

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 305 and 319

[Docket No. 03–048–2]

#### Importation of Fruits and Vegetables

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

**ACTION:** Final rule.

**SUMMARY:** We are amending 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 have been eligible for importation under permit, but were not specifically listed in the regulations. All of the fruits and vegetables, as a condition of entry, will 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 will be required to be treated or meet other special conditions. We are also recognizing areas in several countries as free from certain fruit flies; adding, modifying, or removing certain definitions; modifying existing treatment requirements for specified commodities; and making other miscellaneous changes. These actions will improve the transparency of our regulations while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

**EFFECTIVE DATE:** December 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1228; (301) 734–8758.

#### SUPPLEMENTARY INFORMATION:

##### Background

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.

On March 31, 2005, we published in the *Federal Register* (70 FR 16431–16445, Docket No. 03–048–1) a proposal 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 have been eligible for importation under permit, but were not specifically listed in the regulations. We also proposed 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; eliminate or modify existing treatment requirements for specified commodities; and to add, modify, or remove certain definitions and make other miscellaneous changes.

We solicited comments concerning our proposal for 60 days ending May 31, 2005. We received 29 comments by that date. They were from representatives of State governments, industry organizations, importers and exporters, producers, scientists, and individuals. Eight of the commenters wrote specifically to support the addition of two new areas of Brazil to the list of localities eligible to export papayas to the United States, and a ninth commenter supported the proposed rule in general. Another commenter wrote to oppose the proposed rule in general, but offered no specific information for our consideration. The remaining comments are discussed below by topic.

##### *Untreated Citrus From Mexico*

Several of the commenters raised concerns regarding the proposed provisions that would have allowed the importation of untreated citrus from Mexico into the United States for processing. In order to give us additional time to consider the issues

raised by the commenters regarding untreated Mexican citrus without delaying final action on the other aspects of the proposed rule, we will not be finalizing the provisions regarding the importation of untreated citrus from Mexico into the United States for processing in this final rule. We will issue another document in the *Federal Register* in the future regarding the importation of untreated citrus from Mexico into the United States for processing.

##### *Blueberries From South America*

Under the regulations in § 319.56–2x, blueberries (*Vaccinium* spp.) from Argentina, Bolivia, Ecuador, and Peru may be imported into the United States provided that they are treated with methyl bromide or irradiation to mitigate the risk presented by the Mediterranean fruit fly (Medfly, *Ceratitidis capitata*).

We proposed to remove the treatment requirement for blueberries from those countries based on research and reports indicating that blueberries were not a host for Medfly in South America. In addition, we proposed to add Colombia, a country where Medfly is present, to the list of countries eligible to export blueberries to the United States. The pest risk assessment we prepared with regard to the importation of blueberries from Colombia concluded that there are no quarantine pests associated with blueberries from Colombia that are likely to follow the import pathway (although Medfly is present in Colombia, the pest risk assessment reflected the research and reports indicating that blueberries were not a host for Medfly in South America). Therefore, we proposed to allow blueberries to be imported from Colombia without treatment.

In response to our proposed rule, we received several comments indicating that there is a credible possibility that blueberries are in fact a host for Medfly in South America. Among the commenters were several South American blueberry producers who urged us to delay final action regarding the Medfly host status of blueberries until additional research can be conducted. These commenters stated they wished to avoid the market disruptions that would occur if blueberries were imported into the United States without treatment and

subsequently found to be infested with Medfly.

Based on these comments, we have decided not to finalize our proposed removal of the treatment requirement for blueberries from Argentina, Bolivia, Ecuador, and Peru. With respect to blueberries from Colombia, this final rule will authorize their importation under § 319.56–2x (*i.e.*, as a commodity enterable with treatment) rather than under § 319.56–2t as we had proposed. We believe that the pest risk assessment prepared for blueberries from Colombia still provides a basis for allowing their entry; however, our change in approach with respect to the Medfly host status of blueberries necessitates that the fruit be treated as a condition of entry. The treatment for blueberries from Colombia will be the same as for blueberries from Argentina, Bolivia, Ecuador, and Peru, *i.e.*, fumigation with methyl bromide or irradiation; this final rule also amends the list of treatments in § 305.2(h)(2)(i) of the phytosanitary treatments regulations to indicate the applicability of those treatments.

