springfield.

(3) *Queens County*. (i) That portion of Queens County that includes the following parishes: Canning, Cambridge, Gagetown, Johnston, and Wickham; and

(ii) That portion of Chipman Parish south or west of highway 10; and

(iii) That portion of Waterborough Parish west of highway 10 and south of highway 2.

(4) *Sunbury County*. That portion of Sunbury County that includes the following parishes: Blissville, Burton, Gladstone, Lincoln, and Sheffield.

(5) *York County*. (i) That portion of York County that includes the City of Fredericton and the following parishes: North Lake and McAdam; and

(ii) That portion of Queensbury parish south and east of the Scotch Lake Road beginning in the west at Bear Island on the St. John River and ending at the Parish border on the east.

(b) *Province of Nova Scotia*—(1) *Annapolis County*. The entire county.

(2) *Digby County*. The entire county.

(3) *Halifax County*. The area of the county bounded by a line beginning at the intersection of the Halifax/Lunenburg County border and the Atlantic Ocean; then north along the Halifax/Lunenburg County border to the Halifax/Hants County border; then east along the Halifax/Hants County border to route 354; then south along route 354 to route 568 (Beaverbank-Windsor Junction Road); then east along route 568 (Beaverbank-Windsor Junction Road) to route 416 (Fall River Road); then east and north along route 416 (Fall River Road) to route 2; then south along route 2 to route 102/118; then south along route 118 to route 107; then south along route 107 to route 7; then east along route 7 to route 328; then south along route 328 to the shoreline of Cole Harbour; then west along the seashore from Cole Harbour to the point of beginning.

(4) *Hants County*. The area of the county bounded by a line beginning at the intersection of the Hants/Kings County border and the shoreline of the Minas Basin; then southwest along the Hants/Kings County border to the Hants/Lunenburg County border; then southeast along the Hants/Lunenburg County border to the Hants/Halifax County border; then east along the Hants/Halifax County border to route 354; then north along route 354 to the Minas Basin; then west along the shoreline of the Minas Basin to the point of beginning.

(5) *Kings County*. The entire county.

(6) *Lunenberg County*. The entire county.

(7) *Queens County*. The entire county.

(8) *Shelburne County*. The entire county.

(9) *Yarmouth County*. The entire county.

(c) *Province of Ontario*. (1) That portion of the Province of Ontario that includes the following counties and regional municipalities: Brant, Bruce, Dufferin, Durham, Elgin, Essex, Frontenac, Grey, Haldimand-Norfolk, Haliburton, Halton, Hamilton-Wentworth, Hastings, Huron, Kent, Lambton, Lanark, Leeds-Granville, Lennox-Addington, Middlesex, Muskoka, Niagara, Northumberland, Ottawa-Carleton, Oxford, Parry Sound, Peel, Perth, Peterborough, Prescott-

Russell, Prince Edward, Renfrew, Simcoe, Stormont-Dundas-Glengarry, Victoria, Waterloo, Wellington, and York; and

(2) That portion of Algoma District that includes the City of Sault Ste. Marie and the following townships: Bright, Bright Additional, Cobden, Denis, Garden River First Nation, Indian Reserve #7, Johnson, Korah, Laird, Lefroy, Lewis, Long, MacDonald, Parke, Plummer Additional, Prince, Tarbutt, Tarbutt Additional, Tarentorus, Thessalon, Thompson, Shedden, Spragge, and Striker; and

(3) That portion of Algoma District south of Highway 17 and east of the City of Sault Ste. Marie; and

(4) That portion of Manitoulin District that includes: Cockburn Island, Great Cloche Island, Manitoulin Island, St. Joseph Island, and all Indian Reserves; and

(5) That portion of Nipissing District that includes the City of North Bay; and

(6) That portion of Nipissing District south of the Ottawa and Mattawa rivers; and

(7) That portion of Nipissing District south of highway 17 and west of the City of North Bay; and

(8) That portion of Sudbury District that includes the City of Sudbury and the townships of Baldwin, Dryden, Dunlop, Graham, Hallam, Hymen, Indian Reserves #4, #5, and #6, Lorne, Louise; May, McKim, Nairn, Neelon, Porter, Salter, Shakespeare, Victoria, and Waters; and

(9) That portion of the Sudbury District south of Highway 17.

