

Proposed Rules

Federal Register

Vol. 70, No. 61

Thursday, March 31, 2005

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–048–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

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

DATES: We will consider all comments that we receive on or before May 31, 2005.

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

- EDOCKET: Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index

listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the “View Open APHIS Dockets” link to locate this document.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 03–048–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–048–1.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

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

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. West, Senior Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1228; (301) 734–8262.

SUPPLEMENTARY INFORMATION:

Background

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

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

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

In this document, we are proposing to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. Many of these fruits and vegetables are already eligible for importation under permit, but are not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables would have to meet other special conditions. We are also proposing to recognize areas in several countries as free from certain fruit flies; add an alternative treatment for specified commodities; provide for the importation of untreated citrus from Mexico for processing under certain conditions; and to add, modify, or remove certain definitions make other miscellaneous changes. Our proposed amendments are discussed below by topic.

Fruits and Vegetables Eligible for Entry Under Permit

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

In this document, we are proposing to amend the regulations to list a number of those fruits and vegetables that were approved for entry prior to 1992 and that have been eligible for importation under permit. In those cases where a permit has contained additional conditions that apply to the importation of the fruit or vegetable (such as a

requirement for a phytosanitary certificate with an additional declaration or limitations on the origin or distribution of the article), those additional conditions would be reflected in the regulations. This proposed action would serve to improve the transparency of our regulations.

The permit requirement for these fruits and vegetables would continue to apply to their importation, as would the requirements of § 319.56–6 of the regulations. Under § 319.56–6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to disinfection at the port of first arrival if an inspector requires it.

Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated.

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

Inspected and Subject to Disinfection

Section 319.56–2t lists fruits and vegetables that may be imported into the

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

Country of origin	Common name	Botanical name
Argentina	Allium	<i>Allium</i> spp.
Belgium	Cichorium	<i>Cichorium</i> spp.
Belize	Pepper	<i>Capsicum</i> spp.
Brazil	Dasheen	<i>Colocasia esculenta</i> .
	Ginger root	<i>Zingiber officinale</i> .
Chile	Asparagus	<i>Asparagus officinalis</i> .
	Blackberry	<i>Rubus</i> spp.
	Blueberry	<i>Vaccinium</i> spp.
	Raspberry	<i>Rubus</i> spp.
China	Ginger root	<i>Zingiber officinale</i> .
Colombia	Banana	<i>Musa</i> spp.
Costa Rica	Banana	<i>Musa</i> spp.
	Carrot	<i>Daucus carota</i> ssp. <i>sativus</i> .
	Cucurbit	<i>Cucurbitaceae</i> .
Dominican Republic	Avocado	<i>Persea americana</i> .
	Banana	<i>Musa</i> spp.
	Breadfruit	<i>Artocarpus altilis</i> .
	Cassava	<i>Manihot esculenta</i> .
	Celeriac	<i>Apium graveolens</i> var. <i>dulce</i> .
	Citrus	<i>Citrus</i> spp.
	Cucurbit	<i>Cucurbitaceae</i> .
	Dasheen	<i>Colocasia esculenta</i> .
	Genip	<i>Melicococcus bijugatus</i> .
	Pepper	<i>Capsicum</i> spp.
Guatemala	Banana	<i>Musa</i> spp.
	Cichorium	<i>Cichorium</i> spp.
	Cucurbit	<i>Cucurbitaceae</i> .
	Okra	<i>Abelmoschus esculentus</i> .
Honduras	Cucurbit	<i>Cucurbitaceae</i> .
	Okra	<i>Abelmoschus esculentus</i> .
Israel	Basil	<i>Ocimum</i> spp.
Jamaica	Cucurbit	<i>Cucurbitaceae</i> .
Mexico	Artichoke, globe	<i>Cynara scolymus</i> .
	Artichoke, Jerusalem	<i>Helianthus tuberosus</i> .
	Basil	<i>Ocimum</i> spp.
	Blackberry	<i>Rubus</i> spp.
	Celery	<i>Apium graveolens</i> var. <i>dulce</i> .
	Cichorium	<i>Cichorium</i> spp.
	Dill	<i>Anethum graveolens</i> .
	Jicama or yam bean	<i>Pachyrhizus tuberosus</i> , <i>P. erosus</i> .
	Lettuce	<i>Lactuca sativa</i> .
	Oregano	<i>Origanum</i> spp.
	Pepper	<i>Capsicum</i> spp.
	Raspberry	<i>Rubus</i> spp.
	Spinach	<i>Spinacia oleracea</i> .
	Strawberry	<i>Fragaria</i> spp.
	Swiss chard	<i>Beta vulgaris</i> var. <i>cicla</i> .
	Tomatillo	<i>Physalis ixocarpa</i> .
Netherlands	Cichorium	<i>Cichorium</i> spp.
	Cucurbit	<i>Cucurbitaceae</i> .
	Eggplant	<i>Solanum melongena</i> .
Nicaragua	Banana	<i>Musa</i> spp.
	Dasheen	<i>Colocasia esculenta</i> .

Country of origin	Common name	Botanical name
Panama	Cucurbit	<i>Cucurbitaceae</i> .
Peru	Banana	<i>Musa</i> spp.
Spain	Cucurbit	<i>Cucurbitaceae</i> .
	Lemon	<i>Citrus limon</i> .
Trinidad and Tobago	Cucurbit	<i>Cucurbitaceae</i> .
Venezuela	Banana	<i>Musa</i> spp.

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

Paragraph (b) of § 319.56–2t currently sets out any additional restrictions that may apply to a fruit or vegetable listed in the table in paragraph (a) of that section, such as a requirement for a phytosanitary certificate with an additional declaration or limitations on the origin or distribution of the article. In some cases, the entry we would add to § 319.56–2t for a particular fruit or vegetable listed above would provide a broad common name such as “citrus,” but the permit for the article has been more specific, either naming particular varieties as enterable or excluding specific varieties. To account for this, we would add a new paragraph (b)(6) to § 319.56–2t in which we would set out any specific restrictions on the type or

variety of an article listed in the table. These specific restrictions would be as follows:

- For cichorium from Belgium, Guatemala, and Mexico, paragraph (b)(6)(ii) would specify chicory (*Cichorium intybus*) and endive (*C. endiva*) only.
- For peppers from Belize and Mexico, paragraph (b)(6)(iii) would specify that rocoto pepper or chamburoto (*Capsicum pubescens*) is prohibited.
- For citrus from the Dominican Republic, paragraph (b)(6)(iv) would specify grapefruit (*Citrus paradisi*), lemon (*C. limon*), orange (*C. sinensis*), sour lime (*C. aurantiifolia*), and tangerine (*C. reticulata*) only.
- For lemons from Spain, paragraph (b)(6)(v) would specify smooth-skinned variety only.