We intend to work with the Department's Agricultural Research Service on studies that will allow us to determine with greater certainty the Medfly host status of blueberries in South America as well as research into the efficacy of alternatives, such as cold treatment, to methyl bromide fumigation and irradiation.

One commenter stated he was interested in knowing which data sources were used to determine the pest status of blueberries in Colombia and whether or not that information will be considered prior to these blueberries entering the United States.

As mentioned previously, we did prepare a pest risk assessment relative to the importation of blueberries from Colombia. That risk assessment, titled "Importation of Fresh Blueberry (*Vaccinium* spp.) into the Continental United States from Colombia," was made available to the public in the proposed rule. The pest risk assessment cites the sources of the data used in the document and was, as noted above, considered in the preparation of the proposed rule and this final rule.

#### *Root Crops From Mexico and China*

We proposed to add Swiss chard (*Beta vulgaris* var. *ciela*) from Mexico and ginger root (*Zingiber officinale*) from China to the list in § 319.56–2t of 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. The proposed

admissible plants parts were "whole plant" for Swiss chard from Mexico and "root" for ginger root from China. We noted that both of these commodities have been imported into the United States under permit since before 1992 and that their addition to the list in § 319.56–2t would serve to improve the transparency of our regulations.

One commenter stated that the potato pathotype of the false root-knot nematode (*Nacobbus aberrans*) is of concern with regard to Swiss chard imported from Mexico. The false root-knot nematode is a quarantine pest present in Mexico and is known to infest Swiss chard.

In response to this comment, this final rule provides that the admissible plant parts of Swiss chard from Mexico will be leaves and stem, rather than the whole plant as we proposed. Since the false root-knot nematode only infests the roots of Swiss chard and other plants and is not known to be carried in either the leaves or stem in trade or transport, this measure will be sufficient to prevent the introduction of false root-knot nematode in shipments of Swiss chard from Mexico.

The same commenter further stated that ginger root from China is an excellent host of the burrowing nematode (*Radopholus similis*) and root-knot nematodes of the genus *Meloidogyne*, and that root-knot nematode species that attack citrus are present in China and may infest ginger root as well. The commenter stated that evidence of infestation by such nematodes is more difficult to detect than evidence of arthropod infestation.

A review of our port interception records for the past 20 years reveals seven interceptions of root-knot nematodes in ginger root. Those interceptions were made in shipments from Jamaica, Haiti, Thailand, and Korea. There have been no interceptions of root-knot nematodes in ginger root from China.

Furthermore, both the burrowing nematode and root-knot nematodes exhibit symptoms that are macroscopic and detectable upon visual inspection. Specifically:

- Infestation by burrowing nematodes is evidenced by small, shallow, sunken, water-soaked lesions on the root.
- Root-knot nematodes cause galling of the root system which is often accompanied by a proliferation of small roots at the site of the gall.

Our interception records coupled with these macroscopic symptoms of infestation lead us to believe that port of entry inspection is adequate to mitigate the risk posed by burrowing

nematode and root-knot nematodes in ginger root from China.

Finally, the commenter recommended that a complete risk analysis be conducted with regard to the possible introduction of these nematodes with commodities from Mexico and China.

As noted previously and in the proposed rule, both of these commodities have been enterable under permit since before 1992. Before those permits were issued, APHIS staff assessed the risk associated with each commodity and documented the results of that assessment in a decision sheet,<sup>1</sup> which was the reporting tool we used before we began routinely preparing pest risk assessments according to the guidelines provided by the Food and Agriculture Organization and the North American Plant Protection Organization. Given that we have already assessed the risks associated with the two commodities and numerous subsequent inspections of consignments of those commodities from Mexico and China have yielded no interceptions of quarantine pests, we do not believe an additional risk analysis is necessary.

#### *Papaya From Brazil and Nicaragua*

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). We proposed to amend § 319.56–2w(a) by adding two new areas of Brazil and one new area of Nicaragua to the list of localities eligible to export papayas to the United States.

One commenter stated that Medfly and South American fruit fly (*Anastrepha fraterculus*) are present in Brazil and Medfly is present in Nicaragua, and that both pests are known to attack papaya. The commenter stated that before he could endorse the proposal to allow papaya from Brazil and Nicaragua to be imported into the United States, he would like the opportunity to review the 10 conditions

<sup>1</sup> Decision sheets contain relatively the same information that is contained in modern pest risk assessments, but without the standardized format.

under which fruit will be acceptable as uninfested.