(d) *Province of Quebec.* (1) That portion of the Province of Quebec that includes the following regional county municipalities: Acton, Arthabaska, Asbestos, Beauce-Sartigan, Beauharnois-Salaberry, Bécancour, Bellechasse, Brome-Missisquoi, Champlain, Coaticook, Communauté Urbaine de Montréal, Communauté Urbaine de L'Outaouais, D'Autray, Desjardins, Deux-Montagnes, Drummond, Francheville, Joliette, L'Amiante, L'Assomption, L'Érable, L'île-d'Orléans, Lajemmerais, Laval, La Nouvelle-Beauce, La Rivière-du-Nord, La Vallée-du-Richelieu, Le Bas-Richelieu, Le Granit, Le Haut-Richelieu, Le Haut-Saint-Francois, Le Haut-Saint-Laurent, Le Haute-Yamaska, Le Val-Saint-Francois, Les Chutes-de-la-Chaudire, Les Collines-de-L'Outaouais, Les Etchemins, Les Jardins-de-Napierville, Les Maskoutains, Les Moulins, Lotbinière, Memphrémagog, Mirabel, Montcalm, Montmagny, Nicolet-Yamaska, Robert-Cliche, Roussillon, Rouville, Sherbrooke, Therese-de Blainville, and Vaudreuil-Soulanges; and

(2) That portion of the regional county municipality of Antoine-Llabelle that includes the following municipalities: Notre-Dame-du-Laus, Notre-Dame-de-Pontmain, and Saint-Aimé-du-Lac-des-Iles; and

(3) That portion of the regional county municipality of Argenteuil that includes the following municipalities: Brownsburg, Calumet, Carillon, Chatham, Grenville, Lachute, Saint-André-d'Argenteuil, and Saint-André-Est; and

(4) That portion of the regional county municipality of Communauté Urbaine De Québec that includes the following municipalities: Cap-Rouge, L'Ancienne-Lorette, Québec, Saint-Augustin-de-Desmaures, Sainte-Foy, Sillery, and Vanier; and

(5) That portion of the regional county municipality of La Vallée-de-la-Gatineau that includes the following municipalities: Denholm, Gracefield, Kazabazua, Lac-Sainte-Marie, Low, Northfield, and Wright; and

(6) That portion of the regional county municipality of Le Centre-de-la-Mauricie that includes the following municipalities: Charette, Notre-Dame-du-Mont-Carmel, Sainte-Elie, Shawinigan, and Shawinigan (Sud); and

(7) That portion of the regional county municipality of Les Laurentides that includes the following municipality: La Conception; and

(8) That portion of the regional county municipality of Les Pays-d'en-Haut that includes the following municipality: Mont-Rolland; and

(9) That portion of the regional county municipality of Maskinongé that includes the following municipalities: Louiseville, Maskinongé, Saint-Joseph-de-Maskinongé, Saint-Barnabé, Saint-Sévère, Saint-Léon-le-Grand, Saint-Paulin, Sainte-Ursule, Saint-Justin, Saint-édouard-de-Maskinongé, Sainte-

Angèle-de-Prémont, and Yamachiche; and

(10) That portion of the regional county municipality of Matawinie that includes the following municipalities: Saint-Félix-de-Valois, Saint-Jean-de-Matha, Rawdon, and Chertsey; and

(11) That portion of the regional county municipality of Papineau that includes the following municipalities: Fassett, Lochaber, Lochaber-Partie-Ouest, Mayo, Montebello, Montpellier, Mulgrave-et-Derry, Notre-Dame-de-Bon-Secours-Partie-Nord, Papineauville, Plaisance, Ripon (Village et Canton), Saint-André-Avellin (Village et Paroise), Sainte-Angélique, Saint-Sixte, and Thurso; and