Fruit From Fruit Fly-Free Areas

We propose to amend § 319.56–2t to allow the entry of the fruits and vegetables listed below, which are currently eligible for entry under permit, provided the shipments meet the criteria set forth in § 319.56–6, were

grown in an area recognized by APHIS as free of Mediterranean fruit fly (Medfly, *Ceratitis capitata*), and are accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) in their country of origin. The proposed origin and phytosanitary certificate requirements for these fruits, which reflect the current permit conditions that apply to their importation, are necessary to assure us that the fruits originated in a Medfly-free area and were inspected and found free of plant pests.

To address those cases where the fruits and vegetables listed below are grown outside a Medfly-free area in their respective countries of origin, we would also amend § 319.56–2x to add these same fruits and vegetables to the list of fruits and vegetables that may be imported into the United States provided that they are treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at 7 CFR 300.1, or irradiated in accordance with 7 CFR 305.2.

Country of origin	Common name	Botanical name
Argentina	Apple	<i>Malus domestica</i> .
	Apricot	<i>Prunus americana</i> .
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i> .
	Kiwi	<i>Actinidia deliciosa</i> .
	Nectarine	<i>Prunus persica</i> var. <i>nucipersica</i> .
	Peach	<i>Prunus persica</i> var. <i>persica</i> .
	Pear	<i>Pyrus communis</i> .
	Plum	<i>Prunus domestica</i> subsp. <i>domestica</i> .
	Pomegranate	<i>Punica granatum</i> .
	Quince	<i>Cydonia oblonga</i> .
Chile	Apple	<i>Malus domestica</i> .
	Avocado	<i>Persea americana</i> .
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i> .
	Pear	<i>Pyrus communis</i> .

Papayas and Pineapples

We propose to add papayas and pineapples from various countries from which they are currently enterable under permit to the list in § 319.56–2t, under the condition that cartons containing these fruits be stamped “Not for distribution in Hawaii.” Papayas are

host to the papaya fruit fly, a plant pest not present in Hawaii. Shipments of papayas would be prohibited in order to prevent the introduction of this pest into Hawaii. Similarly, pineapples and other bromeliads are host to numerous plant pests and diseases (e.g., burrowing nematode, mealybug, root rot) that could pose a risk to the pineapple and

bromeliad industries in Hawaii; therefore, we believe it is necessary to prohibit shipment of untreated pineapples into Hawaii in order to protect those industries. This proposed limitation on the distribution of these papayas and pineapples reflect the current permit conditions that apply to their importation.

Country of origin	Common name	Botanical name
Dominican Republic	Papaya	<i>Carica papaya</i> .
	Pineapple	<i>Ananas comosus</i> .
Ecuador	Pineapple	<i>Ananas comosus</i> .
Jamaica	Papaya	<i>Carica papaya</i> .

Papayas From Central America and Brazil

The regulations in § 319.56–2w provide that papayas from certain areas in Central America and Brazil may be imported into the United States if they are grown, treated, packed, labeled, and shipped according to certain specifications to prevent the introduction of fruit flies into the United States. Papayas from those areas listed in § 319.56–2w(a) may be imported into the United States only if they meet a series of 10 conditions which we have determined to be sufficient to prevent the introduction of fruit flies into the United States. Those conditions can be found in paragraphs (b) through (k) of § 319.56–2w. The papayas are also subject to inspection, disinfection, or both, at the port of first arrival in accordance with § 319.56–6. The State of Espirito Santo in Brazil and the Departments of Carazo, Granada, Managua, Masaya, and Rivas in Nicaragua are among the eligible locations listed in § 319.56–2w(a).

We are now proposing to amend § 319.56–2w(a) by adding two new areas of Brazil to the list of localities eligible to export papayas to the United States. Local exporters and Brazil’s Ministry of Agriculture have agreed to meet the 10 conditions mentioned above with regard to papayas grown and exported from certain areas in the State of Bahia and the State of Rio Grande del Norte. Therefore, we propose to add portions of the States of Bahia and Rio Grande del Norte to the list in § 319.56–2w(a)(1) of areas in Brazil approved to export papayas to the United States.

We are also proposing to add the Department of Leon to the list of areas in Nicaragua approved to export papayas to the United States, since local exporters and Nicaragua’s Ministry of Agriculture have agreed to meet the 10 conditions mentioned above with regard to papayas grown and exported from the Department of Leon. Therefore, we propose to add the Department of Leon to the list in § 319.56–2w(a)(6) of areas in Nicaragua approved to export papayas to the United States.

Finally, the regulations in § 319.56–2w(c) currently state that the papayas must be treated with a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F). In response to

a request by Brazil’s Ministry of Agriculture, we are proposing to lower the required temperature of the hot water treatment from 49 °C to 48 °C, which has been determined to be as effective and less damaging to the fruit.

Field-Grown Grapes

The regulations in § 319.56–2k provide procedures for the fumigation of shipments of field-grown grapes from certain of the continental countries of southern and middle Europe, North Africa, and the Near East. A list of countries included in these geographical areas is provided at § 319.56–2k(a).

We are proposing to update that list of countries by removing a reference to the “Union of Soviet Socialist Republics” and replacing it with references to the 15 successor States to the former Soviet Union. Those States are: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Irradiation Treatment

The regulations in § 319.56–2j contain requirements applicable to the importation into the United States of apples and pears from Australia (including Tasmania) and New Zealand. Footnote 4 in that section states that apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements found at § 319.56–2d.

The regulations in § 319.56–2v govern the importation into the United States of citrus from Australia. Paragraph (c) in that section states that citrus from areas in Australia where certain tropical fruit flies occur is also subject to the cold treatment requirements found in the PPQ Treatment Manual.