As noted above and in the proposed rule, the 10 conditions can be found in paragraphs (b) through (k) of the regulations § 319.56–2w. Those provisions were added to the regulations in March 1998 and have been successfully used since that time to provide for the importation of papayas from various countries in Central America and South America.

#### *Citrus From the Dominican Republic*

We proposed to add several citrus fruits (grapefruit, lemon, orange, sour lime, and tangerine) from the Dominican Republic to the list in § 319.56–2t of 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. As is the case with the Swiss chard and ginger discussed earlier in this final rule, those citrus fruits have been imported into the United States under permit since before 1992 and their addition to the list in § 319.56–2t would serve to improve the transparency of our regulations.

One commenter noted that the State of California maintains an exterior quarantine and an ongoing detection program for Caribbean fruit fly (*Anastrepha suspensa*), a pest known to occur in the Dominican Republic. The commenter noted that an approved and certified treatment is necessary to prevent host fruit infested with Caribbean fruit fly from entering California and asked that APHIS recognize this special local need when developing its final rule.

Under the International Plant Protection Convention (IPPC), to which the United States is a signatory, and our regulations in § 319.56, a quarantine pest is defined as “a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.” Caribbean fruit fly is present in Florida, where a State protocol provides for the establishment of specific *A. suspensa* controlled areas (designated areas) from which fresh fruits may be certified for export. However, that protocol is not currently regarded as an official control program and APHIS does not consider Caribbean fruit fly to be a quarantine pest. Therefore, we do not regulate imports of citrus from the Dominican Republic to protect against entry of this pest.

#### *Medfly-Free Area in Argentina*

We proposed to recognize the Patagonia region of Argentina as free of Medfly and *Anastrepha* spp. fruit flies. 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.

One commenter, apparently believing that this aspect of the proposal was limited to recognizing only Medfly-free areas, asked if the Patagonia region was also free of South American fruit fly (*Anastrepha fraterculus*). The commenter stated that if this has not been verified, he would recommend that this aspect of the proposal not be finalized.

In the proposed rule, we explained that Argentina had provided us with fruit fly survey data that demonstrates that the Patagonia region meets the criteria of § 319.56–2(f) for area freedom from Medfly and other fruit flies (*i.e.*, *Anastrepha* spp. fruit flies). Those survey data were made available for review in the proposed rule. We also explained that, through site visits by APHIS officials, we had successfully verified this area’s status as a fruit fly-free zone. In response to the commenter’s specific question, we have verified that the Patagonia region of Argentina is free of South American fruit fly.

On the same subject, another commenter stated that carving out a Medfly-free area within a pest-infested area is questionable, given that pests do not read signs nor do they understand boundaries. The commenter further maintained that the Argentine Government has a history of not reporting pests or disease issues in a timely manner.

As noted above, the fruit fly-free status of the Patagonia region was demonstrated through survey data provided by the Argentine Government and verified during site visits by APHIS officials. Through those means, we determined that the Patagonia region of Argentina meets the criteria of § 319.56–2(f) for area freedom from Medfly and *Anastrepha* spp. fruit flies. Under § 319.56–2(f), the Administrator determines that an area is free of a pest or pests in accordance with the criteria for establishing freedom found in International Standard for Phytosanitary Measures Publication No. 4, “Requirements for the Establishment of Pest Free Areas.” That international standard was established by the IPPC and is incorporated by reference into our regulations. APHIS must approve

the survey protocol used to determine pest-free status, and pest-free areas are subject to audit by APHIS to verify their status. We would hope that the active involvement of APHIS in approving survey protocols and auditing pest-free areas would allay the commenter’s misgivings about the Argentine Government’s reporting history.

#### *Inspection Capabilities*

Two commenters raised concerns related to the transfer of port inspection responsibilities from APHIS to the Department of Homeland Security’s (DHS) Bureau of Customs and Border Protection (CBP). These commenters stated that staffing levels for pest exclusion programs were too low, that there had not been sufficient pest exclusion training provided for those CBP personnel who came from agencies other than APHIS, and that CBP inspectors are more focused on security issues than phytosanitary inspection. The commenters stated that these issues must be addressed before APHIS issues new regulations that could overwhelm what they perceive to be an already weakened system.