(12) That portion of the regional county municipality of Pontiac that includes the following municipalities: Bristol, Shawville, Clarendon, Portage-du-Fort, Bryson, Campbell's Bay, Grand-Calumet, Litchfield, Thorne, Alleyn-et-Cawood, Leslie-Clapham-et-Huddersfield, Fort-Coulonge, Mansfield-et-Pontefract, Waltham-et-Bryson, L'Isle-aux-Allumettes-Partie-Est, Chapeau, L'Isle-aux-Allumettes, Chichester, Sheen-Esher-Aberdeen-et-Malakoff, and Rapides-des-Joachims; and

(13) That portion of the regional county municipality of Portneuf that includes the following municipalities: Cap-Santé, Deschambault, Donnacona, Grondines, Neuville, and Pointe-aux-Trembles.

[65 FR 38175, June 20, 2000, as amended at 67 FR 59453, Sept. 23, 2002]

§ 319.77–4 Conditions for the importation of regulated articles.

(a) *Trees and shrubs.*[1] (1) Trees without roots (*e.g.*, Christmas trees) may be imported into the United States from any area of Canada without restriction under this subpart if they:

(i) Were greenhouse-grown throughout the year;

(ii) Are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas; or

(iii) Are Christmas trees destined for a U.S. infested area and will not be moved through any U.S. noninfested areas other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (*i.e.*, areas in those counties that are not listed in 7 CFR 301.45–3).

(2) Trees without roots (e.g., Christmas trees) that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the trees originated in a Canadian infested area, they must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the trees have been inspected and found free of gypsy moth or that the trees have been treated for gypsy moth in accordance with part 305 of this chapter.

(ii) If the trees originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(b) *Bark and bark products and logs and pulpwood with bark attached.*[2] (1) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. infested area and that will not be moved through any U.S. noninfested area other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (*i.e.*, areas in those counties that are not listed in § 301.45–3 of this chapter) may be imported from any area of Canada without restriction under this subpart.

(2) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

[1] Trees and Shrubs from Canada may be subject to additional restrictions under ''Subpart I—Logs, Lumber, and Other Wood Articles'' (§§ 319.40–1 through 319.40–11).

[2] Bark, bark products, and logs from Canada are also subject to restrictions under '' Subpart I—Logs, Lumber, and Other Wood Articles'' (§§ 319.40 through 319.40–11 of this part).

(i) If the bark, bark products, logs, or pulpwood originated in a Canadian infested area, they must be either:

(A) Accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that they have been inspected and found free of gypsy moth or that they have been treated for gypsy moth in accordance with part 305 of this chapter; or

(B) Destined for a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing.

(ii) If the bark, bark products, logs, or pulpwood originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(c) *Outdoor household articles and mobile homes and their associated equipment.* (1) Outdoor household articles and mobile homes and their associated equipment that are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas may be imported from any area in Canada without restriction under this subpart.

(2) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction under this subpart.

(3) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into a U.S. noninfested area, or that will be moved through a U.S. noninfested area, may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

(d) *Stone and quarry products.* Stone and quarry products originating in a Canadian infested area may be imported into the United States only if they are destined for an infested area of the United States and will not be moved through any noninfested areas of the United States, and may be moved through the United States if they are moved only through infested areas.

(Approved by the Office of Management and Budget under control number 0579–0142)

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38176, June 20, 2000; 69 FR 61589, Oct. 20, 2004; 70 FR 33326, June 7, 2005; 71 FR 40878, July 19, 2006; 83 FR 11866, Mar. 19, 2018; 84 FR 2429, Feb. 7, 2019; 84 FR 29958, June 25, 2019]

§ 319.77–5 Disposition of regulated articles denied entry.

Any regulated article that is denied entry into the United States because it does not meet the requirements of this subpart must be promptly safeguarded or removed from the United States. If the article is not promptly safeguarded or removed from the United States, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

[64 FR 45866, Aug. 23, 1999, as amended at 66 FR 21057, Apr. 27, 2001]

PART 322—BEES, BEEKEEPING BY-PRODUCTS, AND BEEKEEPING EQUIPMENT

Subpart A—General Provisions

Sec.

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