However, the fruits listed above are also eligible for importation if they have been irradiated in accordance with 7 CFR part 305. The regulations in § 319.56–2(k) provide that any fruit or vegetable that is required by the regulations or the PPQ Treatment Manual to be treated or subjected to other growing or inspection requirements to control one or more of the 11 species of fruit flies and one species of seed weevil listed in

§ 305.2(a) as a condition of entry into the United States may instead be treated by irradiation in accordance with part 305. Elsewhere in the regulations, the irradiation option is specifically noted where applicable, but it is not mentioned in §§ 319.56–2j or 319.56–2v. Therefore, we are proposing to amend those sections to explicitly cite the availability of the irradiation option.

Blueberries From South America

Under the regulations in § 319.56–2x, certain fruits and vegetables, including blueberries (*Vaccinium* spp.) from specified countries in South America (Argentina, Bolivia, Ecuador, and Peru), may currently be imported into the United States provided that they are (1) treated with methyl bromide in accordance with the PPQ Treatment Manual or (2) irradiated in accordance with 7 CFR 305.2.

Blueberries from Argentina, Bolivia, Ecuador, and Peru are currently required to be treated in order to mitigate the risk of Medfly infestation. However, blueberries are not a host for Medfly in South America, and blueberries are not listed as a regulated article in our domestic Medfly regulations in 7 CFR 301.78–2. Therefore, we propose to amend the regulations to remove the treatment requirement for blueberries from South America in order to make our import requirements consistent with our domestic requirements. To accomplish this, we would remove the entries for blueberries from Argentina, Bolivia, Ecuador, and Peru from the table in § 319.56–2x and add entries for blueberries from those countries to the table in § 319.56–2t, which lists fruits and vegetables that may be imported in accordance with § 319.56–6 and all other applicable requirements of the regulations, but do not require treatment as a condition of entry. As a result of this proposed change, blueberries from Argentina, Bolivia, Ecuador, and Peru would no longer have to be fumigated with methyl bromide or irradiated to be eligible for importation into the United States.

We are also proposing to amend § 319.56–2t by adding an entry for blueberries from Colombia. Unlike the blueberries from Argentina, Bolivia, Ecuador, and Peru discussed in the previous paragraph, blueberries from

Colombia have not previously been eligible for entry. However, we have prepared a pest risk assessment, which may be obtained from the person listed under **FOR FURTHER INFORMATION**

CONTACT, that concludes that there are no quarantine pests associated with blueberries from Colombia that are likely to follow the import pathway. Therefore, we are proposing to add blueberries from Colombia to the list of fruits and vegetables that may be imported into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations.

Fruit Fly-Free Areas in Argentina

The regulations in § 319.56–2(j) list areas in South and Central America that APHIS has determined meet the criteria in § 319.56–2(e) and (f) with regard to freedom from Medfly. Argentina recently provided APHIS with fruit fly survey data that demonstrate that certain areas in southern Argentina meet the criteria of § 319.56–2(f) for area freedom from Medfly and other fruit flies. (The survey data are available upon request from the person listed under **FOR FURTHER INFORMATION CONTACT**.) Following site visits by APHIS officials, we have successfully verified this area's status as a fruit fly free zone.

Therefore, we propose to amend paragraph (j) to state that the Patagonia region of Argentina is free of those pests. The Patagonia region includes those areas along the valleys of the Rio Colorado and Rio Negro rivers and includes the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego.

Movement of Fruit From Pest-Free Areas

We are proposing to amend § 319.56–2(g), which currently specifies the requirements for the marking of boxes of fruits or vegetables produced in an area that has been determined to be free of certain pests in accordance with paragraphs (e)(3) or (4) and (f) of that section. While those paragraphs contain criteria for establishing the freedom of a production area from certain pests, they do not address the pest status of other areas through which the fruits or vegetables produced there may move en route to the United States. In order to protect the fruits or vegetables from potential infestation during its movement from the pest-free area to the United States, we are proposing to amend paragraph (g) to require that each box of fruits or vegetables from areas determined to be free of quarantine pests be safeguarded from infestation while in transit to the United States

through other areas that have not been designated free of those pests.

Grapefruit, Sweet Oranges, and Tangerines From Mexico

We propose to allow grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) from areas of Mexico where certain fruit flies occur to be imported into the United States without treatment under certain conditions, which would be set forth in a new § 319.56–2nn.

Grapefruit, sweet oranges, and tangerines from Mexico are currently eligible for importation into the United States provided that shipments of fruit are treated for Mexican fruit fly (*Anastrepha ludens*) and other *Anastrepha* spp. fruit flies with a treatment approved by APHIS, or that the shipments originate in an area of Mexico that has been determined to be free of Mexican fruit fly and other *Anastrepha* spp. fruit flies.

The Government of Mexico has requested that we allow untreated grapefruit, sweet oranges, and tangerines to be imported and processed (*i.e.*, juiced) in areas in the State of Texas that are under quarantine for Mexican fruit fly and that are under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly. We considered Mexico's request and believe that untreated grapefruit, sweet oranges, and tangerines can be safely imported, provided they are grown, shipped, handled, and processed under certain conditions, which are described below.

Sterile insect technique. Under this proposed rule, the areas where imported grapefruit, sweet oranges, and tangerines are grown and surrounding 1.5 mile buffer areas must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly. This condition mirrors requirements on production areas under quarantine in the State of Texas for Mexican fruit fly, and is intended to ensure that there is a low prevalence of reproducing Mexican fruit flies in production sites.

Fruit fly trapping protocol. In order to assess the prevalence of fruit flies in production areas, surveillance for fruit flies would be required as follows:

- For Mexican fruit fly and Sapote fruit fly (*Anastrepha serpentina*), APHIS-approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer areas at a rate of 1 trap per 10 hectares.
- For Medfly, APHIS-approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer

areas at a rate of 1 to 4 traps per 250 hectares.

We would require that, upon trapping of a Mexican fruit fly, Sapote fruit fly, or Medfly in a production site or buffer area, exports to the United States from that production site would be prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of exports from that production site. Such measures may include increased trapping densities, pesticide applications, or other measures. This proposed requirement is necessary to ensure that imported untreated citrus originates from areas where there is a low prevalence of Mexican fruit fly, and which is free of Sapote fruit fly and Medfly, as is the case in the areas in Texas into which fruit would be allowed importation for processing.

In order to ensure the reliability of the trapping programs, the growers who would conduct the trapping would be required to be monitored under an APHIS-approved quality control program.