With respect to staffing levels, there was an initial drop in the number of inspectors following the transfer of port inspection responsibilities from APHIS to DHS in June 2003: APHIS transferred 1,507 agriculture inspectors to DHS, but by October 2004, the number of inspectors had decreased to 1,452. However, the loss of those 55 inspectors was more than offset by February 2005, at which time 109 new agricultural specialists had completed New Officer Training and were working at ports of entry. In addition, DHS has approved 14 training classes for new officers which began in the summer of 2004 and will continue through January 2006. DHS estimates that these training classes will result in a total of 720 new officers.

With respect to training, there was a need to provide pest exclusion training to those Immigration and Naturalization Service, U.S. Border Patrol, and U.S. Customs Service personnel who were transferred to CBP, just as the mission of CBP dictated the need to provide cross-training in other specialties to those APHIS personnel who were transferred to CBP. Planning and delivering training for all these personnel necessarily had to be accomplished over time, but all CBP inspection personnel have now been fully and satisfactorily trained in pest exclusion.

Finally, security issues are certainly a focus for CBP personnel, but that does not come at the expense of phytosanitary inspections. While CBP

conducts a majority of inspections of agricultural commodities at the ports of first arrival, inspectors follow established and effective APHIS protocols regarding inspection rates and procedures. APHIS continues to work with CBP to ensure that the United States is protected against pests of concern that may be associated with agricultural imports.

#### Market Access

One commenter stated that APHIS must do more to provide market access to developing nations. To that end, the commenter suggested that APHIS should create pre-approval locations overseas, which the commenter stated CBP has already done, and allow returning travelers to bring pre-screened fruits and vegetables back to the United States with them. APHIS could then approve or discard the items and issue permits on the spot, which the commenter stated CBP is already doing.

It appears that the commenter is unclear regarding the respective roles of APHIS and CBP in the scenario he describes. CBP has the primary responsibility for agricultural inspections at ports of entry, not APHIS, and it appears that the commenter is satisfied with CBP's approach to travelers returning to the United States with fruits or vegetables. There is no need—nor is there any authority—for APHIS to establish a parallel system.

The same commenter stated that APHIS should guarantee market access to fruit and vegetable producers in developing countries.

We cannot guarantee blanket access to the U.S. market to producers in any country. In order to maintain the safeguards necessary to protect American agriculture, we must first assess the phytosanitary risks associated with the importation of a particular fruit or vegetable from a potential exporting country. Only after such an assessment would we be able to make a decision to allow the importation of that commodity.

#### Other Changes in This Final Rule

We proposed to remove the specific treatment schedules presented in §§ 319.56–2k(d), 319.56–2m(b), and 319.56–2n(b) and replace them with references to the Plant Protection and Quarantine (PPQ) Treatment Manual. Those schedules were found in both the regulations and the PPQ Treatment Manual, so our proposed changes were intended to eliminate that duplicative presentation. Since the proposed rule was published, however, we have moved those treatment schedules out of the PPQ Treatment Manual and into the

regulations in 7 CFR part 305.

Therefore, where the proposed rule would have added a reference to the PPQ Treatment Manual, this final rule adds a reference to 7 CFR part 305.

In § 319.56–2x, the entries we proposed to add under Argentina all included the statement “Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).” As indicated in the table of treatments in § 305.2(h)(2)(i), the fruits we proposed to add are treated for species of *Anastrepha* (other than *A. ludens*) in addition to Medfly. As discussed earlier in this document, we are amending § 319.56–2(j) to recognize the Patagonia region of Argentina as free of Medfly and *Anastrepha* spp. fruit flies. Therefore, in § 319.56–2x in this final rule, the entries we are adding under Argentina include the more accurate statement “Treatment for *Anastrepha* spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).” Because we will not be removing the entry for blueberries from Argentina from § 319.56–2x as we had proposed, we have amended that entry to include a statement that treatment for Medfly is not required if the fruit is grown in a fruit fly-free area listed in § 319.56–2(j).

Also in § 319.56–2x, in the entry for Israel, we proposed to change the common name for “cactus” to “tuna.” The proposed new entry for tuna included a statement that treatment for Medfly is not required if the fruit is grown in a Medfly-free area listed in § 319.56–2(j). However, there are no Medfly-free areas of Israel listed in § 319.56–2(j), so that statement does not appear in this final rule.

We proposed to amend § 319.56–2c by removing a reference to the Deputy Administrator of PPQ and adding a reference to the Administrator in its place. After the proposed rule was published, § 319.56–2c was revised by another rule and the change we had proposed is no longer necessary.

Finally, the additional restrictions in § 319.56–2t(b)(1)(ii) have referred to Medfly-free areas listed in § 319.56–2(j). Because this rule amends § 319.56–2(j) to list areas of Argentina that are free of both Medfly and *Anastrepha* spp. fruit flies, we have amended paragraph (b)(1)(ii) in § 319.56–2t so that it uses the more generic term “fruit-fly free areas.”

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

#### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule relieves restrictions on the importation of certain fruits and vegetables from certain countries while continuing to protect against the introduction of plant pests into the United States. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Making this rule effective immediately will allow interested producers, importers, shippers, and others to benefit immediately from the relieved restrictions. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined 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. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

This final rule amends 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 have been eligible for importation under permit, but were not specifically listed in the regulations. This final rule also recognizes areas in several countries as free from certain fruit flies; adds, modifies, or removes certain definitions; modifies existing treatment requirements for specified commodities; and makes other miscellaneous changes.

We have used all available data to estimate the potential economic effects of allowing the fruits and vegetables specified in this rule to be imported into the United States. However, some of the data we believe would be helpful in making this determination have not been available. Specifically, data are not available on: (1) The quantity of certain fruits and vegetables produced domestically; (2) the quantity of potential imports; and (3) the degree to

which imported fruits and vegetables will displace existing imported or domestic products. In our proposed rule, we asked the public to provide such data for specific commodities. In addition, we invited the public to comment on the potential effects of the proposed rule on small entities, in particular the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. However, we did not receive any additional information or data in response to those requests.

*Effects 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 discussed in the proposed rule and in this final rule, 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). We believe that the economic effects of this rule in general will be small, and that the benefits that will accrue to consumers from greater trade will outweigh the costs to domestic producers.

With respect to those articles for which we have specific data, the potential economic effects of this final rule are discussed below by commodity and country of origin.

*Blueberries from Colombia.* The United States is the world's largest producer of blueberries, supplying more than half of the world's production.

Maine and Michigan account for more than half of all U.S. domestic blueberry production. According to the 1997 Census of Agriculture, there were 637 farms in Maine and 623 farms in Michigan harvesting blueberries. (The 2002 Census of Agriculture does not provide information on the number or location of blueberry farms.) Average annual U.S. production, imports, and exports of blueberries for the period 2000–2003 were 123,832 metric tons (MT), 20,820 MT, and 18,933 MT, respectively (<http://faostat.fao.org>).

Demand for blueberries in the United States has generally been on the rise: Per capita fresh blueberry consumption averaged 0.20 pound annually during the early 1990s and increased to 0.34 pound during 2000–2003. Imports have provided U.S. consumers access to fresh blueberries at retail grocery stores during the domestic off-season.

There are no official data available on blueberry production or trade by Colombia. Colombia has never exported blueberries to the United States before. However, a prospective Colombian exporter has projected blueberry exports to the United States over the next 6 years (table 1). Based on these numbers, Colombia could export 10.2 metric tons of blueberries to the United States in 2006, an amount equal to 0.05 percent of average annual U.S. imports during the period 2000–2003 of 20,820 MT. The same set of projections indicates that blueberry imports from Colombia could increase to about 251 MT per year by 2011, which would represent 1.2 percent of U.S. annual imports, 2000–2003. We do not expect that the economic effects resulting from imports at those levels would be substantial.

TABLE 1.—PROJECTED COLOMBIAN EXPORTS OF BLUEBERRIES TO THE UNITED STATES

Year	Volume
2006 .....	10.20 MT
2007 .....	30.00 MT
2008 .....	60.00 MT
2009 .....	102.00 MT
2010 .....	135.00 MT
2011 .....	250.80 MT

*Papayas from Brazil and Central America.* We are listing 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 will not be substantial.

There are 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 allowing 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.

This rule contains various recordkeeping requirements, which were described in our proposed rule, and which have been approved by the Office of Management and Budget (see "Paperwork Reduction Act" below).

*Executive Order 12988*

This final rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0264.

*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 rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

**List of Subjects**

*7 CFR Part 305*

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine,

Reporting and recordkeeping requirements.