Safeguarding and certification. We would also require that fruit be safeguarded against fruit fly infestation from the time of harvest until its processing in the United States. This proposed requirement is necessary to preclude the infestation of picked fruit by plant pests, as well as the escape of such pests from fruit and their containers, and subsequent dissemination into the United States. Safeguarding could include packing the fruit in insect-proof cartons or containers, or covering fruit with insect-proof mesh or plastic tarpaulin, for transit to the United States from the production site. The specific methods employed to safeguard fruit would have to be approved by APHIS prior to the importation of fruit into the United States. In addition, each shipment of fruit would be required to be accompanied by a phytosanitary certificate issued by Mexico's NPPO. The certificate would have to contain additional declarations stating that the trapping requirements described above have been met.

Ports, route of transit, and destinations. We would require that harvested fruit enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) in order to protect against the spread of fruit flies to noninfested areas of the United States. To protect against further introductions of fruit flies into the United States, harvested fruit could only travel on the most direct route to the processing plant from

its point of entry into the United States, as specified in the permit issued for the importation of the fruit. Furthermore, fruit could only be processed at plants located within an area in Texas that is under an APHIS approved preventative release program using sterile insect technique for Mexican fruit fly.

Compliance agreements. In order to ensure compliance with the proposed regulations and protection against the introduction of fruit flies into the United States, we would require processing plants within the United States to enter into a compliance agreement with APHIS in order to handle untreated grapefruit, sweet oranges, and tangerines from Mexico. APHIS would only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

Definitions

We propose to amend § 319.56–1 by adding, removing, or modifying several definitions. First, for consistency with our other regulations in title 7, we would remove the definition of *Deputy Administrator* and replace it with a definition of *Administrator*. We would make a similar change throughout the text of the regulations, replacing references to the Deputy Administrator with references to the Administrator. We would also add a definition of APHIS to § 319.56–1.

We would remove the definition of *plants or portions of plants* and replace it with a definition of *plant debris*. This change would differentiate detached leaves from approved parts of plants, resulting in lessened restrictions on low-risk articles and facilitating the inspection process by clarifying our definition of allowable materials. It is necessary to specify “detached leaves” since attached leaves may qualify as approved parts of some fruits and vegetables. In connection with this proposed change in definitions, we would amend § 319.56–2(a) by replacing a reference to “plants or portions of plants” with the term “plant debris.”

We would replace the definition of *fresh fruits and vegetables* with a definition of *fruits and vegetables* in order to achieve equivalence with the definition listed in International Plant Protection Convention’s “Glossary of Phytosanitary Terms.”

We would amend the definitions for *cucurbits*, *inspector*, and *port of first arrival* because the current definitions are too specific, thus affecting their

usefulness for the purposes of our regulations. The current definition of *cucurbits* lists specific genera or species within the family Cucurbitaceae, while our proposed definition would simply refer to any plants in the family Cucurbitaceae. The current definition of *inspector* refers only to APHIS inspectors, while our proposed definition would reflect the transfer of some inspection functions to the Department of Homeland Security’s Bureau of Customs and Border Protection. The current definition of *port of first arrival* refers to “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,” while our proposed definition would simply refer to the first point in the United States where a consignment is offered for entry.

Finally, we would add definitions of *import and importation* and *United States*. Our proposed definitions of these terms are drawn from the Plant Protection Act and would serve to enhance the clarity of the regulations.

Treatments

The regulations in §§ 319.56–2k, 319.56–2m, and 319.56–2n contain specific treatment schedules for the fumigation of grapes from middle Europe, North Africa, and the Near East, various fruits from Chile, and certain fruits from other countries, respectively. However, in each case, those same treatment schedules are also listed in the PPQ Treatment Manual, which is incorporated by reference at 7 CFR 300.1. Therefore, to eliminate the duplicative presentation of these treatment schedules, we are proposing to remove the specific treatment schedules currently found in §§ 319.56–2k(d), 319.56–2m(b), and 319.56–2n(b) and replace them with references to the PPQ Treatment Manual.

Notice of Quarantine

In § 319.56, “Notice of quarantine,” paragraph (d) states “This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.” Currently, the only remaining “special quarantine or other order” relevant to the importation of fruits and vegetables is “Subpart-Citrus Fruit” (§ 319.28), and the introductory text of that subpart clearly indicates that the importation of fruits of citrus and citrus relatives, other than those specified in the subpart, is

restricted under the fruits and vegetables regulations. Further, paragraph (e) of § 319.28 provides that the importations allowed in paragraphs (b), (c), and (d) of the subpart are subject to the permit and other requirements of the fruits and vegetables regulations. Given those clear links between the citrus subpart and the fruits and vegetables subpart, and given that there are no longer any other “special quarantines or other orders” relevant to the importation of fruits and vegetables in force, we believe that paragraph (d) of § 319.56 is no longer necessary. Therefore, we propose to remove that paragraph from the regulations.

We are also proposing to remove paragraph (e) from § 319.56. That paragraph consists of a definition of the term “United States.” Since we are proposing to add a definition of “United States” to the subpart’s definitions section (§ 319.56–1), paragraph § 319.56(e) is no longer necessary.

Changes in Terminology

We propose to amend the list in § 319.56–2x of commodities enterable subject to treatment by changing the common name for *Opuntia* spp. Currently, that species is listed as enterable from Israel under the common name “cactus,” but that common name is too broad. The regulated plant part is the fruit, which has the common name “tuna.” Therefore, in order to improve the accuracy of the regulations, we would replace the term “cactus” in the table with the term “tuna.”

We also propose to amend the regulations in § 319.56–2v, “Conditions governing the entry of citrus from Australia,” in order to update the scientific name for the Queensland fruit fly. Currently, this fruit fly is listed as *Dacus tryoni* [Frogg], but is referred to elsewhere in our regulations as *Bactrocera tryoni*. Therefore, to make our regulations internally consistent, we would replace the scientific name “*Dacus tryoni*” with “*Bactrocera tryoni*” both times it occurs in § 319.56–2v.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there

is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities that may incur benefits or costs from the implementation of this proposed rule.

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

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

Impact on Small Entities

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

As previously stated, many of the commodities listed in this document may currently enter the United States under permit. Therefore, we do not expect the amount of commodities submitted for importation to increase beyond current levels. Additionally, in many cases, importation of certain commodities is necessary given that the commodities are not grown extensively in the United States (*e.g.*, bananas, breadfruits, cassavas, chicory, dasheens, genip, kiwis, papayas, pineapples, jicama, and tomatillos). In other instances, importation augments domestic supplies that are not sufficient to meet consumer demand (*e.g.*, apples, blackberries, blueberries, carrots, cherries, cucumbers, garlic, onions, pears, raspberries, and strawberries).

Papayas From Brazil and Central America

We are proposing to list two additional growing areas in Brazil (the States of Bahia and Rio Grande del Norte) and one additional area in Nicaragua (the Department of Leon) as eligible to export papayas into the United States. Brazil is currently eligible to export papayas into the United States from the State of Espirito Santo. Nicaragua is currently eligible to export papayas into the United States from the Departments of Carazo, Granada, Managua, Masaya, and Rivas.

Papaya production levels in the United States are small, with a majority of papaya production occurring in Florida. Between 2000 and 2003, Brazil represented, on average, 9 percent of the total U.S. imports of papayas. The addition of two more Brazilian States to the list of areas eligible for export is expected to increase the Brazilian share in the U.S. market for imported papayas. Brazil is a major producer of papayas, however only 1.6 percent of its production is exported. The rest is reserved for domestic consumption.

The United States imports four times the amount of papayas produced domestically, while, as stated previously, the amount of Brazilian papayas imported into the United States accounts for, on average, 9 percent of the total U.S. imports of papayas. Even if Brazil greatly increases its exports to the United States, it is more likely to displace other countries' shares of total U.S. imports than to affect the overall level of U.S. consumption. The economic impact resulting from this change is not expected to be substantial.

There is no official production data available for papayas produced in Nicaragua. However, the existing trade data show that Nicaragua has historically exported papayas very

sporadically. For example, between 1997 and 2001, Nicaragua did not export any papayas. In 2002, 203 metric tons were exported to the world; the following year, 18 metric tons were exported. Nicaragua did not export any papayas to the United States over that time period despite the fact that there are five approved exporting regions in Nicaragua. Therefore, the addition of one more eligible exporting area to the list should not have any substantial impact on the U.S. papaya market.

Fruit Fly Free Areas

We are proposing to allow fruits to be imported into the United States from a new Medfly-free area in Argentina. We have determined that the Patagonia region of Argentina is free of those pests. The Patagonia region includes those areas along the valleys of the Rio Colorado and Rio Negro rivers and includes the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego.

Fruits from Argentina (apple, apricot, cherry, kiwi, nectarine, peach, pear, plum, pomegranate, and quince) are already admissible into the United States under permit from Argentina. The creation of a Medfly-free area would lessen certain treatment requirements, thus lowering the cost for exporters. This may, in turn, result in a lower cost for consumers. Further, as a country in the Southern Hemisphere, Argentina's growing seasons are the opposite of those in the United States. An increased supply of Argentine fruit supplements the U.S. winter fruit market. However, we do not anticipate that this potentially increased supply will be large enough to have any substantial impact on small entities.

Citrus From Mexico

We are proposing to allow grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) from areas of Mexico where certain fruit flies occur to be imported into the United States without treatment under certain conditions as long as the citrus remains in areas of the United States where the same fruit flies occur and the fruit is intended for processing only.

This change in the regulations would positively affect U.S. citrus processing plants. These businesses and their surrounding areas are expected to benefit. In addition, there should be added work for the U.S. trucking industry as a result of the loading of the fruit containers at the U.S./Mexico border and transport and unloading the containers at the processing plants. However, the exact amount of financial

gain and the extent of the expected economic impact would depend upon the volume of citrus fruits that entered the United States for processing.

Between 2000 and 2002, the United States produced an average of 15 million metric tons of citrus fruits annually. During that same period, Mexico produced an average of 4.9 million metric tons of citrus fruits annually. Mexican consumers greatly favor fresh citrus over processed citrus, thus the majority of Mexican citrus produced is consumed domestically with around 6 percent of average annual production serving as exports. Therefore, given the relatively small amount of Mexican production when compared to U.S. production levels, coupled with the small percentage of exported Mexican citrus, the economic impact due to this proposed change would be expected to be small.

Blueberries From Colombia

We are proposing to allow for the importation of blueberries from Colombia into the United States. Colombian blueberries have not been previously imported into the United States. Further, there is no official data concerning blueberry production in Colombia. The country has never exported blueberries on a commercial level. For these reasons, we cannot determine the what the economic effects of this proposal would be, but they are not expected to be significant.

Blueberries From South America

We are proposing to eliminate the methyl bromide treatment requirement for blueberries from certain countries in South America (Argentina, Bolivia, Ecuador, and Peru). These fruits are currently allowed entry into the United States subsequent to treatment.

Between 2000 and 2002, the United States produced an average of 123,801 metric tons of blueberries annually and has imported an average of 20,025 metric tons. During this same time period Argentina supplied 3 percent of the total U.S. blueberry imports (253 metric tons). The United States has not historically imported any blueberries from Bolivia, Ecuador, or Peru, nor are there any data on production or commercial export of blueberries from those countries.

Even if Argentina greatly increases its level of blueberry exports to the United States, it is more likely to displace other foreign blueberry suppliers (*e.g.*, Chile, which supplies an average of 30 percent of all U.S. imported blueberries) than to change the overall level of U.S. imports of blueberries, which has remained at around 16 percent over the last 3 years.

There is no reason to expect any significant amount of economic impact on U.S. consumers or producers of blueberries due to this proposed change.

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

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03-048-1. Please send a copy of your comments to: (1) Docket No. 03-048-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to allow a number of fruits and vegetables from certain countries of the world to be imported into the United States, under specified conditions. Before entering the United States, all of the fruits and vegetables would be subject to inspection and disinfection at the port of first arrival in the United States to ensure that no plant pests are

inadvertently brought into the United States. These precautions, along with other requirements, would ensure that these items can be imported into the United States with a minimal risk of introducing exotic plant pests such as fruit flies.

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

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

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

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

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

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

Estimate of burden: Public reporting burden for this collection of information is estimated to average 4.4 hours per response.

Respondents: Growers, shippers, national plant protection organizations.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 5.

Estimated total annual burden on respondents: 22 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government

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

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

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

§ 319.56 [Amended]

2. Section 319.56 would be amended as follows:

a. In paragraph (c), by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" and adding the word "Administrator" in their place.

b. By removing paragraphs (d) and (e).

3. Section 319.56-1 would be amended as follows:

a. By removing the definitions for *Deputy Administrator*, *fresh fruits and vegetables*, and *plants or portions of plants*.

b. By adding, in alphabetical order, new definitions for *Administrator*, *APHIS*, *fruits and vegetables*, *import and importation*, *plant debris* and *United States* to read as set forth below.

c. By revising the definitions for *cucurbits*, *inspector*, and *port of first arrival* to read as set forth below.

§ 319.56-1 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.

Cucurbits. Any plants in the family Cucurbitaceae.

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.

Plant debris. Detached leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from approved parts of clean fruits and vegetables, or other commercial articles.

Port of first arrival. The first point of entry into the United States where the consignment is offered for entry.

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.

4. Section 319.56-2 would be amended as follows:

a. In paragraph (a), by removing the words "plants or portions of plants" and adding the words "plant debris" in their place.

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

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

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

(g) Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e) or (f) of this section must be safeguarded from infestation while in transit to the United States through any area that has not been designated as free from quarantine pests that attack the fruit or vegetable. Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e)(3) or (4) and (f) of this section must be clearly labeled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

(2) The name of the municipality and State in which it was produced, and

(3) The type and amount of fruit it contains.

(j) The Administrator has determined that all Districts in Belize, all provinces

in Chile except Arica, and the Department of Petén in Guatemala meet the criteria of paragraphs (e) and (f) of this section with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitis capitata* [Wiedemann]). Also, the Patagonia region of Argentina, including those areas along the valleys of the Rio Colorado and Rio Negro rivers and also including the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego, has been determined to meet the criteria of paragraphs (e) and (f) of this section with regard to Medfly and *Anastrepha* spp. fruit flies. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the specified pests.

§ 319.56-2c [Amended]

5. In § 319.56-2c paragraphs (b) and (e) would be amended by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" and adding the word "Administrator" in their place.

§ 319.56-2d [Amended]

6. Section 319.56-2d would be amended as follows:

a. In paragraphs (b)(5)(v)(F), (b)(5)(vi)(G), and (b)(5)(vii)(K), by removing the word "Deputy".

b. In paragraphs (b)(7)(i) and (c), by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" and adding the word "Administrator" in their place.

§ 319.56-2g [Amended]

7. In § 319.56-2g, the introductory text of paragraph (b)(1) would be amended by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" and adding the word "Administrator" in their place.

8. In § 319.56-2j, footnote 4 would be revised to read as follows:

§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.⁴

⁴ Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of § 305.2 or the cold treatment requirements of § 319.56-2d.

9. Section 319.56-2k would be amended as follows:

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

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

c. In paragraph (d), by removing the words "the following fumigation

schedule;" and adding the words "the Plant Protection and Quarantine Treatment Manual." in their place, and by removing the subsequent table.

d. In paragraph (g), by removing the words "The treatment prescribed in paragraph (d) of this section is" and adding the words "The treatments prescribed in the Plant Protection and Quarantine Treatment Manual are" in their place.

§ 319.56–2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter), is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of Asia, Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of Asia, Europe, North Africa, and the Near East.* The term "continental countries of Asia, Europe, North Africa, and the Near East" means Algeria, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Cyprus, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Luxembourg, Portugal, Republic of Moldova, Russian Federation, Spain, Switzerland, Syria, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

* * * * *

§ 319.56–2l [Amended]

10. In § 319.56–2l, paragraph (b)(2)(ii) would be amended by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" both times they appear and

adding the word "Administrator" in their place.

§ 319.56–2m [Amended]

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

a. In the introductory text of the section, by removing the words "the following procedure" and adding the words "the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter)" in their place.

b. In paragraph (b), by removing the words "the following schedule;" and adding the words "the Plant Protection and Quarantine Treatment Manual." in their place, and by removing the subsequent table.

c. In paragraph (e), by removing the words "paragraph (b) of this section" and adding the words "the Plant Protection and Quarantine Treatment Manual" in their place.

§ 319.56–2n [Amended]

12. Section 319.56–2n would be amended as follows:

a. In the introductory text of the section, by removing the words "the procedures described in this section" and adding the words "the Plant Protection and Quarantine Treatment Manual (which is incorporated by reference at § 300.1 of this chapter)" in their place.

b. In the introductory text of paragraph (b), by removing the words "the following table;" and adding the words "the Plant Protection and Quarantine Treatment Manual." in their place and by removing the subsequent table.

c. By removing paragraphs (b)(1) and (b)(2).

§ 319.56–2p [Amended]

13. In § 319.56–2p, paragraph (b)(7) would be amended by removing the words "Deputy Administrator of the Plant Protection and Quarantine Programs" and adding the word "Administrator" in their place.

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

a. In the table in paragraph (a), by revising the entry for jicama from Mexico and by adding, in alphabetical order, entries for the following fruits and vegetables to read as set forth below: Under Argentina, for allium, apple, apricot, blueberry, cherry, kiwi, nectarine, peach, pear, plum, pomegranate, and quince; under Belgium, for cichorium; under Belize, for pepper; under Bolivia, for blueberry; under Chile, for apple, asparagus, avocado, blackberry, blueberry, cherry, pear, and raspberry; under China, for ginger root; under Colombia, for banana and blueberry; under Costa Rica, for banana, carrot, and cucurbit; under Dominican Republic, for avocado, banana, breadfruit, cassava, celeriac, citrus, cucurbit, dasheen, genip, papaya, pepper, and pineapple; under Ecuador, for blueberry and pineapple; under Guatemala, for banana, cichorium, cucurbit, and okra; under Honduras, for cucurbit and okra; under Israel, for basil; under Jamaica, for cucurbit and papaya; under Mexico, for artichoke, globe, artichoke, Jerusalem; basil, blackberry, celery, cichorium, dill, lettuce, oregano, pepper, raspberry, spinach, strawberry, Swiss chard, and tomatillo; under Netherlands, for cichorium, cucurbit, and eggplant; under Nicaragua, for banana and dasheen; under Panama, for cucurbit; under Peru, for banana and blueberry; under Spain, for cucurbit and lemon; and under Trinidad and Tobago, for cucurbit.

b. By adding to the table in paragraph (a) new entries for "Brazil" and "Venezuela".

c. By adding a new paragraph (b)(6) to read as set forth below.

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

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
Argentina	Allium	<i>Allium</i> spp.	Whole plant.	
	Apple	<i>Malus domestica</i>	Fruit	(b)(1)(ii)
	Apricot	<i>Prunus americana</i>	Fruit	(b)(1)(ii)
*	*	*	*	*
	Blueberry	<i>Vaccinium</i> spp.	Fruit.	
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit	(b)(1)(ii)
*	*	*	*	*
	Kiwi	<i>Actinidia deliciosa</i>	Fruit	(b)(1)(ii)
*	*	*	*	*
	Nectarine	<i>Prunus persica</i> var. <i>nucipersica</i>	Fruit	(b)(1)(ii)

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
*	Peach	<i>Prunus persica</i> var. <i>persica</i>	Fruit	(b)(1)(ii)
*	Pear	<i>Pyrus communis</i>	Fruit	(b)(1)(ii)
*	Plum	<i>Prunus domestica</i> subsp. <i>domestica</i>	Fruit	(b)(1)(ii)
*	Pomegranate	<i>Punica granatum</i>	Fruit	(b)(1)(ii)
*	Quince	<i>Cydonia oblonga</i>	Fruit	(b)(1)(ii)
Belgium	Cichorium	<i>Cichorium</i> spp.	Above ground parts	(b)(6)(i)
Belize.				
*	Pepper	<i>Capsicum</i> spp.	Fruit	(b)(6)(ii)
Bolivia.				
Brazil	Blueberry	<i>Vaccinium</i> spp.	Fruit.	
	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
Chile.	Ginger root	<i>Zingiber officinale</i>	Root.	
*	Apple	<i>Malus domestica</i>	Fruit	(b)(1)(ii)
*	Asparagus	<i>Asparagus officinalis</i>	Whole plant.	
*	Avocado	<i>Persea americana</i>	Fruit	(b)(1)(ii)
*	Blackberry	<i>Rubus</i> spp.	Fruit.	
*	Blueberry	<i>Vaccinium</i> spp.	Fruit.	
*	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit	(b)(1)(ii)
*	Pear	<i>Pyrus communis</i>	Fruit	(b)(1)(ii)
*	Raspberry	<i>Rubus</i> spp.	Fruit.	
China.				
Colombia	Ginger root	<i>Zingiber officinale</i>	Root.	
	Banana	<i>Musa</i> spp.	Leaf and Fruit.	
	Blueberry	<i>Vaccinium</i> spp.	Fruit.	
Costa Rica	Banana	<i>Musa</i> spp.	Leaf and Fruit.	
*	Carrot	<i>Daucus carota</i> ssp. <i>sativus</i>	Whole plant.	
*	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
Dominican Republic	Avocado	<i>Persea americana</i>	Fruit.	
*	Banana	<i>Musa</i> spp.	Fruit.	
*	Breadfruit	<i>Artocarpus altilis</i>	Fruit.	
*	Cassava	<i>Manihot esculenta</i>	Root.	
*	Celeriac	<i>Apium graveolens</i> var. <i>dulce</i>	Whole plant.	
*	Citrus	<i>Citrus</i> spp.	Fruit	(b)(6)(iii)
*	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
*	Genip	<i>Melicoccus bijugatus</i>	Fruit.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
	Papaya	<i>Carica papaya</i>	Fruit	(b)(2)(iii)
	Pepper	<i>Capsicum</i> spp.	Fruit.	
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
Ecuador.				
*	*	*	*	*
	Blueberry	<i>Vaccinium</i> spp.	Fruit.	
*	*	*	*	*
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
*	*	*	*	*
Guatemala.				
*	*	*	*	*
	Banana	<i>Musa</i> spp.	Leaf and Fruit.	
*	*	*	*	*
	Cichorium	<i>Cichorium</i> spp.	Above ground parts	(b)(6)(i)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Okra	<i>Abelmoschus esculentus</i>	Pod.	
*	*	*	*	*
Honduras.				
*	*	*	*	*
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Okra	<i>Abelmoschus esculentus</i>	Pod.	
*	*	*	*	*
Israel.				
*	*	*	*	*
	Basil	<i>Ocimum</i> spp.	Above ground parts.	
*	*	*	*	*
Jamaica	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
	Papaya	<i>Carica papaya</i>	Above ground parts	(b)(2)(iii), (b)(3)
*	*	*	*	*
Mexico.				
*	*	*	*	*
	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.	
	Artichoke, Jerusalem.	<i>Helianthus tuberosus</i>	Whole plant.	
*	*	*	*	*
	Basil	<i>Ocimum</i> spp.	Above ground parts.	
*	*	*	*	*
	Blackberry	<i>Rubus</i> spp.	Fruit.	
*	*	*	*	*
	Celery	<i>Apium graveolens</i> var <i>dulce</i>	Whole plant.	
	Cichorium	<i>Cichorium</i> spp.	Above ground parts	(b)(6)(i)
*	*	*	*	*
	Dill	<i>Anethum graveolens</i>	Above ground parts.	
*	*	*	*	*
	Jicama or yam bean	<i>Pachyrhizus tuberosus</i> , <i>P. erosus</i>	Root.	
*	*	*	*	*
	Lettuce	<i>Lactuca sativa</i>	Whole plant.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
*	Oregano	<i>Origanum</i> spp.	Above ground parts.	*
*	Pepper	<i>Capsicum</i> spp.	Fruit	(b)(6)(ii)
*	Raspberry	<i>Rubus</i> spp.	Fruit.	*
*	Spinach	<i>Spinacia oleracea</i>	Whole plant.	*
*	Strawberry	<i>Fragaria</i> spp.	Fruit.	*
*	Swiss chard	<i>Beta vulgaris</i> var. <i>cicla</i>	Whole plant.	*
*	Tomatillo	<i>Physalis ixocarpa</i>	Whole plant.	*
Netherlands	Cichorium	<i>Cichorium</i> spp.	Above ground parts	(b)(6)(i)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit.	
Nicaragua	Banana	<i>Musa</i> spp.	Leaf and Fruit.	*
*	Dasheen	<i>Colocasia esculenta</i>	Tuber.	*
Panama.				
*	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
Peru.				
*	Banana	<i>Musa</i> spp.	Leaf and Fruit.	*
*	Blueberry	<i>Vaccinium</i> spp.	Fruit.	*
Spain	Cucurbit	Cucurbitaceae	Above ground parts	(b)(3)
*	Lemon	<i>Citrus limon</i>	Fruit	(b)(3), (b)(6)(iv)
Trinidad and Tobago	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
Venezuela	Banana	<i>Musa</i> spp.	Fruit.	*
*				*

(b) * * *

(6) *Plant types.*

(i) Chicory (*Cichorium intybus*) and endive (*Cichorium endiva*) only.

(ii) Rocoto pepper or chamburoto (*Capsicum pubescens*) prohibited.

(iii) Grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), sour lime (*Citrus aurantiifolia*), and tangerine (*Citrus reticulata*) only.

(iv) Smooth skinned variety only.

* * * * *

15. Section 319.56–2v would be amended as follows:

a. In the introductory text of paragraph (a), by removing the word “*Dacus*” and adding the word “*Bactrocera*” in its place.

b. In paragraph (c), by removing the word “*Dacus*” and adding the word “*Bactrocera*” in its place and by adding

a new sentence after the last sentence to read as set forth below.

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

* * * * *

(c) * * * Irradiation treatments found at part 305 of this chapter may be used as an alternative to the cold treatment described in this paragraph.

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

a. By revising paragraph (a)(1) to read as set forth below.

b. In paragraph (a)(6), by adding the word “Leon,” after the word “Granada,”.

c. In paragraph (c), by removing the words “49 °C (120.2 °F)” and adding the words “48 °C (118.4 °F)” in their place.

§ 319.56–2w Administrative instruction; conditions governing the entry of papayas from Central America and Brazil.

* * * * *

(a) * * *

(1) Brazil: State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito Santo and all areas in the State of Rio Grande del Norte that contain the

following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

* * * * *

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

a. Under Argentina, by removing the entry for blueberry and by revising the entry for kiwi and adding, in alphabetical order, entries for apple, apricot, cherry, nectarine, peach, pear,

plum, pomegranate, and quince to read as set forth below.

b. By removing the entry for Bolivia.

c. Under Chile, by adding, in alphabetical order, entries for apple, avocado, cherry, and pear to read as set forth below.

d. By removing the entry for Ecuador.

e. Under Israel, by removing the entry for cactus and adding, in alphabetical order, an entry for tuna to read as set forth below.

f. By removing the entry for Peru.

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

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Apple	<i>Malus domestica</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Apricot	<i>Prunus armeniaca</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Cherry	<i>Prunus avium, P. cerasus.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Kiwi	<i>Actinidia deliciosa</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Nectarine	<i>Prunus persica var. nucipersica.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Peach	<i>Prunus persica var. persica.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Pear	<i>Pyrus communis</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Plum	<i>Prunus domestica subsp. domestica.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Pomegranate	<i>Punica granatum</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
Quince	<i>Cydonia oblonga</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).	
Chile	Apple	<i>Malus domestica</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Avocado	<i>Persea americana</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
	Cherry	<i>Prunus avium, P. cerasus.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).
Pear	<i>Pyrus communis</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).	
Israel.	Tuna	<i>Opuntia spp.</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly free area (see § 319.56–2(j)).

* * * * *

§ 319.56–2gg [Amended]

18. In § 319.56–2gg, paragraph (d) would be amended by removing the word “Deputy”.

19. A new § 319.56–2nn would be added to read as follows:

§ 319.56–2nn Administrative instructions; conditions governing the importation of untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

Untreated grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) may be

imported into the United States from Mexico for processing if they originate from production sites in Mexico that are approved by APHIS because they meet the following conditions and any other conditions determined by the Administrator to be necessary to mitigate the pest risk that such fruits pose:

(a) *Application of sterile insect technique.* Production sites, and a surrounding 1.5 mile buffer area, must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly (*Anastrepha ludens*).

(b) *Fruit fly trapping protocol.* (1) *Trapping densities.* In areas where grapefruit, sweet oranges, and tangerines are produced for export to the United States, APHIS approved traps and lures must be placed in production sites and surrounding 1.5 mile buffer areas as follows:

(i) For Mexican fruit fly (*Anastrepha ludens*) and Sapote fruit fly (*Anastrepha serpentina*): One trap per 10 hectares.

(ii) For Mediterranean fruit fly (*Ceratitis capitata*): One to four traps per 250 hectares.

(2) *Fruit fly catches.* Upon trapping of a Mexican fruit fly, Sapote fruit fly, or Mediterranean fruit fly in a production site or buffer area, exports from that production site are prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of export from that production site.

(3) *Monitoring.* The trapping program must be monitored under an APHIS-approved quality control program.

(c) *Safeguarding.* Fruit must be safeguarded against fruit fly infestation using methods approved by APHIS from the time of harvest until processing in the United States.

(d) *Phytosanitary certificate.* Each shipment must be accompanied by a phytosanitary certificate issued by Mexico's national plant protection organization that contains additional declarations stating that the requirements of paragraphs (a), (b), and (c) of this section have been met.

(e) *Ports.* The harvested fruit may enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) of this chapter.

(f) *Route of transit.* Harvested fruit must travel on the most direct route to the processing plant from its point of entry into the United States as specified in the import permit. Such fruit may not enter or transit areas other than the Texas counties listed in § 301.64–3(c) of this chapter.

(g) *Approved destinations.* Processing plants within the United States must be located within an area in Texas that is under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly.

(h) *Compliance agreements.* Processing plants within the United States must enter into a compliance agreement with APHIS in order to handle grapefruit, sweet oranges, and tangerines imported from Mexico in accordance with this section. APHIS will only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

Done in Washington, DC, this 24th day of March 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–6269 Filed 3–30–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20731; Directorate Identifier 2004–NM–260–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –300, and –400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–200, –300, and –400 series airplanes. This proposed AD would require replacing the existing fueling float switch in the auxiliary fuel tank with a new, improved fueling float switch, installing a new liner system inside the float switch conduit, and performing related investigative and other specified actions. This proposed AD is prompted by reports of chafing of the direct-current-powered float switch wiring insulation in the center fuel tank. We are proposing this AD to prevent contamination of the fueling float switch of the auxiliary fuel tank by moisture or fuel, and chafing of the float switch wiring against the float switch

conduit in the fuel tank, which could present an ignition source inside the fuel tank that could cause a fire or explosion.

DATES: We must receive comments on this proposed AD by May 16, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.

- By fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20731; the directorate identifier for this docket is 2004–NM–260–AD.

FOR FURTHER INFORMATION CONTACT:

Sherry Vevea, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6514; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2005–20731; Directorate Identifier 2004–NM–260–AD” in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://>