*7 CFR Part 319*

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

■ Accordingly, we are amending 7 CFR parts 305 and 319 as follows:

**PART 305—PHYTOSANITARY TREATMENTS**

■ 1. The authority citation for part 305 continues to read as follows:

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.2, the table in paragraph (h)(2)(i) is amended by adding, under Colombia, an entry for blueberry, in alphabetical order, to read as follows.

**§ 305.2 Approved treatments.**

*	*	*	*	*
(h)	*	*	*	*
(2)	*	*	*	*
(i)	*	*	*	*

Location	Commodity	Pest	Treatment schedule <sup>1</sup>
Colombia	Blueberry	<i>Ceratitis capitata</i>	MB T101-i-1-1.

<sup>1</sup> Treatment by irradiation in accordance with §305.31 may be substituted for other approved treatments for the mango seed weevil *Sternochetus mangiferae* (Fabricus) or for one or more of the following 11 species of fruit flies: *Anastrepha fraterculus*, *A. ludens*, *A. obliqua*, *A. serpentina*, *A. suspensa*, *Bactrocera cucurbitae*, *B. dorsalis*, *B. tryoni*, *B. jarvisi*, *B. latifrons*, and *Ceratitis capitata*.

\* \* \* \* \*

**PART 319—FOREIGN QUARANTINE NOTICES**

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

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

**§ 319.56 [Amended]**

■ 4. Section 319.56 is 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).

■ 5. Section 319.56-1 is 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.

■ 6. Section 319.56–2 is 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.

\* \* \* \* \*

**§ 319.56–2d [Amended]**

■ 7. Section 319.56–2d is 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]**

■ 8. In § 319.56–2g, the introductory text of paragraph (b)(1) is amended by removing the words “Deputy Administrator of the Plant Protection and Quarantine Programs” and adding the word “Administrator” in their place.

■ 9. In § 319.56–2j, footnote 4 is revised to read as follows:

**§ 319.56–2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.<sup>4</sup>**

■ 10. Section 319.56–2k is 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 “part 305 of this chapter.” 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 part 305 of this chapter 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 part 305 of

<sup>4</sup>Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of part 305 of this chapter or the cold treatment requirements of § 319.56–2d.

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]**

■ 11. In § 319.56–2l, paragraph (b)(2)(ii) is 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]**

■ 12. Section 319.56–2m is amended as follows:

■ a. In the introductory text of the section, by removing the words “the following procedure” and adding the words “part 305 of this chapter” in their place.

■ b. In paragraph (b), by removing the words “the following schedule:” and adding the words “part 305 of this chapter.” 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 “part 305 of this chapter” in their place.

**§ 319.56–2n [Amended]**

■ 13. Section 319.56–2n is 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 “part 305 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 “part 305 of this chapter.” in their place and by removing the subsequent table.

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

**§ 319.56–2p [Amended]**

■ 14. In § 319.56–2p, paragraph (b)(7) is amended by removing the words “Deputy Administrator of the Plant Protection and Quarantine Programs” and adding the word “Administrator” in their place.

■ 15. Section 319.56–2t is 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, cherry, kiwi, nectarine, peach, pear, plum, pomegranate, and quince; under Belgium, for cichorium; under Belize, for pepper; under Chile, for apple, asparagus, avocado,

blackberry, cherry, pear, and raspberry; under China, for ginger root; under Colombia, for banana; 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 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; 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” read as set forth below.

■ c. In paragraph (b)(1)(ii), by removing the words “Medfly-free” both times they appear and adding the words “fruit-fly free” in their place.

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

■ e. By revising the OMB citation at the end of the section 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)
	*	*	*	*
	Cherry	<i>Prunus avirum, 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)
	*	*	*	*
Belgium	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)
	*	*	*	*
	Cichorium	<i>Cichorium</i> spp	Above ground parts	(b)(6)(i)
*	*	*	*	
Belize	*	*	*	*
	Pepper	<i>Capsicum</i> spp	Fruit	(b)(6)(ii)
*	*	*	*	
Brazil	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
	Ginger root	<i>Zingiber officinale</i>	Root.	
Chile	*	*	*	*
	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.	
	Cherry	<i>Prunus avium, P. cerasus</i>	Fruit	(b)(1)(ii)
	*	*	*	*
	Pear	<i>Pyrus communis</i>	Fruit	(b)(1)(ii)
	*	*	*	*
	Raspberry	<i>Rubus</i> spp	Fruit.	



Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
China	*	*	*	*
Colombia	Ginger root	<i>Zingiber officinale</i>	Root.	
	Banana	<i>Musa spp</i>	Leaf and fruit.	
Costa Rica	Banana	<i>Musa spp</i>	Leaf and fruit.	
	Carrot	<i>Daucus carota ssp 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 spp</i>	Fruit.	
	Breadfruit	<i>Artocarpus altilis</i>	Fruit.	
	Cassava	<i>Manihot esculenta</i>	Root.	
	Celeriac	<i>Apium graveolens var. dulce</i>	Whole plant.	
	Citrus	<i>Citrus spp</i>	Fruit	(b)(6)(iii)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
	Genip	<i>Melicococcus bijugatus</i>	Fruit.	
	Papaya	<i>Carica papaya</i>	Fruit	(b)(2)(iii)
	Pepper	<i>Capsicum spp</i>	Fruit.	
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
Ecuador				
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
Guatemala				
	Banana	<i>Musa spp</i>	Leaf and fruit.	
	Cichorium	<i>Cichorium spp</i>	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 spp</i>	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)

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
Mexico				
	Artichoke, globe ... Artichoke, Jeru- salem.	<i>Cynara scolymus</i> ..... <i>Helianthus tuberosus</i> .....	Immature flower head. 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.	
	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> .....	Above ground parts.	
	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.	
Spain .....	Cucurbit .....	Cucurbitaceae .....	Above ground parts .....	(b)(3)

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (See paragraph (b) of this section.)
*	Lemon	<i>Citrus limon</i>	Fruit	(b)(3), (b)(6)(iv)
Trinidad and To- bago.	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.

(Approved by the Office of Management and Budget under control numbers 0579-0049, 0579-0236, and 0579-0264.)

■ 16. Section 319.56-2v is 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.

■ 17. Section 319.56-2w is 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.

\* \* \* \* \*

■ 18. In § 319.56-2x, paragraph (a), the table is amended as follows:

- a. Under Argentina, by revising the entries for blueberry and 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. Under Chile, by adding, in alphabetical order, entries for apple, avocado, cherry, and pear to read as set forth below.
- c. Under Colombia, by adding, in alphabetical order, an entry for blueberry to read as set forth below.
- d. Under Israel, by removing the entry for cactus and adding, in alphabetical order, an entry for tuna to read as set forth below.

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

\* \* \* \* \*

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Apple	<i>Malus domestica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Apricot	<i>Prunus armeniaca</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Blueberry	<i>Vaccinium</i> spp.	Fruit. (Treatment for Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Kiwi	<i>Actinidia deliciosa</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Nectarine	<i>Prunus persica</i> var. <i>nucipersica</i> .	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).
	Peach	<i>Prunus persica</i> var. <i>persica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56-2(j)).

Country/locality	Common name	Botanical name	Plant part(s)
	Pear .....	<i>Pyrus communis</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Plum .....	<i>Prunus domestica</i> spp. <i>domestica</i> .	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Pomegranate .....	<i>Punica granatum</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Quince .....	<i>Cydonia oblonga</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-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</i> , <i>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)).
	*	*	*
Colombia .....	Blueberry .....	<i>Vaccinium</i> spp. ....	Fruit.
	*	*	*
Israel			
	*	*	*
	Tuna .....	<i>Opuntia</i> spp. ....	Fruit.
	*	*	*

\* \* \* \* \*

**§ 319.56–2gg [Amended]**

■ 19. In § 319.56–2gg, paragraph (d) is amended by removing the word “Deputy”.

Done in Washington, DC, this 2nd day of December 2005.

**Kevin Shea,**  
Acting Administrator, Animal and Plant Health Inspection Service.  
[FR Doc. 05–23790 Filed 12–7–05; 8:45 am]  
BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 984**

[Docket No. FV05–984–2 FR]

**Walnuts Grown in California; Increased Assessment Rate**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Walnut Marketing Board (Board) for the 2005–06 and subsequent marketing years from \$0.0094 to \$0.0096 per kernelweight pound of assessable walnuts. The Board locally administers the marketing order which regulates the handling of walnuts grown in California. Assessments upon walnut handlers are used by the Board to fund reasonable and necessary expenses of the program. The marketing year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective Date: December 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Shereen Marino, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP

0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice