UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
PLANT PROTECTION AND QUARANTINE

Title 7--Agriculture

CHAPTER III--Animal and Plant
Health Inspection Service

Part 319 FOREIGN QUARANTINE NOTICES

Subpart--Fruits and Vegetables

Sec.	
319.56	Notice of quarantine.
319.56a	Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under 319.56.
319.56-1	Definitions.
319.56-2	Restrictions on entry of fruits and vegetables.
319.56-2a	Permits required for entry of chestnuts and acorns and certain coconuts.
319.56-2b	Administrative instructions; conditions governing the entry of acorns and chestnuts.
319.56-2c	Administrative instructions authorizing the importation of frozen fruits and vegetables.
319.56-2d	Administrative instructions for cold treatments of certain imported fruits.
319.56-2e	Administrative instructions; conditions governing the entry of cipollini from Morocco.
319.56-2f	Administrative instructions prescribing method of treatment of oranges, grapefruit, tangerines, and Manila mangoes from Mexico.
319.56-2g	Administrative instructions prescribing method of treatment of garlic from specified countries.
319.56-2h	Regulations governing the entry of grapes from Australia.
319.56-2i	Administrative instructions prescribing treatments for mangoes from Central America, Mexico, South America, and the West Indies.
319.56-2j	Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.
319.56-2k	Administrative instructions prescribing method of fumigation of fieldgrown grapes from specified countries.
319.56-2l	Administrative instructions prescribing method of treatment of imported yams.
319.56-2m	Administrative instructions prescribing method of fumigation of apricots, grapes, nectarines, peaches, and plums from Chile.
319.56-2n	Administrative instructions prescribing a combination treatment of fumigation plus refrigeration for certain fruits.

Part 319 FOREIGN QUARANTINE NOTICES

Subpart--Fruits and Vegetables

319.56-2o	Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.
319.56-2p	Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.
319.56-2q	Administrative instructions; conditions for importation of grapefruits, oranges, and tangerines from Mexico.
319.56-2r	Administrative instructions governing the entry of apples and pears from certain countries in Europe.
319.56-2s	Administrative instructions governing the entry of apricots, nectarines, peaches, and plums from Chile.
319.56-2t	Administrative instructions; conditions governing the entry of certain fruits and vegetables.
319.56-2u	Conditions governing the entry of pummelo from Israel.
319.56-2v	Conditions governing the entry of citrus from Australia.
319.56-2w	Administrative instructions; conditions governing the entry of papayas from Costa Rica.
319.56-2x	Administrative instructions; conditions governing the entry of certain fruits and vegetables.
319.56-2y	Administrative instructions; conditions governing the entry of cantaloupe from Ecuador.
319.56-2z	Administrative instructions governing the entry of cherimoyas from Chile.
319.56-2aa	Administrative instructions governing the entry of honeydew melons from Brazil.
319.56-2bb	Administrative instructions governing the movement of Hass avocados from Mexico to Alaska.
319.56-2cc	Administrative instructions governing the entry of Fuji variety apples from Japan and the Republic of Korea.
319.56-2dd	Administrative instructions; conditions governing the entry of pink or red tomatoes from Spain.
319.56-3	Applications for permits for importation of fruits and vegetables.
319.56-4	Issuance of permits.
319.56-5	Notice of arrival by permittee.
319.56-6	Inspection and disinfection of importations of fruits and vegetables.
319.56-7	Inspection of baggage and cargo on the dock.
319.56-8	Territorial applicability.

This edition contains all amendments through April 1995.

Subpart—Fruits and Vegetables

QUARANTINE

§319.56 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given:

(1) That there exist in Europe, Asia, Africa, Mexico, Central America, and South America, and other foreign countries and localities, certain injurious insects, including fruit and melon flies (Tephritidae), new to and not heretofore widely distributed within and throughout the United States, which affect and may be carried by fruits and vegetables commercially imported into the United States or brought to the ports of the United States as ships' stores or casually by passengers or others, and

(2) That the unrestricted importation of fruits and vegetables from the countries and localities enumerated may result in the entry into the United States of injurious insects, including fruit and melon flies (Tephritidae).

(b) The Secretary of Agriculture, under authority conferred by the act of Congress approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151–167), does hereby declare that it is necessary, in order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies (Tephritidae), to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States of fruits and vegetables from the foreign countries and localities named and from any other foreign country or locality, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables.

(c) On and after November 1, 1923, and until further notice, the importation from all foreign countries and localities into the United States of fruits and vegetables, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables, except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided*, That whenever the Deputy Administrator for the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) 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.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under §319.56.

(a) The following fruits and vegetables may be imported into Guam without treatment except as it may be required under §319.56-6 and they shall otherwise be subject to all the requirements of this subpart as modified by this section:

(1) All fruits and vegetables from the Marianas Islands.

(2) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(3) All fruits and vegetables from the Caroline Islands, except citrus fruits, and except taro from the Palau and Yap districts (the excepted products are not approved for entry into Guam under §319.56 without treatment).

(4) Allium, artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons, from Japan and Korea.

(5) Leafy vegetables, celery, and potatoes, from the Philippine Islands.

(6) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops), from Australia.

(7) Arrowroot, asparagus, bean sprouts, broccoli, cabbage, carrots (without tops), cassava, cauliflower, celery, chives, cow-cabbage, dasheen, garlic, gingerroot, horseradish, kale, kudzu, leek, lettuce, onions, Portuguese cabbage, turnip, udo, water chestnut, watercress, waterlilyroot, and yam bean root, from Taiwan (Formosa).

(8) Lettuce from Netherlands New Guinea.

(9) Carrots, celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits, from New Zealand.

(10) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(11) Green corn on the cob.

(12) All other fruits and vegetables administratively approved for entry into any other part or port of the United States, except those for which a treatment is specified as a condition of entry and except any which are now, or may subsequently be, specifically designated in this subpart as not approved.

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill the requirements of §§319.56-3 and 319.56-4. He may waive the documentation required in §319.56-5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(c) The provisions of §§319.56-2a and 319.56-2b shall not apply to chestnuts and acorns imported into Guam and they shall be enterable without further permit, other than the authorization contained in this paragraph, and without other restriction under this subpart, in accordance with the second paragraph of §319.56-2. Inspections of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with §330.106 of this chapter.

(d) Coconuts with husks are not approved for entry into Guam from the Trust Territory under §319.56.

(e) Application of the provisions of §§319.56-2d and 319.56-2f to 319.56-2m, inclusive, is impracticable in the case of traffic into Guam and therefore such application is withdrawn. The fruits and vegetables which are the subject of said provisions are not enterable into Guam except as they are now, or may later be, listed in paragraph (a) of this section. Yams are included in the listings in paragraphs (a) (1) and (2) of this section.

(f) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting the requirement of the first paragraph of §319.56-2.

[24 FR 10788, Dec. 29, 1959, as amended at 29 FR 2329, Feb. 11, 1964; 29 FR 6614, May 21, 1964; 31 FR 5607, Apr. 9, 1966; 34 FR 14638, Sept. 20, 1969; 35 FR 9105, June 12, 1970; 35 FR 16678, Oct. 28, 1970; 58 FR 43497, Aug. 17, 1993]

RULES AND REGULATIONS

§319.56-1 Definitions.

Above ground parts. Any plant parts, such as stems, leaves, fruit, or inflorescence, that grow solely above the soil surface.

Commercial shipment. A shipment containing fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of

produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Cucurbits. *Benincasa hispida* (wax gourd), *Citrullus lanatus* (watermelon), *Cucumis* spp. (including, but not limited to cucumber, kiwano, cantaloupe, honeydew, muskmelon, and Indian gherkin), *Cucurbita* spp. (including, but not limited to squash, zucchini, crenshaws, pumpkin, and marrow), *Lagenaria* spp. (including, but not limited to the white-flowered gourds), *Luffa* spp. (including, but not limited to luffa and angled luffa), *Momordica balsamina* (balsam-apple), *Momordica charantia* (bitter gourd), and *Sechium edule* (chayote).

Deputy Administrator. The Deputy Administrator, Plant Protection and Quarantine, or any person to whom the Deputy Administrator has delegated his or her authority.

Fresh fruits and vegetables. The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

Inspector. An inspector of the Plant Protection and Quarantine Programs, U.S. Department of Agriculture.

Plants or portions of plants. Leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

Port of first arrival. The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 57 FR 54489, Nov. 19, 1992]

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

(a) All importations of fruits and vegetables must be free from plants or portions of plants, as defined in §319.56-1.

(b) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided*, That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) Fruits and vegetables grown in the Dominion of Canada and in Newfoundland,[1] including its mainland territory of Labrador, may be imported into the United States from these countries free from any restrictions whatsoever under the regulations in this subpart.

(d) Fruits and vegetables grown in the British Virgin Islands may be imported into the Virgin Islands of the United States without further permit other than the authorization contained in this paragraph but subject to the requirements of the first paragraph of this section, and of §§319.56-5, 319.56-6 and 319.56-7, except that such fruits and vegetables are exempted from the notice of arrival requirements of §319.56-5 when an inspector shall find that equivalent information is obtainable from the U.S. Collector of Customs.

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

[1] The importation of potatoes into the United States from Newfoundland and all other foreign countries, except the Dominion of Canada and Bermuda, is governed by the restricted entry order and regulations in §§321.1 through 321.8 of this chapter.

[2] The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, §319.28.

satisfied that the fruit or vegetable either:

(1) Is not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae);

(2) Has been treated or is to be treated for all injurious insects that attack it in the country of origin, in accordance with conditions and procedures that may be prescribed by the Administrator;

(3) Is imported from a definite area or district in the country of origin that is free from all injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and its importation is in compliance with the criteria of paragraph (f) of this section; or

(4) Is imported from a definite area or district of the country of origin that is free from certain injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and the criteria of paragraph (f) of this section are met with regard to those certain insects, provided that all other injurious insects that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Administrator.

(f) Before the Administrator may authorize importation of a fruit or vegetable under §319.56-2(e) (3) or (4), he or she must determine that the following criteria have been met:

(1) Within the past 12 months, the plant protection service of the country of origin has established the absence of infestations of injurious insects known to attack fruits or vegetables in the definite area or district based on surveys performed in accordance with requirements approved by the Administrator as adequate to detect these infestations;

(2) The country of origin has adopted and is enforcing requirements to prevent the introduction of injurious insects known to attack fruits and vegetables into the definite area or district of the country of origin that are deemed by the Administrator to be at least equivalent to those requirements imposed under this chapter to prevent the introduction into the United States and interstate spread of injurious insects; and

(3) The plant protection service of the country of origin has submitted to the Administrator written detailed procedures for the conduct of surveys and the enforcement of requirements under this paragraph to prevent the introduction of injurious insects.

When used to authorize importation under §319.56-2(e)(3), the criteria must be applied to all injurious insects that attack the fruit or vegetable; when used to authorize importation under §319.56-2(e)(4), the criteria must be applied to those particular injurious insects from which the area or district is to be considered free.

(g) Each box of fruit or vegetables imported into the United States in accordance with §319.56-2(e) (3) or (4) and §319.56-2(f) must be clearly labelled 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.

(h) The Administrator has determined that the following municipalities in Sonora, Mexico, meet the criteria of §319.56-2 (e) and (f) with regard to the insect pests *Ceratitis capitata*, *Anastrepha ludens*, *A. serpentina*, *A. obliqua*, and *A. fraterculus:* Altar, Atil, Caborca, Carbo, Empalme, Guaymas, Hermosillo, Pitiquito, Puerto Penasco, San Luis Rio Colorado, and San Miguel. Apples, apricots, grapefruit, oranges, peaches, persimmions, pomegranates, and tangerines may be imported from these areas without treatment for the pests named in this paragraph.

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

(j) The Administrator has determined that all Provinces in Chile except Arica, Iquique, and Parinacota meet the criteria of §319.56-2 (e) and (f) with regard to the insect pest Mediterra-

nean fruit fly (Medfly) (*Ceratitis capitata*) (Wiedemann). Fruits and vegetables from Chile otherwise eligible for importation under this subpart may be imported from these areas without treatment for Medfly.

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

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 53 FR 10057, Mar. 29, 1988; 53 FR 27956, July 26, 1988; 54 FR 12873, Mar. 29, 1989; 56 FR 1731, Jan. 17, 1991; 56 FR 10790, Mar. 14, 1991; 57 FR 10976, Apr. 1, 1992; 58 FR 43497, Aug. 17, 1993; 58 FR 69179, Dec. 30, 1993; 59 FR 9382, Feb. 28, 1994]

§319.56-2a Permits required for entry of chestnuts and acorns and certain coconuts.

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to §319.56-2.

§319.56-2b Administrative instructions; conditions governing the entry of acorns and chestnuts.

(a) *Countries other than Canada and Mexico.* Except for importations of acorns and chestnuts grown in and shipped from Canada and Mexico, acorns and chestnuts are permitted entry into the United States under permit, for purposes other than propagation, under the provisions of §319.56 as follows:

(1) *Condition of entry.* Notwithstanding §319.56-2(e) (1) and (2), all shipments of acorns and chestnuts are required to be treated as a condition of entry. Fumigation with methyl bromide in accordance with procedures described in this section is effective against the chestnut and acorn weevils, *Curculio elephas* (Cyllenhal) and *C. nucum* Linnaeus; the nut fruit tortrix, et al., *Laspeyresia splendana* (Hubner), *Laspeyresia* spp., and *Hemimene juliana* (Curtis); and other insect pests of chestnuts and acorns. Accordingly, this treatment is approved as a condition of entry in connection with the issuance of permits under §319.56-4 for the importation of chestnuts and acorns from any country except Canada and Mexico.

(2) *Ports of entry.* Acorns and chestnuts to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(3) *Approved fumigation.* The approved treatment shall consist of fumigation with methyl bromide. The acorns and chestnuts may be fumigated in vacuum or normal atmospheric chambers, van containers, or tarpaulins that have been approved for that purpose by the Plant Protection and Quarantine Programs. When the fumigation is carried out under tarpaulins or in van containers, it must be accomplished in a manner satisfactory to the inspector by insuring adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) In chamber at normal atmospheric pressure (NAP):

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90–96	4	3
80–89	4	4
70–79	5	4
60–69	5	5
50–59	6	5
40–49	6	6

(ii) In chamber at 26″ vacuum:

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
80–96	3	2
70–79	4	2
60–69	4	3
50–59	4	4
40–49	4	5

(iii) In van containers or under tarpaulins: Fumiscope readings are required to assure minimum gas concentration as specified in this paragraph (a)(3)(iii) of this section at the

end of the first one-half hour and at the completion of the exposure period.

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—34 oz.).	4	3
80-89 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—32 oz.).	4	4
70-79 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—42 oz.).	5	4
60-69 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—40 oz.).	5	5
50-59 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—50 oz.).	6	5
40-49 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—48 oz.).	6	6

The fumigation temperatures used in these treatment schedules shall be that of the nut kernels. Acorns and chestnuts fumigated in van containers or under tarpaulins must be stacked in the container to provide for circulation of the fumigant under the load. Refrigerated van containers fitted with floor grooves meet this requirement. Van containers not fitted with floor grooves and tarpaulins should have provision for air circulation under the load by use of dunnage or pallets. Minimum concentrations of fumigant during the exposure period shall be maintained as specified in the treatment schedules. Because of the presence of various gases emitted by the nuts, special filtering procedures will be necessary for determination of the actual fumigant concentrations. At the end of the treatment exposure period the nuts shall be aerated for a minimum of one-half hour.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. The inspector shall require such safeguards in each specific case for unloading and handling of the nuts at the port of entry, transportation of the nuts from the place of unloading to the treatment facilities, and their handling during fumigation and aeration as required by paragraph (a)(3) of this section, as he deems necessary to prevent the spread of plant pests and assure compliance with the provisions of this subpart. If any part of the treatment is conducted in the country of origin, the person or organization requesting the service must enter into a formal agreement with the Plant Protection and Quarantine Programs to secure the services of an inspector.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the commodity or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(3) of this section is judged from experimental tests to be safe for use with acorns and chestnuts. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required under paragraph (a)(4) of this section.

(b) *Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes other than propagation are enterable without permit or further restriction under this subpart.

(c) *Nuts for propagation.* Acorns and chestnuts from any country may be imported for purposes of propagation only in accordance with §319.37.

[37 FR 19799, Sept. 22, 1972]

§319.56-2c Administrative instructions authorizing the importation of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of those treatments commonly known as quick freezing, sharp freezing, or frozen pack. In general this involves an initial quick freezing at subzero temperatures with subsequent storage and transportation handling at not higher than 20° F. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs, under authority contained in §319.56-2, hereby prescribes freezing as a satisfactory treatment for all fruits and vegetables enterable under permit under §319.56. Such frozen fruits and vegetables may be imported from any country under permit, on compliance with §§319.56-1 through 319.56-7 (exclusive of non-related administrative instructions), at such ports as shall be authorized in the permits.

(c) Such fruits and vegetables may not be removed from the vessel or vehicle transporting them until it has been determined by an inspector of the Plant Protection and Quarantine Programs that they are in a satisfactory frozen state on arrival in this country.

(d) If the temperature of the fruits or vegetables in any part of such an importation is found to be above 20° F. at the time of inspection upon arrival, the entire shipment shall remain on board the vessel or vehicle under such safeguards as may be prescribed by the inspector of the Plant Protection and Quarantine Programs until the temperature of the shipment is below 20° F., or the shipment is transported outside the United States or its territorial waters, or is otherwise disposed of to the satisfaction of the inspector.

(e) The importation from foreign countries of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(f) Freezing of fruits and vegetables as authorized in the instructions in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for entry in accordance with the instructions in this section.

§319.56-2d Administrative instructions for cold treatments of certain imported fruits.

(a) *Treatments authorized.* Fresh fruits imported in accordance with this subpart and required under this subpart to receive cold treatment as a condition of entry must be cold treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at §300.1 of this chapter. The cold treatments listed in the PPQ Treatment Manual are authorized for any fruit required to be cold treated under this subpart.

(b) *Place and manner of treatments*—(1) *Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit shall be both precooled and refrigerated after arrival only in cold storage warehouses approved by the Deputy Administrator of the Plant Protection and Quarantine Programs and located at the following ports: the port of Wilmington, NC; Atlantic ports north of, and including, Baltimore, MD; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and, for air shipments, Washington, DC, at Baltimore-Washington International and Dulles International airports. Fruit which is to be refrigerated in transit shall be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel. Refrigeration shall be completed in the compartment or room in which it is begun.

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section. The precooling may be conducted in accord-

ance with either paragraph (b)(2) (i) or (ii) of this section:

(i) Fruit may be precooled at a dockside refrigeration plant prior to loading aboard the carrying vessel. Such fruit shall be precooled to a temperature at which it can be transferred to the refrigerated compartments on such vessel without a rise above the maximum temperature prescribed in or under paragraph (a) of this section. A responsible official of the Department of Agriculture of the country of origin shall sample fruit temperatures in all sections of the lot of fruit until he is satisfied that complete precooling has been accomplished in accordance with this section and shall issue a certificate to that effect. As the loading proceeds the certifying official shall take frequent temperature readings of individual boxes of fruit. A record of such temperature readings shall accompany the certificate.

(ii) Fruit may be precooled aboard the carrying vessel. Such fruit shall be precooled in the same refrigerated compartments in which it is to be refrigerated. The boxes of the fruit shall be spaced by horizontal wooden strips, so that each has at least 1 inch of clearance above and below to allow free circulation of the cooling air. At least 2 inches of clearance shall be allowed between stacks of the fruit. Carriers desiring consideration of alternate spacing arrangements may apply to the Plant Protection and Quarantine Programs.

(3) *Refrigeration in transit.* (i) Refrigeration in transit shall consist of holding the fruit temperature at or below the maximum temperature level for the number of days prescribed in or under paragraph (a) of this section. A continuous, automatic temperature record under lock shall be maintained from at least four locations to be designated in each refrigerated compartment by an inspector of the Plant Protection and Quarantine Programs. In large refrigerated compartments additional temperature elements may be required. Charts from the temperature recording apparatus shall be made readily available to an inspector of such Plant Protection and Quarantine Programs at the port of arrival.

(ii) Refrigeration shall begin when the loading of precooled fruit has been completed or when precooling aboard the vessel has been completed. Refrigeration shall continue until the vessel arrives at the port of destination and the fruit is released for unloading by an inspector of the Plant Protection and Quarantine Programs, even though this may prolong the refrigeration beyond the required period. At least once during every 24-hour period, the responsible ship's officer shall sign the temperature chart, noting thereon the date and time.

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the required cold treatment, such safeguards against the spread of fruitfly infestation as the inspector may prescribe shall be immediately applied.

(5) *Cold treatment after arrival.*—(i) *Delivery.* Fruit to be both precooled and refrigerated after arrival in the United States shall be delivered under the supervision of an inspector of the Plant Protection and Quarantine Programs to the approved cold storage warehouse where such treatment is to be conducted.

(ii) *Precooling and refrigeration.* The fruit must arrive at a temperature sufficiently low to prevent insect activity and shall be promptly precooled and refrigerated. An automatic, continuous temperature record is required of each refrigeration, like that prescribed in paragraph (b)(3) of this section for refrigeration in transit. The number of records required will be designated by the inspector for each refrigeration, depending upon the circumstances of each operation.

(iii) *Customs.* Shipments offered for entry before cold treatment may be allowed to leave customs custody under redelivery bond for cold treatment. Final release of the shipment by the U.S. Collector of Customs, or, in the case of Guam, by the Customs officer of the Government of Guam, will be effected after the inspector has notified the said Customs official that the required cold treatment has been given.

(iv) *Special requirements for the port of Wilmington, NC.* Shipments of fruit ar-

riving at the port of Wilmington, NC, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit must arrive packaged in fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruits and vegetables must be cold-treated within the port of Wilmington, NC, that is, the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) Advance reservations for cold treatment space at the port of Wilmington, NC, must be made prior to the departure of a shipment from its port of origin.

(6) *Containers and season of arrival.* Containers should be uniform and suitably constructed to maintain firm stacking in the compartment throughout the voyage. Shipments may be made during any season of the year. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately destroyed in a manner satisfactory to the inspector.

(7) *Procedures in country of origin.* (i) By arrangement between the Deputy Administrator of the Plant Protection and Quarantine Programs and the equivalent official in the country of origin, certifying officials will be designated by the country of origin. Their signatures shall be filed with the Plant Protection and Quarantine Programs.

(ii) Each container of fruit intended for intransit refrigeration shall be stamped or marked as it is loaded on the carrying vessel so that it can be readily identified as such. Fruit being shipped under permit to be completely cold treated at the Port of New York or other subsequently designated northern ports shall not be so marked.

(iii) Fruit precooled at a dockside refrigeration plant shall be transferred to the refrigerated compartments on the carrying vessel without a rise in temperature above the maximum for the desired refrigeration. When this transfer has been accomplished, the certifying official shall issue a certificate of precooling.

(iv) Fruit to be precooled on the carrying vessel in the refrigerated compartments shall be loaded under supervision of the certifying official to assure that all packages have the proper clearance on all sides.

(v) Fruit in transit for cold treatment after arrival shall be loaded in a separate compartment and segregated from any fruit that is being refrigerated in transit.

(vi) Fruit not intended for any phase of cold treatment shall not be loaded in the same refrigerated compartment with fruit to be given such cold treatment.

(vii) The certifying official shall calibrate the elements of the temperature recording instruments not more than 3 days prior to the loading of fruit, by immersing them in a 32° F. mixture of crushed ice and fresh water, and recording their deviation from 32° F. He shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

(viii) The certifying official shall record the following data, noting the date and time, on the temperature chart: (*a*) Commencement of loading of each compartment, (*b*) insertion of the sensing elements into the fruit, and (*c*) completion of loading of each compartment.

(ix) The certificate of precooling, when required, shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airmailed to the inspector of the Plant Protection and Quarantine Programs in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20520. A record showing calibration of the elements of the temperature recording instruments, as required in paragraph (b)(7)(vii) of this section shall be attached to each certificate, along with any record of the fruit tem-

perature readings required in paragraph (b)(2)(i) of this section. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Deputy Administrator of the Plant Protection and Quarantine Programs before any phase of cold treatment is begun. Requests for such approval shall be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.[1] Hereafter before a shipboard refrigeration installation will be approved it must first be certified by the American Bureau of Shipping or a comparable agency as in good order, with the insulated spaces clean and otherwise in satisfactory condition.

(d) *Caution and disclaimer.* The cold treatments required for the entry of fruit are considered necessary for the elimination of plant pests, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event injury results to fruit offered for entry in accordance with these instructions. In prescribing cold treatments of certain fruits, it should be emphasized that inexactness and carelessness in applying the treatments may result in injury to the fruit, or its rejection for entry. Oranges have been successfully cold treated for the false codling moth in commercial shipments at the temperature prescribed in paragraph (a)(2)(v) of this section. Since commercial varieties of oranges show a wide variation in acceptable refrigeration temperatures, it is recommended that extensive tests be made with each variety in the country of origin before shipping in commercial quantities.

[31 FR 16601, Dec. 29, 1966; as amended at 32 FR 12832, Sept. 8, 1967; 32 FR 13215, Sept. 19, 1967; 35 FR 5031, Mar. 25, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 59 FR 40796, Aug. 10, 1994; 59 FR 67610, Dec. 30, 1994]

§ 319.56–2e Administrative instructions; conditions governing the entry of cipollini from Morocco.

(a) Shipments of cipollini (Muscari comosum) from Morocco have frequently been found infested at time of entry with an injurious insect, Exosoma lusitanica, not known to occur in the United States. The limited type of inspection at our disposal is not considered adequate to detect all cases of infestation and, since the effectiveness of methyl bromide fumigation in freeing this product from the insect in question is now well established, it has been decided to require this fumigation as a condition of entry for future shipments.

(b) On and after December 7, 1939, therefore, fumigation with methyl bromide will be a condition of entry for all shipments of cipollini from Morocco. This treatment shall be carried out under the supervision of a plant quarantine inspector at the expense of the importer, and release of the shipment will be withheld until the treatment has been completed. In addition to fumigation only such inspection will be given as the inspector may judge necessary from time to time to determine pest conditions on arrival or to assure himself of the effectiveness of the treatment.

(c) The entry of cipollini from Morocco may be made only through the ports of New York and Boston at which ports facilities for vacuum fumigation with methyl bromide, as herein required, are available.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56–2f Administrative instructions prescribing method of treatment of oranges, grapefruit, tangerines, and Manila mangoes from Mexico.

(a) *Conditions for issuance of permits.* (1) Either of the approved vapor-heat schedules of treatment specified in paragraph (b) of this section will meet

[1] Applications for permits to import fruit under this subpart may be made to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

the treatment requirements imposed under §319.56-2 as a condition of the issuance of permits for (i) the importation from Mexico of commercially-sound oranges, free of leaves and other plant debris, or (ii) the importation from Mexico during the 5-month period beginning November 1 and ending the following March 31, of commercially-sound tangerines, with tight skins and free from air pockets or puffiness, and free of leaves and other debris.

(2) The approved vapor-heat schedule of treatment specified in paragraph (b)(1) of this section will meet the treatment requirements imposed under §319.56-2 as a condition of the issuance of permits for the importation from Mexico of commercially sound grapefruit and Manila mangoes, free of leaves and other plant debris.

(3) The treatment must be conducted in a heat-treating room approved by the Plant Protection and Quarantine Programs and must be conducted under the supervision of an inspector of that Program, who at all times shall have access to such fruits while they are undergoing treatment.

(4) The Plant Protection and Quarantine Programs will approve only those rooms which are properly constructed and adequately equipped to handle and treat such fruits, at locations acceptable to the inspector in areas where required supervision can be furnished. No treating plant will hereafter be approved until it is equipped with a self-recording temperature and humidity indicator acceptable to the inspector.

(5) All handling in Mexico subsequent to treatment of such fruits intended for shipment to the United States must be carried out to meet requirements satisfactory to the inspector and under such supervision as he may deem necessary.

(6) All costs of construction, equipping, maintaining and operation of treating rooms and those associated with prescribed post-treatment safeguards shall be borne by the owner of such fruits, or his representative.

(7) Supervision at places contiguous to ports of entry where inspectors are regularly stationed will be furnished without cost to the owner of the fruit, or his representative.

(8) In cases where treating rooms are located in the interior of Mexico, or at places removed from ports of entry where inspectors are regularly stationed, those in interest must make advance arrangements for approval of the plant and for supervision, and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurance that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to rates established for the payment of Plant Protection and Quarantine Programs inspectors.

(9) In the tests and experiments so far conducted with the approved treating schedules such fruits have not been injured. It is, however, emphasized that inexactness and carelessness in using the approved schedules for vapor-heat treatment may result in injury to the fruit treated. In authorizing the use of the treatment specified in paragraph (b) of this section, the United States Department of Agriculture does not accept responsibility for fruit injury.

(b) *Vapor-heat method of treatment and approved schedules.* In approved vapor-heat treatment the fruit is heated by saturated vapor at 110° F. which in condensing on the fruit gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the fruitflies known to occur in Mexico and in raising the temperature of the fruit evenly and quickly so as to prevent damage to the fruit. In practice in such treatments the saturated vapor is accompanied by a fine water mist and air admixture. The fruit is cooled immediately after treatment, and no wax or paraffin, either dry or in solution, is used until after the treatment has been completed. Vapor-heat treatment is approved only if the vapor conditions within the heat-treating room, the manner of stacking the field boxes containing the fruit in the room and all other conditions affecting the efficacy of the treatment are satisfactory in the opinion of the supervising inspector, to assure mortality of eggs

and larvae of the fruitflies known to occur in Mexico. The following schedules of vapor-heat treatment, when conducted in accordance with the principles stated above in this paragraph and in paragraph (a) of this section, are approved:

(1) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 8 hours and shall be held at that level during the following 6 hours. This method is adapted to sterilization plants that do not have the capacity to increase the temperature of the fruit steeply at the beginning of the treating period.

(2) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 6 hours and shall be held at that level during the following 4 hours. The temperature of the fruit must be raised rapidly during the first 2 hours, after which it may be gradually raised to 110° F. in the following 4 hours.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§319.56-2g Administrative instructions prescribing method of treatment of garlic from specified countries.

(a)(1) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers approved by the Deputy Administrator of the Plant Protection and Quarantine Programs is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, West Germany, and Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

(2) Such vacuum fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.	Exposure period (hours)	Vacuum (inches)
90–96 (inclusive)	2	1½	15
80–89 (inclusive)	2	2	15
70–79 (inclusive)	2½	2	15
60–69 (inclusive)	3	2	15
50–59 (inclusive)	3	3	15
40–49 (inclusive)	3	4	15

(b)(1) The following alternate procedure is approved by the Deputy Administrator of the Plant Protection and Quarantine Programs as a condition of entry under permit for shipments of garlic (Allium sativum) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of Brachycerus spp. and Dyspessa ulula (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Protection and Quarantine Programs, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of Brachycerus spp. or Dyspessa ulula (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in paragraph (b)(1) of this section will be limited to the ports named in paragraph (a)(1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in paragraph (b)(1) of this section for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

[24 FR 10788, Dec. 29, 1959, as amended at 35 FR 18385, Dec. 3, 1970; 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985]

§319.56-2h Regulations governing the entry of grapes from Australia.

(a) *Importations allowed.* (1) Grapes from Australia may be imported into the United States only if they are inspected by an inspector of the Animal and Plant Health Inspection Service [APHIS], either in Australia or the United States, and treated with an authorized treatment under the supervision of an APHIS inspector for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Dacus tryoni*), and the light brown apple moth (*Epiphyas postvittana*).

(2) If an APHIS inspector finds evidence of any other insect pests for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the grapes will remain eligible for importation into the United States only if they are treated for the pests in Australia, or at their first port of arrival in the United States, under the supervision of an APHIS inspector.

(b) *Authorized treatments.* Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference. For the full identification of this standard, see §300.1 of this chapter, "Materials incorporated by reference."

(c) *Trust Fund Agreement.* Grapes that undergo the fumigation phase of their treatment in Australia may be imported into the United States only if the national plant protection service of Australia has entered into a trust fund agreement with APHIS. This agreement requires the national plant protection service of Australia to pay in advance all costs that APHIS estimates it will incur in providing services in Australia. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses, and other incidental expenses incurred by APHIS inspectors in performing these services. The agreement requires the national plant protection service of Australia to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection service of Australia to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the grapes may be imported. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the national plant protection service of Australia, or held on account until needed.

(d) *Department not responsible for damage.* The treatment for grapes from Australia prescribed in the Plant Protection and Quarantine Treatment Manual is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 25953, June 26, 1990]

§319.56-2i Administrative instructions prescribing treatments for mangoes from Central America, Mexico, South America, and the West Indies.

(a) *Authorized treatments.* (1) Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under §319.56-2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1 of this chap-

ter, "Materials incorporated by reference."

(2) Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56–2 as a condition for the importation into the United States of mangoes from Mexico. Manila mangoes from Mexico may also be imported into the United States in accordance with § 319.56–2f of this subpart. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chapter "Materials incorporated by reference."

(b) *Department not responsible for damage.* The treatments for mangoes prescribed in § 319.56–2f of this subpart and in the Plant Protection and Quarantine Treatment Manual are judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 39134, Sept. 25, 1990]

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

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56–2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry*—(1) *Statistical sample inspection.* A biometrically designed statistical sample will be taken under § 319.56–6 by the inspector of the plant protection and quarantine programs from each shipment[3] of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56–2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

(2) *Approved fumigation.* Fumigation with methyl bromide in accordance with procedures described in this section is effective against certain insect pests of the family Tortricidae found in Australia (including Tasmania) and New Zealand. Accordingly, this treatment is required as a condition of entry under § 319.56–2(e)(3) for any shipment of apples or pears required to be treated under paragraph (a)(1) of this section.

The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-impervious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation tempera-

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

[3] A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

tures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber:[1]

MB at NAP . 1½ lb for 2 hours at 80°–89° F.
2 lb for 2 hours at 70°–79° F.
2½ lb for 2 hours at 60°–69° F.
3 lb for 2 hours at 50°–59° F.
4 lb for 2 hours at 40°–49° F.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:

MB at NAP . 1½ lb/1,000 ft³ for 2½ hours at 80°–89° F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours). 2 lbs/1,000 ft³ for 2½ hours at 70°–79° F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours). 2½ lbs/1,000 ft³ for 2½ hours at 60°–69° F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours). 3 lbs/1,000 ft³ for 2½ hours at 50°–59° F. (36 oz minimum gas concentration at ½ hour) (28 oz. minimum gas concentration at 2½ hours). 4 lb/1,000 ft³ for 2½ hours at 40°–49° F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

(3) *Ports of entry*. Apples and pears to be offered for entry under this section may be shipped to any U.S. port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment*. The treatment approved in this section must be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by paragraph (a)(2) of this section, as he deems necessary to prevent the spread of insect pests and assure compliance with the provisions of this subpart.

[1] MB=methyl bromide; NAP=normal atmospheric pressure.

(5) *Costs*. All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his representative.

(6) *Department not responsible for damages*. The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because of safeguards required under paragraph (a)(4) of this section.

(Secs. 5 and 9, 37 Stat. 316, 318 (7 U.S.C. 159, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985]

§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 following procedure, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of southern and middle Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions prescribed in the permit as conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of southern and middle Europe, North Africa, and the Near East*. As used in this section, the term "continental countries of southern and middle Europe, North Africa, and the Near East" means Algeria, Austria, Bulgaria, Cyprus, Egypt, France, Germany, Greece, Hungary, Israel, Italy, Libya, Luxembourg, Portugal, Spain, Switzerland, Syria, and Union of Soviet Socialist Republics.

(b) *Ports of entry*. Grapes to be offered for entry must be shipped from the country of origin to New York or such

other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.[1]

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with the following fumigation schedule:

Temperature, degrees F.	Methyl bromide dosage in pounds per 1,000 cubic feet	Exposure time—hours
70–79	2	2½
60–69	2½	2½
50–59	3	2½
40–49	3½	2½

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the grapes or his representative.

(g) *Department not responsible for damage.* The treatment prescribed in paragraph (d) of this section is judged from experimental tests to be safe for use with field-grown grapes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (e) of this section or in the precooling of fruit required prior to unloading from the vessel.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56–2l Administrative instructions prescribing method of treatment of imported yams.

(a) *Fumigation upon arrival.* Except as otherwise provided in paragraph (b) of this section, approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, upon arrival at the port of entry, is hereby prescribed as a condition of importation under permit under § 319.56–2 for shipments of yams from all foreign countries.

(1) *Ports of entry.* Yams to be offered for entry may be shipped, under permit under § 319.56–2, direct from the country of origin to ports in the United States where approved fumigation facilities are available.

(2) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be applied at the following rates:

Temperature, (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90–98	2.5	4
80–89	3.0	4
70–79	3.5	4

(ii) Yams to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The four-hour exposure period shall begin when all the fumigant has been intro-

[1] Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56–2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.

duced into the chamber and volatilized. Cubic feet of space shall include the load of yams to be fumigated. The required temperatures apply to both the air and the yams. Good circulation above and below the load shall be provided as soon as the yams are loaded in the chamber and shall continue during the full period of fumigation and until the yams have been removed to a well-ventilated location. Fumigation of yams below the minimum temperature prescribed in the fumigation schedule may result in injury to the yams and should be avoided. Yams are sensitive to bruising and should be carefully packed to prevent this. At the same time they should be given as much aeration as possible.

(3) *Other conditions.* (i) Inspectors of the Plant Protection and Quarantine Programs will supervise the fumigation of yams and will specify such safeguards as may be necessary for their handling and transportation before and after fumigation, if, in the opinion of the inspector, this is necessary to assure there will be no pest risk associated with the importation and treatment. Final release of the yams for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation chambers will, if practicable, be carried on as a part of normal port inspection activities. When so available such supervision will be furnished without cost to the owner of the yams or his representative.

(4) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the yams, or his representative.

(5) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with yams, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards.

(b) *Alternate procedures.* (1) Yams produced in Japan and offered for entry under a permit issued in accordance with §319.56-2 shall be subject to examination by an inspector at the port of entry. If this examination shows the yams to be free of plant pests, they may be imported without the fumigation required by paragraph (a) of this section.

(2) Yams produced in Cuba, if satisfactorily treated in Cuba and otherwise handled and certified as provided in this subparagraph will be eligible for entry under permit under §319.56-2.

(i) *Approved fumigation.* The yams shall be fumigated at approved plants in Cuba in accordance with paragraph (a)(2) of this section.

(ii) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant, approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, to apply the treatment prescribed in paragraph (a)(2) of this section and upon the availability of qualified personnel for assignment to approve the plant and to supervise the treatment and posttreatment handling of the yams in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, for all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Protection and Quarantine Programs.

(iii) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the yams so fumigated must be under the supervision of a representative of the Plant Protection and Quarantine Programs. The treated yams must be safeguarded against insect infestation during the period prior to shipment from Cuba, in a manner required by such representative.

(iv) *Certification.* Yams will be certified by a representative of the Plant Protection and Quarantine Programs in Cuba for entry into the United States upon the basis of treatment under this subparagraph and compliance with the posttreatment safeguard requirements imposed by such representative. The final release of the yams for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(v) *Costs.* All costs incident to fumigation, including those for construction, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of posttreatment safeguards, and all costs as indicated in paragraph (b)(2)(ii) of this section incident to plant approval and supervision of treatment and subsequent handling of the yams in Cuba shall be borne by the owner of the yams or his representative.

(vi) *Department not responsible for damage.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests to be safe for use with yams. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(vii) *Ports of entry.* Yams to be offered for entry in accordance with the alternate procedure provided for in this subparagraph may be entered under permit under § 319.56-2 at any United States port where an inspector is stationed.

(viii) *Ineligible shipments.* Any shipments of yams produced in Cuba that are not eligible for certification under the alternate procedure provided for in this paragraph may enter only upon compliance with paragraph (a) of this section.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56-2m Administrative instructions prescribing method of fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. This fumigation shall be in addition to other conditions that may be prescribed in the permit, such as a limitation as to origin, and requirements as to marking containers, safeguarding shipments from fruit fly infestation, and obtaining Chilean certification.

(a) *Ports of entry.* (1) Grapes from Chile may be imported through all maritime ports when approved facilities are available for fumigation in approved chambers or under tarpaulins.

(2) Apricots, nectarines, peaches, plumcot, and plums from Chile may be imported through ports on the Great Lakes, or on the Atlantic and Gulf Coasts (exclusive of Florida ports), subject to the availability of such approved fumigation facilities.

(b) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will ensure adequate air and fruit temperatures, and volatilization, distribution, and concentration of the fumigant. The treatment period shall be 2 hours for chamber fumigation and 2½ hours for tarpaulin fumigation, and the load shall not exceed 80 percent of the chamber volume or area enclosed by the tarpaulin. The fumigation shall be in accordance with the following schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80–89 (inclusive)	1½
70–79 (inclusive)	2
6-0–69 (inclusive)	2½
50–59 (inclusive)	3
40–49 (inclusive)	4

(c) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile and shall prescribe such

safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(d) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or his representative.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use with apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (c) of this section.

[25 FR 10865, Nov. 16, 1960, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 58 FR 69179, Dec. 30, 1993]

§319.56–2n Administrative instructions prescribing a combination treatment of fumigation plus refrigeration for certain fruits.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage, in accordance with the procedures described in this section, is specific for the Mediterranean fruit fly, the oriental fruit fly, and the grape vine moth, and for certain pests of grapes and other fruit from Chile, but may not be effective against certain other dangerous pests of fruit. Accordingly this treatment will be approved for use as an alternative method of treatment to the methods prescribed in §319.56–2d and §319.56–2n, in connection with the issuance of permits under §319.56–4 for the importation of fruits from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Fruits to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration, and a precooling and refrigeration period. The fumigation dosage rates and refrigeration periods are designated in the following table:

Methyl bromide at 70° F. or above dosage	Exposure period	Days of refrigeration at—			
		33°–37° F.	34°–40° F.	43°–47° F.	50°–56° F.
2 pounds/1000 cubic feet	2 hours	4		11	
2 pounds/1000 cubic feet	2½ hours		4	6	10
2 pounds/1000 cubic feet	3 hours			3	6

(1) *Fumigation and aeration.* The approved fumigation shall consist of fumigation with methyl bromide at 70° F. or above at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins, in a manner satisfactory to the inspector, that will insure adequate air circulation and proper volatilization, distribution, and concentration of the fumigant. The fruit may be packed in field boxes, slatted crates, or well-perforated, unwaxed cardboard cartons with approved packing material such as wood excelsior or cardboard dividers. The fruit may be individually wrapped with conventional tissue which is gas permeable. When stacking the fruit for fumigation, spacing must be provided to insure adequate gas circulation. The load shall not exceed 80 percent of the volume of the area under fumigation. Following the fumigation, an aeration period of 2 hours is required.

(2) *Precooling and refrigeration period.* At the conclusion of the aeration period, the fruit shall be precooled and refrigerated in approved facilities for any one of the periods designated in the table in this section. Cooling shall begin as soon as possible after the aeration period, but in no event may the time lapse between the termination of fumigation and the beginning of the precooling exceed 24 hours. Cooling to the required refrigeration temperature shall be effected as soon as possible. The refrigeration period shall not commence until the fruit pulp temperatures indicate the prescribed temperature range has been reached.

(c) *Supervision of treatment and subsequent handling.* The treatment approved in this section and the subsequent handling of the fruit so treated must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the fruit, or his representative, when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from limited experimental tests to be safe for use with fruits likely to be infested with the Mediterranean fruit fly or the oriental fruit fly, or with the grape vine moth or other pests of grapes or other fruits from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment. There has not been an opportunity to test the treatment on all varieties of fruits that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 283, Jan. 8, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§319.56-2o Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage in accordance with the procedures described in this section is effective against the Mediterranean fruit fly, the melon fly, and the oriental fruit fly in avocados but is not effective against other dangerous pests of this fruit. Accordingly, this treatment will be approved for treatment of avocados in connection with the issuance of permits under §319.56-4 for the importation of avocados from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Avocados offered for entry will be regulated by one of the following provisions:

(1) Avocados certified as having received the combined fumigation-refrigeration treatment in the country of origin immediately prior to shipment are enterable at all ports under permit.

(2) Avocados certified as having been fumigated in the country of origin and which are receiving the refrigeration storage on board approved transiting vessels are enterable at the U.S. ports named in the permit upon completion of the refrigerated storage period.

(3) Avocados which have not been treated are enterable at the ports named in the permit for treatment upon arrival.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be two pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for 7 days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados will determine when pulp temperatures have reached 45° F. or below.

(c) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the avocados or his representative when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use on avocados at the mature green stage of development. However, the Department of Agriculture assumes no responsibility for any damage sustained through or in the course of treatment. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 2503, Feb. 4, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§319.56-2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.

(a) *Conditions for issuance of permits.* (1) Under §319.56-2, okra may be imported under permit and in compliance with the regulations in this subpart, from Mexico, the West Indies, Colombia, Ecuador, Peru, Suriname and Venezuela and any other South American country specified in the permit, upon presentation of evidence that it has been treated in accordance with the procedure prescribed in paragraph (b) of this section.

(2) Further, it is hereby determined, pursuant to §319.56, that existing conditions as to the pest risk involved in the importation of okra from such countries make it safe to make less stringent the restrictions contained in §319.56-2, by allowing the importation of okra, as provided in paragraphs (c), (d), and (e) of this section without routinely requiring such treatment.

(3) As used in this section—(i) "West Indies" means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles, and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela);

(ii) "Inspector" means an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department of Agriculture;

(iii) "Enter into the United States" means to introduce into the commerce of the United States after release from government detention;

(iv) "Import into the United States" means to bring within the territorial limits of the United States;

(v) "Port of arrival" means the first place at which a carrier containing okra stops to unload cargo after coming within the territorial limits of the United States;

(vi) "Permit" means a document issued for an article by Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, stating that the article is eligible for importation into the United States; and

(vii) "United States" means the several states of the United States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all other territories and possessions of the United States."

(b) *Authorized treatment procedure.* (1) The treatment shall consist of fumigation with methyl bromide at normal atmospheric pressure, under supervision, in a fumigation chamber which has been approved for that purpose, as prescribed in this section. This treatment is specific for the pink bollworm (*Pectinophora gossypiella* (Saunders) which is known to occur in Mexico, the West Indies, and South America. Under certain cultural conditions this pest will infest okra.

(2) *Approval of fumigation chambers.* (i) Fumigation chambers in the United States or elsewhere will be approved only if they are properly constructed and adequately equipped to handle and treat okra. Within the United States the chambers must be located within the practicable supervisory range of inspectors of the Plant Protection and Quarantine Programs stationed at the ports of entry authorized in permits for the importation of okra. Approval of fumigation chambers outside the United States will depend upon the availability of qualified inspectors for assignment to supervise the treatment and posttreatment handling of okra.

(ii) Determination of eligibility for approval under this section of fumigation plants will be made by an inspector of the Plant Protection and Quarantine Programs.

(3) *Fumigation schedule.* Such fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90–96	1.0	2
80–89	1.5	2
70–79	2.0	2
60–69	2.5	2
50–59	3.0	2
40–49	3.5	2

(4) *Fumigation procedure.* Okra to be fumigated may be packed in slatted crates or other gas-permeable contain-

ers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The containers may be stacked one on top of another, but a 3- to 4-inch space must be provided between all containers throughout the load. Good air circulation above and below the load shall be provided as soon as the okra is loaded and must be continued during the full period of fumigation and until the okra has been removed to a well-ventilated location. Strong blasts of air should not be directed against the okra. Fumigation at temperatures in excess of 90° F. may result in injury to okra and should be avoided if possible. Past experience indicates that injury may also result from excess moisture, such as residual moisture from harvesting when dew-covered.

(5) *Supervision of fumigation*—(i) *Other than interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in locations other than those in the interior of Mexico and will specify safeguards in specific cases for the packing, other handling and transportation of the okra before and subsequent to fumigation, if, in the opinion of the inspector, this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the specified safeguards. Such supervision at plants within the United States will be carried on as a part of normal port inspection activities.

(ii) *Interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in the interior of Mexico and will prescribe safeguards in specific cases for the packing and other handling of the okra at the treating plant and the transportation of the okra from the time it leaves the treating plant until it reaches the U.S. port of entry, if in the opinion of the inspector this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(6) *Ports of entry.* Okra required to be treated for the pink bollworm may be imported into the United States only at New Orleans or such other South Atlantic or gulf ports with approved treatment facilities as may be named in the permit, except that, in addition, Mexican okra required to be treated for the pink bollworm may be imported into the United States at Mexican Border ports named in the permit.

(7) *Costs.* Persons desiring to import okra required to be treated under this section must make advance arrangements for approval of the fumigation plant and for supervision of the fumigation by an authorized inspector. All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out specified pretreatment and posttreatment safeguards, and all additional costs to the Department arising from supervision under this section, by an inspector away from his regular place of official duty or outside of his regular hours of official duty (including as appropriate, base salary, overtime and holiday pay, travel subsistence, transportation, employee benefits, and incidental expenses) shall be borne by the owner of the okra or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable basis. The owner of the okra or his representative must furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that he will provide funds to the U.S. Department of Agriculture to cover all costs of supervision, in accordance with §§354.1 and 354.2 of this chapter and this paragraph.

(8) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with okra, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards. There has not been an opportunity to test these treatments under

all conditions or on all okra varieties or on okra from all areas involved.

(c) *Importations of okra without treatment from the Dominican Republic, Mexico, and Suriname* Okra produced in the Dominican Republic, Mexico, or Suriname, may be entered into the United States without treatment for the pink bollworm only if:

(1) The okra is imported from the Dominican Republic, Mexico, or Suriname under permit;

(2) The okra is made available for examination by an inspector at the port of arrival and remains at the port of arrival until released by an inspector;

(3) During March 16 through December 31, inclusive, the okra is not moved into California; and

(4) During May 16 through November 30, inclusive, the okra is not moved into Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel.

(d) *Importation of okra without treatment from the West Indies and certain countries in South America.* Okra produced in the West Indies, Colombia, Ecuador, Peru, Venezuela, or other South American country, designated in accordance with §319.56-2 in a permit to import okra, may be imported into the United States through any North Atlantic port with approved treatment facilities, under permit and subject to inspection at the port of arrival but without treatment for the pink bollworm in paragraph (d)(2) of this section if destined to: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel.

(e) *Importation of okra without treatment from Andros Island of the Bahamas; and okra without treatment from the West Indies for importation into the American Virgin Islands.* Okra produced in Andros Island, Bahamas, may be imported into the United States under permit through any port named in the permit, without treatment but subject to inspection at the port of arrival. Okra produced in the West Indies may be imported into the American Virgin Islands without treatment but subject to inspection at the port of arrival.

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds injurious insects, other than the pink bollworm, that do not exist in the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. See §300.1 of this chapter, "Materials incorporated by reference." If the treatment authorized by the Plant Protection and Quarantine Treatment Manual is not available, or if no authorized treatment exists, the okra may not be entered into the United States.

[35 FR 18033, Nov. 25, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 54 FR 33666, Aug. 16, 1989; 57 FR 54489, Nov. 19, 1992]

§319.56-2q Administrative instructions; conditions for importation of grapefruits, oranges, and tangerines from Mexico.

(a) *Approved treatment.* Fumigation with methyl bromide at normal atmospheric pressure in approved chambers, in accordance with the following procedure, is hereby approved as a condition of entry under permit, through ports specified in the permit, for lots of grapefruits, oranges, and tangerines grown in Mexico. This treatment is specific for fruit flies of the genus *Anastrepha* known to exist in Mexico.

(1) A lot of grapefruits, oranges, or tangerines grown in Mexico shall be eligible for fumigation if a representative sample of fruit, selected from the

lot, has been cut, inspected, and not found to indicate a level of infestation of fruit flies of 0.5% or above for the lot.

(2) Fumigation shall be in an approved fumigation chamber at normal atmospheric pressure as follows:

Temperature of fruit pulp	Methyl bromide dosage (ounces per 1,000 cubic feet or grams per cubic meter)	Exposure period (hours)
70 °F to 85 °F (21 °C–29°C) ..	40	2.0

The chamber load shall not exceed 80 percent of the chamber's volume. The fumigation chambers shall be approved for use if found by an inspector to be adequate to meet the requirements of this treatment.

(3) The fumigation shall be conducted under the supervision of an inspector. The unloading of the fruit from the means of conveyance, delivery of the fruit to an approved fumigation chamber, the fumigation of the fruit, and any other handling of the fruit before or after fumigation shall be in accordance with safeguards determined by an inspector to be necessary to prevent the introduction into the United States of fruit flies.

(b) *Costs.* All costs of treatment and required safeguards and supervision, other than costs for the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or the owner's representative.

(c) *Department not responsible for damage.* Damage may be sustained on oranges and tangerines, and damage to all fruits may result from inexactness or carelessness in using the approved treatment. The Department does not accept responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(d) *Ports of entry.* Grapefruits, oranges, and tangerines which are accompanied by a valid certificate that has been issued by an inspector and that represents that they have been treated in Mexico in accordance with the treatment provisions in this section may enter the United States only at a port of entry listed in §319.37-14(b) of this chapter specified in the import permit. Grapefruits, oranges, and tangerines which are to be treated in the United States may enter the United States only at a port of entry listed in §319.37-14(b) of this chapter and specified in the import permit, except that they may not enter, stop at, or pass through ports south of Baltimore, Maryland, or in California.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2(c))

[49 FR 39039, Oct. 3, 1984. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 14691, Apr. 15, 1985]

§319.56-2r Administrative instructions governing the entry of apples and pears from certain countries in Europe.

(a) *Importations allowed.* Pursuant to §319.56(c), the Administrator has determined that the following fruits may be imported into the United States in accordance with this section and other applicable provisions of this subpart:

(1) Apples from Belgium, Denmark, France, Great Britain, Italy, The Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Sweden, Switzerland, and West Germany;

(2) Pears from Belgium, France, Great Britain, Italy, The Netherlands, Portugal, and Spain.

(b) *Trust fund agreement.* Except as provided in paragraph (h) of this section, the apples or pears may be imported only if the national plant protection service of the exporting country (referred to in this section as the plant protection service) has entered into a trust fund agreement with Plant Protection and Quarantine (PPQ) for that shipping season. This agreement requires the plant protection service to pay in advance all estimated costs incurred by PPQ in providing the preclearance inspections prescribed in paragraph (d) of this section. These costs will include administrative expenses incurred in conducting the inspection services; and all salaries (including overtime and the federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The agreement requires the plant protection service to deposit a

certified or cashier's check with the Animal and Plant Health Inspection Service (APHIS) for the amount of these costs, as estimated by PPQ. If the deposit is not sufficient to meet all costs incurred by PPQ, the agreement further requires the plant protection service to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by PPQ, before the inspection will be completed.

(c) *Responsibilities of the exporting country*. The apples or pears may be imported in any single shipping season only if all of the following conditions are met:

(1) Officials of the plant protection service must survey each orchard producing apples or pears for shipment to the United States at least two times between the time of spring blossoming and harvest. If the officials find any leaf mines that suggest the presence of *Leucoptera malifoliella* in an orchard, the officials must reject any fruit harvested from that orchard during that growing season for shipment to the United States. If the officials find evidence in an orchard of any other plant pest referred to in paragraph (g) of this section, they must ensure that the orchard and all other orchards within 1 kilometer of that orchard will be treated for that pest with a pesticide approved by the U.S. Environmental Protection Agency, in accordance with label directions and under the direction of the plant protection service. If the officials determine that the treatment program has not been applied as required or is not controlling the plant pest in the orchard, they must reject any fruit harvested from that orchard during that growing season for shipment to the United States.

(2) The apples or pears must be identified with the orchard from which they are harvested (the producing orchard) until the fruit arrives in the United States.

(3) The apples or pears must be processed and inspected in the approved packing sheds as follows:

(i) Upon arrival at the packing shed, the apples or pears must be inspected for insect pests as follows: For each grower lot (all fruit delivered for processing from a single orchard at a given time), packing shed technicians must examine all fruit in one carton on every third pallet (there are approximately 42 cartons to a pallet), or at least 80 apples or pears in every third bin (if the fruit is not in cartons on pallets). If they find any live larva or pupa of *Leucoptera malifoliella*, they must reject the entire grower lot for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season.

(ii) The apples or pears must be sorted, sized, packed, and otherwise handled in the packing sheds on grading and packing lines used solely for fruit intended for shipment to the United States, or, if on grading and packing lines used previously for other fruit, only after the lines have been washed with water.

(iii) During packing operations, apples and pears must be inspected for insect pests as follows: All fruit in each grower lot must be inspected at each of two inspection stations on the packing line by packing shed technicians. In addition, one carton from every pallet in each grower lot must be inspected by officials of the plant protection service. If the inspections reveal any live larva or pupa of *Leucoptera malifoliella*, the entire grower lot must be rejected for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of that shipping season. If the inspections reveal any other insect pest referred to in paragraph (g) of this section, and a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the fruit will remain eligible for shipment to the United States if the entire grower lot is treated for the pest under the supervision of a PPQ inspector. However, if the entire grower lot is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the entire grower lot will be rejected for shipment to the United States.

(4) Apples or pears that pass inspection at approved packing sheds must be

presented to PPQ inspectors for preclearance inspection as prescribed in paragraph (d) of this section or for inspection in the United States as prescribed in paragraph (h) of this section.

(5) Apples and pears presented for preclearance inspection must be identified with the packing shed where they were processed, as well as with the producing orchard, and this identity must be maintained until the apples or pears arrive in the United States.

(6) Facilities for the preclearance inspections prescribed in paragraph (d) of this section must be provided in the exporting country at a site acceptable to PPQ.

(7) Any apples or pears rejected for shipment into the United States may not, under any circumstance, be presented again for shipment to the United States.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in the exporting country by PPQ inspectors. Preclearance inspection will be conducted for a minimum of 6,000 cartons of apples or pears, which may represent multiple grower lots from different packing sheds. The cartons examined during any given preclearance inspection will be known as an inspection unit. Apples or pears in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, a biometrically designed statistical sample of 300 cartons drawn from each inspection unit.

(i) If inspectors find any live larva or pupa of *Leucoptera malifoliella*, they will reject the entire inspection unit for shipment to the United States. The inspectors also will reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season. However, other orchards represented in the rejected inspection unit will not be affected for the remainder of the shipping season because of that rejection. Additionally, if inspectors reject any three inspection units in a single shipping season because of *Leucoptera malifoliella* on fruit processed by a single packing shed, no additional fruit from that packing shed will be accepted for shipment to the United States for the remainder of that shipping season.

(ii) If the inspectors find evidence of any other plant pest referred to in paragraph (g) of this section, and a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest under the supervision of a PPQ inspector. However, if the entire inspectional unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the inspectors will reject the entire inspection unit for shipment to the United States. Rejection of an inspection unit because of pests other than *Leucoptera malifoliella* will not be cause for rejecting additional fruit from an orchard or packing shed.

(iii) Apples and pears precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States (except as necessary to ensure that the fruit has been precleared) unless the preclearance program with the exporting country is terminated in accordance with paragraph (e) of this section. If the preclearance program is terminated with any country, precleared fruit in transit to the United States at the time of termination will be spot-checked by PPQ inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (g) of this section. If any live larva or pupa of *Leucoptera malifoliella* is found in any carton of fruit, inspectors will reject that carton and all other cartons in that shipment that are from the same producing orchard. In addition, the remaining cartons of fruit in that shipment will be reinspected as an inspection unit in accordance with the preclearance procedures prescribed in paragraph (d) of this section.

(e) *Termination of preclearance programs.* The Administrator may terminate the preclearance program in a country if he determines that any of the conditions specified in paragraph (c) of this section are not met or because of pests found during

preclearance inspections. Termination of the preclearance program will stop shipments of apples or pears from that country for the remainder of that shipping season. Termination of the preclearance program for findings of *Leucoptera malifoliella* in preclearance inspections in any country will be based on rates of rejection of inspection units as follows:

(1) Termination because of findings of *Leucoptera malifoliella*. The pre-clearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of *Leucoptera malifoliella* as follows:

(i) 5 inspection units in sequence among inspection units 1–20, or a total of 8 or more of the inspection units 1–20;

(ii) 5 inspection units in sequence among inspection units 21–40, or a total of 10 or more of the inspection units 1–40;

(iii) 5 inspection units in sequence among inspection units 41–60, or a total of 12 or more of the inspection units 1–60;

(iv) 5 inspection units in sequence among inspection units 61–80, or a total of 14 or more of the inspection units 1–80;

(v) 5 inspection units in sequence among inspection units 81–100, or a total of 16 or more of the inspection units 1–100;

(vi) 5 inspection units in sequence among inspection units 101–120, or a total of 18 or more of the inspection units 1–120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 2.)

(2) Termination because of findings of other plant pests. The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of other insect pests as follows:

(i) 10 or more of the inspection units 1–20;

(ii) 15 or more of the inspection units 1–40;

(iii) 20 or more of the inspection units 1–60;

(iv) 25 or more of the inspection units 1–80;

(v) 30 or more of the inspection units 1–100; or

(vi) 35 or more of the inspection units 1–120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 5.)

(f) *Cold treatment.* In addition to all other requirements of this section, apples or pears may be imported into the United States from France, Italy, Portugal, or Spain only if the fruit is cold treated for the Mediterranean fruit fly in accordance with §319.56–2d of this subpart.

(g) *Plant pests; authorized treatments.* (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Sweden, Switzerland, and West Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of a PPQ inspector: the pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rosslertamm) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1 of this chapter, "Materials incorporated by reference."

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

preclearance inspections. Termination of the preclearance program will stop shipments of apples or pears from that country for the remainder of that shipping season. Termination of the preclearance program for findings of *Leucoptera malifoliella* in preclearance inspections in any country will be based on rates of rejection of inspection units as follows:

(1) Termination because of findings of *Leucoptera malifoliella*. The pre-clearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of *Leucoptera malifoliella* as follows:

(i) 5 inspection units in sequence among inspection units 1–20, or a total of 8 or more of the inspection units 1–20;

(ii) 5 inspection units in sequence among inspection units 21–40, or a total of 10 or more of the inspection units 1–40;

(iii) 5 inspection units in sequence among inspection units 41–60, or a total of 12 or more of the inspection units 1–60;

(iv) 5 inspection units in sequence among inspection units 61–80, or a total of 14 or more of the inspection units 1–80;

(v) 5 inspection units in sequence among inspection units 81–100, or a total of 16 or more of the inspection units 1–100;

(vi) 5 inspection units in sequence among inspection units 101–120, or a total of 18 or more of the inspection units 1–120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 2.)

(2) Termination because of findings of other plant pests. The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of other insect pests as follows:

(i) 10 or more of the inspection units 1–20;

(ii) 15 or more of the inspection units 1–40;

(iii) 20 or more of the inspection units 1–60;

(iv) 25 or more of the inspection units 1–80;

(v) 30 or more of the inspection units 1–100; or

(vi) 35 or more of the inspection units 1–120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 5.)

(f) *Cold treatment.* In addition to all other requirements of this section, apples or pears may be imported into the United States from France, Italy, Portugal, or Spain only if the fruit is cold treated for the Mediterranean fruit fly in accordance with §319.56-2d of this subpart.

(g) *Plant pests; authorized treatments.* (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Sweden, Switzerland, and West Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of a PPQ inspector: the pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rosslertamm) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1 of this chapter, "Materials incorporated by reference."

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

(d) *Preclearance inspection.* Preclearance inspection will be conducted in Chile under the direction of APHIS inspectors. An inspection unit will consist of a lot or shipment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from different packing sheds. Apricots, nectarines, peaches, plumcot, or plums in any inspection unit may be shipped to the United Sates only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, the contents of the cartons which were selected based on a sampling scheme established for each inspection unit. An APHIS inspector will designate which cartons to inspect in each inspection unit to ensure that units infested at a level of 3 percent or more will be identified with a confidence level of 95 percent.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, plumcot, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the fruit has been precleared and for occasional monitoring purposes.

(e) *Termination of preclearance programs.* Shipments of apricots, nectarines, peaches, plumcot, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections determine that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of shipments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by APHIS inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments.*

(1) Apricots, nectarines, peaches, plumcot, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of an APHIS inspector: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1 of this chapter. "Materials incorporated by reference."

(g) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, plumcot, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection of fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treat-

ment can be accomplished at the intended port of arrival without increasing the risk of introducing insect pests into the United States;

(3) The entire shipment of apricots, nectarines, peaches, plumcot, or plums must be offloaded and moved, under the supervision of APHIS inspectors, to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[55 FR 42352, Oct. 19, 1990, as amended at 58 FR 69179, Dec. 30, 1993]

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

The following commodities may be imported into all parts of the United States, unless otherwise indicated, from the places specified, in accordance with § 319.56–6 and all other applicable requirements of this subpart:

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Artichoke, globe	Cynara scolymus	Immature flower head.
	Endive	*Cichorium endivia*	Leaf and stem.
Barbados	Banana	*Musa* spp	Flower.
Belgium	Pepper	*Capsicum* spp	Fruit.
Belize	Banana	*Musa* spp	Flower in bracts with stems.
	Bay leaf	*Laurus nobilis*	Leaf and stem.
	Mint	*Mentha* spp	Above ground parts.
	Tarragon	*Artemisia dracunculus*	Above ground parts.
Bermuda	Avocado	*Persea americana*	Fruit.
	Carambola	*Averrhoa carambola*	Fruit.
	Grapefruit	*Citrus paradisi*	Fruit.
	Guava	*Psidium guajava*	Fruit.
	Lemon	*Citrus limon*	Fruit.
	Longan	*Dimocarpus longan*	Fruit.
	Loquat	*Eriobotrya japonica*	Fruit.
	Mandarin orange	*Citrus reticulata*	Fruit.
	Natal plum	*Carissa macrocarpa*	Fruit.
	Orange, sour	*Citrus aurantium*	Fruit.
	Orange, sweet	*Citrus sinensis*	Fruit.
	Papaya	*Carica papaya*	Fruit.
	Passion fruit	*Passiflora* spp	Fruit.
	Peach	*Prunus persica*	Fruit.
	Pineapple guava	*Feijoa* spp	Fruit.
	Suriname cherry	*Eugenia uniflora*	Fruit.
Bolivia	Belgian endive	*Cichorium intybus*	Leaf.
Chile	Basil	*Ocimum* spp.	Above ground parts.
	Lucuma	*Manilkara sapota (=Lucuma mammosa).*	Fruit (From Medfly-free areas only—see § 319.56–2(j)).
	Mountain papaya	*Carica pubescens (=C. candamarcensis).*	Fruit. (From Medfly-free areas—see § 319.56–2(j). Fruit from outside Medfly-free areas must be treated in accordance with § 319.56–2x.).
	Oregano	*Origanum* spp.	Leaf and stem.
	Sandpear	*Pyrus pyrifolia*	Fruit (From Medfly-free areas—see § 319.56–2(j). Fruit from outside Medfly-free areas must be treated in accordance with § 319.56–2x.).
	Tarragon	*Artemisia dracunculus*	Above ground parts.
Colombia	Rhubarb	*Rheum rhabarbarum*	Stalk.
	Snow pea	*Pisum Sativum* subsp. *sativum*	Flat, immature pod.
	Tarragon	*Artemisia dracunculus*	Above ground parts.

Country/locality	Common name	Botanical name	Plant part(s)
Cook Islands	Banana	*Musa* spp	Green fruit.[1]
	Cucumber	*Cucumis sativus*	Fruit.
	Drumstick	*Moringa pterygosperma*	Leaf.
	Ginger	*Zingiber officinale*	Root (Prohibited entry into Puerto Rico, Virgin Islands, and Guam due to ginger weevil (*Elytroteinus subtruncatus*). Cartons in which ginger is packed must be stamped "Not for distribution in PR, VI, or Guam.")
	Indian mulberry	*Morinda citrifolia*	Leaf.
	Lemongrass	*Cymbopogon* spp	Leaf.
	Tossa jute	*Corchorus olitorius*	Leaf.
Costa Rica	Basil	*Ocimum* spp	Whole plant.
	Chinese kale	*Brassica alboglabra*	Leaf and stem.
	Chinese turnip	*Raphanus sativus*	Root.
	Yam bean	*Pachyrhizus tuberosus* or *P. erosus.*	Root.
Dominica	Durian	*Durio zibethinus*	Fruit.
Ecuador	Banana	*Musa* spp.	Flower.
	Chervil	*Anthriscus* spp.	Leaf and stem.
Great Britain	Basil	*Ocimum* spp	Leaf and stem.
Grenada	Ablu	*Pouteria caimito*	Fruit.
	Bilimbi	*Averrhoa bilimbi*	Fruit.
	Breadnut	*Brosimum alicastrum*	Fruit.
	Cocoplum	*Chrysobalanus icaco*	Fruit.
	Cucurbits	Cucurbitaceae	Fruit.
	Durian	*Durio zibethinus*	Fruit.
	Jackfruit	*Artocarpus heterophyllus*	Fruit.
	Jambolan	*Syzygium cumini*	Fruit.
	Jujube	*Ziziphus* spp	Fruit.
	Langsat	*Lansium domesticum*	Fruit.
	Litchi	*Litchi chinensis*	Fruit.
	Malay apple	*Syzygium malaccense*	Fruit.
	Mammee apple	*Mammea americana*	Fruit.
	Peach palm	*Bactris gasipaes*	Fruit.
	Piper	*Piper* spp	Fruit.
	Pulasan	*Nephelium ramboutan-ake*	Fruit.
	Rambutan	*Nephelium lappaceum*	Fruit.
	Rose apple	*Syzygium jambos*	Fruit.
	Santol	*Sandoricum koetjape*	Fruit.
	Sapote	*Pouteria sapota*	Fruit.
Guatemala	Artichoke, globe	*Cynara scolymus*	Immature flower head.
	Eggplant	*Solanum melongena*	Fruit.
	Loroco	*Fernaldia* spp	Above ground parts.
	Mint	*Mentha* spp	Above ground parts.
	Oregano	*Origanum* spp	Leaf and stem.
	Rosemary	*Rosmarinus officinalis*	Above ground parts.
	Tarragon	*Artemisia dracunculus*	Leaf and stem.
	Yam bean	*Pachyrhizus tuberosus* or *P. erosus.*	Root.
Haiti[2]	Jackfruit	*Artocarpus heterophyllus*	Fruit.
Honduras	Banana	*Musa* spp	Flower.
	Chicory	*Cichorium* spp	Leaf and stem.
	Radish	*Raphanus sativus*	Root.
Indonesia	Dasheen	*Colocasia* spp., *Alocasia* spp., and *Xanthosoma* spp.	Tuber (Prohibited entry into Guam due to dasheen mosaic virus. Cartons in which dasheen is packed must be stamped "Not for distribution in Guam.")
Israel	Arugula	*Eruca sativa*	Leaf and stem.
	Mint	*Mentha* spp	Above ground parts.
	Watercress	*Nasturtium officinale*	Leaf and stem.
Jamaica	Fenugreek	*Trigonella foenum-graceum*	Leaf, stem, root.
	Jackfruit	*Artocarpus heterophyllus*	Fruit.
	Ivy gourd	*Coccinia grandis*	Fruit.
	Pointed gourd	*Trichosanthes dioica*	Fruit.

Country/locality	Common name	Botanical name	Plant part(s)
Japan	Mung bean	*Vigna radiata*	Seed sprout.
	Soybean	*Glycine max*	Seed sprout
Liberia	Jute	*Corchorus capsularis*	Leaf.
	Potato	*Solanum tuberosum*	Leaf.
Mexico	Anise	*Pimpinella anisum*	Leaf and stem.
	Banana	*Musa* spp	Flower.
	Bay leaf	*Laurus nobilis*	Leaf and stem.
	Blueberry	*Vaccinium* spp.	Fruit.
	Cucurbits	Cucurbitaceae	Inflorescence.
	Arugula	*Eruca sativa*	Leaf and stem.
	Lambsquarters	*Chenopodium* spp.	Above ground parts.
	Piper	*Piper* spp	Leaf and stem.
	Porophyllum	*Porophyllum* spp	Above ground parts.
	Rosemary	*Rosmarinus officinalis*	Above ground parts.
	Tepeguaje	*Leucaena* spp.	Fruit.
	Thyme	*Thymus vulgaris*	Above ground parts.
New Zealand	Avocado	*Persea americana*	Fruit.
	Fig	*Ficus carica*	Fruit.
Panama	Basil	*Ocimum* spp	Above ground parts.
	Bean, green and lima	*Phaseolus vulgaris* and *P. lunatus.*	Seed.
	Chervil	*Anthriscus cerefolium*	Above ground parts.
	Eggplant	*Solanum melongena*	Fruit.
	Fenugreek	*Trigonella foenum-graecum*	Leaf, stem.
	Lemon thyme	*Thymus citriodorus*	Leaf and stem.
	Mint	*Mentha* spp	Above ground parts.
	Oregano	*Origanum* spp	Above ground parts.
	Rosemary	*Rosmarinus officinalis*	Above ground parts.
	Tarragon	*Artemisia dracunculus*	Leaf and stem.
Peru	Arugula	*Eruca sativa*	Leaf and stem.
	Basil	*Ocimum* spp	Leaf and stem.
	Carrot	*Daucus carota*	Root.
	Chervil	*Anthriscus* spp.	Leaf and stem.
	Dill	*Anethum graveolens*	Above ground parts.
	Lemongrass	*Cymbopogon* spp.	Leaf and stem.
	Mustard greens	*Brassica juncea*	Leaf.
	Oregano	*Origanum* spp	Leaf and stem.
	Parsley	*Petroselinum crispum*	Leaf and stem.
	Radicchio	*Cichorium* spp	Leaf.
	Thyme	*Thymus vulgaris*	Above ground parts.
Philippines	Yam bean	*Pachyrhizus tuberosus* or *P. erosus.*	Root.
Poland	Pepper	*Capsicum* spp.	Fruit.
	Tomato	*Lycopersicon esculentum*	Fruit.
Sierra Leone	Cassava	*Manihot esculenta*	Leaf.
	Jute	*Corchorus capsularis*	Leaf.
	Potato	*Solanum tuberosum*	Leaf.
St. Vincent and the Grenadines	Turmeric	*Curcuma longa*	Rhizome.
South Africa	Artichoke, globe	*Cynara scolymus*	Immature flower head.
South Korea	Aster greens	*Aster scaber*	Leaf, stem.
	Bonnet bellflower	*Codonopsis lanceolata*	Root.
	Chard	*Beta vulgaris* subsp. *cicla*	Leaf.
	Chinese bellflower	*Platycodon grandiflorum*	Root.
	Dasheen	*Colocasia* spp., *Alocasia* spp., and *Xanthosoma* spp.	Root (Prohibited entry into Guam due to dasheen mosaic virus). Cartons in which dasheen is packed must be stamped "Not for distribution in Guam."
	Mugwort	*Artemisia vulgaris*	Leaf and stem.
	Onion	*Allium cepa*	Bulb.
	Shepherd's purse	*Capsella bursa-pastoris*	Leaf and stem.
	Strawberry	*Fragaria* spp	Fruit (Entry permitted only from September 15 to May 31, inclusive, to prevent the introduction of a complex of exotic pests including, but not limited to, a thrips (*Haplothrips chinensis*) and a leafroller (*Capua tortrix*)).

Country/locality	Common name	Botanical name	Plant part(s)
	Watercress	*Nasturtium officinale*	Leaf and stem.
	Youngia greens	*Youngia sonchifolia*	Leaf, stem, root.
Spain	Tomato	*Lycopersicon esculentum*	Green fruit (pink or red fruit from Almeria Province may be imported only in accordance with §319.56-2dd).
Suriname	Amaranth	*Amaranthus* spp	Leaf and stem.
	Black palm nut	*Astrocaryum* spp	Fruit.
	Jessamine	*Cestrum latifolium*	Leaf and stem.
	Malabar spinach	*Basselia alba*	Leaf and stem.
	Mung bean	*Vigna radiata*	Seed sprout.
	Pak choi	*Brassica chinensis*	Leaf and stem.
Sweden	Dill	*Anethum graveolens*	Above ground parts.
Taiwan	Burdock	*Arctium lappa*	Root.
	Wasabi (Japanese horseradish)	*Wasabia japonica*	Root and stem.
Thailand	Dasheen	*Alocasia* spp., *Colocasia* spp., and *Xanthosoma* spp.	Leaf and stem.
	Turmeric	*Curcuma domestica*	Leaf and stem.
Tonga	Burdock	*Arctium lappa*	Root, stem and leaf.
	Pumpkin	*Cucurbita maxima*	Fruit.
Trinidad and Tobago	Lemongrass	*Cymbopogon citratus*	Leaf and stem.
	Leren	*Calathea allouia*	Tuber.
	Shield leaf	*Cecropia peltata*	Leaf and stem.
Zambia	Pea, snow	*Pisum sativum* spp. *sativum*	Flat immature pod.

[1] The bananas must be green at the time of export. Inspectors at the port of arrival will determine that the bananas were green at the time of export if: (1) bananas shipped by air are still green upon arrival in the United States; and (2) bananas shipped by sea are either still green upon arrival in the United States or are yellow but firm.

[2] Executive Order 12779 of October 28, 1991 (56 FR 55975–55976, published October 30, 1991), prohibits the importation into the United States of any goods of Haitian origin, other than publications and other informational materials, or of services performed in Haiti. Importation of any Haitian produce will not be allowed as long as this Executive order is in effect.

[57 FR 54489, Nov. 19, 1992, as amended at 58 FR 43497, Aug. 17, 1993; 58 FR 69180, Dec. 30, 1993; 59 FR 43711, 43712, Aug. 25, 1994]

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

(a) [Reserved]

(b) Peppers (fruit) (*Capsicum* spp.) from Israel may be imported into the United States only under the following conditions:

(1) The peppers have been grown in the Paran region of the Arava Valley by growers registered with the Israeli Department of Plant Protection and Inspection (DPPI).

(2) Malathion bait sprays shall be applied in the residential areas of Paran at 6- to 10-day intervals beginning not less than 30 days before the harvest of backyard host material in residential areas and shall continue through harvest.

(3) The peppers have been grown in insect-proof plastic screenhouses approved by the DPPI and APHIS. Houses shall be examined periodically by DPPI or APHIS personnel for tears in either plastic or screening.

(4) Trapping for Mediterranean fruit fly (Medfly) shall be conducted by DPPI throughout the year in the agricultural region along Arava Highway 90 and in the residential area of Paran. The capture of a single Medfly in a screenhouse will immediately cancel export from that house until the source of the infestation is delimited, trap density is increased, pesticide sprays are applied, or other measures acceptable to APHIS are taken to prevent further occurrences.

(5) Signs in English and Hebrew shall be posted along Arava Highway 90 stating that it is prohibited to throw out/discard fruits and vegetables from passing vehicles.

(6) The cartons in which the peppers are packaged must be stamped "Peppers not to be distributed outside of the following States: CT, DC, DE, IA, IL, IN, MA, MD, ME, MI, MN, NH, NJ, NY, OH, PA, RI, VT, WI, and WV."

(7) Sorting and packing of peppers shall be done in the insect-proof screenhouses in Paran.

(8) Transportation of the peppers from Paran to Tel Aviv Airport for export shall be in fruit fly-proof containers.

(9) The peppers shall be exported directly from Tel Aviv, by air, to the United States.

[57 FR 3120, Jan. 28, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 46321, Sept. 8, 1994]

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

The Administrator has determined that the irrigated horticultural areas within the county of Hamley and within the following geographic subdivisions, called "hundreds," of the Riverland district of South Australia, Australia, meet the criteria of §319.56-2 (e) and (f) with regard to the Mediterranean fruit fly (*Ceratitis capitata* [Wiedemann]), the Queensland fruit fly (*Dacus tryoni* [Frogg]) and other fruit flies destructive of citrus: Bookpurnong, Cadell, Gordon, Holder, Katarapko, Loveday, Markaranka, Moorook, Murtho, Parcoola, Paringa, Pooginook, Pyap, Stuart, and Waikerie.

(a) Oranges (*Citrus sinensis* [Osbeck]); lemons (*C. limonia* [Osbeck] and *meyeri* [Tanaka]); limes (*C. aurantiifolia* [Swingle] and *latiifolia* [Tanaka]); mandarins, including satsumas, tangerines, tangors, and other fruits grown from this species or its hybrids (*C. reticulata* [Blanco]); and grapefruit (*C. paradisi* [MacFad.]) may be imported from the Riverland district without treatment for fruit flies, subject to paragraph (b) and all other applicable requirements of this subpart.

(b) If surveys conducted in accordance with §319.56-2(f) detect, in the areas listed in this paragraph, the Mediterranean fruit fly (*Ceratitis capitata* [Wiedemann]), the Queensland fruit fly (*Dacus tryoni* [Frogg]), or other fruit flies for which a cold treatment authorized under §319.56-2d of this subpart is available, the citrus will remain eligible for importation into the United States in accordance with §319.56-2(e)(2), provided they undergo that treatment in accordance with the regulations, and provided all other applicable requirements of this subpart are met. If no approved treatment for the detected fruit fly appears in §319.56-2d, importation of citrus from the Riverland district is prohibited. Entry is limited to ports listed in §319.56-2d(b)(1) of this subpart if treatment is to be completed in the United States. Entry may be through any port if treatment has been completed in Australia or in transit to the United States.

[57 FR 22413, May 28, 1992, as amended at 59 FR 40796, Aug. 10, 1994]

§319.56-2w Administrative instruction; conditions governing the entry of papayas from Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The Costa Rican Ministry of Agriculture and Livestock (MAG) has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) to pay for services to be provided by APHIS. This agreement requires the MAG to pay at least a month in advance all estimated costs incurred by APHIS in providing the services prescribed in paragraph (b) of this section. These costs will include administrative expenses incurred in providing the services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS inspectors in providing these services. The agreement requires MAG to deposit a certified or cashier's check with APHIS for the amount of these costs for an entire month, as estimated by APHIS, based on projected shipping volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet the actual costs incurred by APHIS, MAG must deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected costs, MAG must deposit with APHIS a certified or cashier's check sufficient to meet such costs as estimated by APHIS, before any further inspection services will be provided. If the amount MAG deposits during a month exceeds the total costs in-

curred by APHIS in providing the services, the difference will be returned to MAG by APHIS at the end of the month, or, at the option of MAG, credited to the MAG account for future services.

(b) An APHIS inspector in Costa Rica certifies that the following requirements have been met:

(1) The papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas.

(2) Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than 25 percent of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(3) When packed, the papayas were less than ½ ripe (the shell surface was no more than 25 percent yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(4) The papayas were packed in an enclosed container or under cover so as to prevent access by fruit flies and other injurious insect pests, and were not packed with any other fruit, including papayas not qualified for importation into the United States.

(5) All activities described in paragraphs (a) through (d) of this section were carried out under the general supervision and direction of plant health officials of the MAG.

(6) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the MAG. Fifty percent of the traps were of the McPhail type and fifty percent of the traps were of the Jackson type. The MAG kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors. The records were maintained for at least 1 year.

[57 FR 27898, June 23, 1992]

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

(a) The following fruits and vegetables may be imported into the United States only if they have been treated in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at §300.1 of this chapter:

Country/locality	Common name	Botanical name	Plant part(s)
Bolivia	Blueberry	*Vaccinium* spp.	fruit
Chile	Lime	*Citrus aurantifolia* and *C. latifolia*	fruit
	Mountain papaya	*Carica pubescens* (=*C. candamarcensis*)	fruit (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in Medfly free area (see § 319.56–2(j)).)
	Sandpear	*Pyrus pyrifolia*	fruit (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in Medfly free area (see § 319.56–2(j)).)
Ecuador	Blueberry	*Vaccinium* spp	fruit.
Greece	Kiwi	*Actinidia deliciosa*	fruit
	Tangerine	*Citrus reticulata*	fruit
Guatemala	Tuna	*Opuntia* spp.	fruit
Guyana	Apple	*Malus domestica*	fruit
Israel	Cactus	*Opuntia* spp	fruit.
	Litchi	*Litchi chinensis*	fruit
	Loquat	*Eriobotrya japonica*	fruit
	Pummelo	*Citrus grandis*	fruit
Jordan	Apple	*Malus domestica*	fruit
	Grape	*Vitis* spp.	fruit
	Persimmon	*Diospyros* spp.	fruit
Lebanon	Apple	*Malus domestica*	fruit
Mexico	Cherry	*Prunus avium*	fruit.
Panama	Bean, green and lima	*Phaseolus vulgaris* and *P. lunatus*	pod
Peru	Blueberry	*Vaccinium* spp.	fruit.
Taiwan	Litchi	*Litchi chinensis*	fruit (Prohibited entry into Florida due to *Eriophyes litchii*. Cartons in which litchi are packed must be stamped "Not for distribution in FL").
	Mango	*Mangifera indica*	fruit
Thailand	Asparagus	*Asparagus officinalis*	shoot.
Uruguay	Plum	*Prunus domestica*	fruit.
Zimbabwe	Apple	*Malus domestica*	fruit
	Kiwi	*Actinidia deliciosa*	fruit
	Pear	*Pyrus communis*	fruit

(b) Fruits and vegetables listed above and required to be treated for fruit flies may arrive in the United States only at a North Atlantic port or the port of Wilmington, NC, if treatment has not been completed before the fruits and vegetables arrive in the United States. North Atlantic ports are: Atlantic ports north of and including Baltimore; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and, for air shipments, Washington, DC (including Baltimore-Washington International and Dulles International airports).

[57 FR 54491, Nov. 19, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 40796, Aug. 10, 1994; 59 FR 43712, Aug. 25, 1994]

§319.56-2y Administrative instructions; conditions governing the entry of cantaloupe and watermelon from Ecuador.

(a) Cantaloupe (*Cucumis melo*) and watermelon (fruit) (*Citrullus lanatus*) may be imported into the United States from Ecuador only under the following conditions:

(1) The cantaloupe or watermelon may be imported in commercial shipments only;

(2) The cantaloupe or watermelon must have been grown in an area where trapping for the South American cucurbit fruit fly has been conducted for at least the previous 12 months by the plant protection service of Ecuador, under the direction of APHIS,[1] with no findings of the pest.

(3) The following area meets the requirements of paragraph (a)(2) of this section: The area within 5 kilometers of either side of the following roads:

(i) Beginning in Guayaquil, the road north through Nobol, Palestina, and Balzar to Velasco-Ibarra (Empalme);

(ii) Beginning in Guayaquil, the road south through El 26, Puerto Inca, Naranjal, and Camilo Ponce to Enriquez;

(iii) Beginning in Guayaquil, the road east through Palestina to Vinces;

(iv) Beginning in Guayaquil, the road west through Piedrahita (Novol) to Pedro Carbo; or

(v) Beginning in Guayaquil, the road west through Progreso, Engunga, Tugaduaja, and Zapotal to El Azucar; and

(4) The cantaloupe or watermelon may not be moved into Alabama, American Samoa, Arizona, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, New Mexico, Puerto Rico, South Carolina, Texas, and the U.S. Virgin Islands. The boxes in which the cantaloupe or watermelon is packed must be stamped with the name of the commodity followed by the words "Not to be distributed in the following States or territories: AL, AS, AZ, CA, FL, GA, GU, HI, LA, MS, NM, PR, SC, TX, VI.

(b) [Reserved]

[57 FR 54491, Nov. 19, 1992, as amended at 58 FR 69182, Dec. 30, 1993; 59 FR 67610, Dec. 30, 1994]

§319.56-2z Administrative instructions governing the entry of cherimoyas from Chile.

Cherimoyas may be imported into the United States from Chile only under the following conditions:

(a) *Treatment.* The cherimoyas must be treated, under the supervision of an inspector, either in Chile or in the United States, for the Chile false red mite of grapes (*Brevipalpus chilensis*) in accordance with one of the following procedures:

(1) *Fumigation.* The cherimoyas must be fumigated with methyl bromide at normal atmospheric pressure. The fumigation must be done in a fumigation chamber that has been approved for that purpose by the Animal and Plant Health Inspection Service, or under tarpaulins, according to the schedule below. The treatment period must be 2 hours.

Temperature (°F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80–89 (inclusive)	1½
70–79 (inclusive)	2
60–69 (inclusive)	2½
50–59 (inclusive)	3

[1] Information on the trapping program may be obtained by writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

(2) *Soapy water and wax.* The cherimoyas must be immersed in a soapy water bath consisting of 1 part soap solution (such as Deterfrut) to 3,000 parts water for a minimum of 20 seconds, followed by a pressure shower rinse to remove soapy excess, and then followed by immersion for a minimum of 20 seconds in an undiluted wax coating (such as Johnson Wax Primafresh 31 Kosher fruit coating).

(b) *APHIS inspection.* Cherimoyas from Chile are subject to inspection under the direction of an inspector, either in Chile or at the port of arrival in the United States. Imported cherimoyas inspected in Chile are subject to reinspection at the port of arrival as provided for in § 319.56–6.

(c) *Trust Fund Agreement.* Cherimoyas that are treated or inspected in Chile may be imported into the United States only if the plant protection service of Chile (Servicio Agricola Y Ganadero, referred to in this section as SAG) has entered into a trust fund agreement with APHIS. This agreement requires SAG to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing inspection services in Chile during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires SAG to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before any more cherimoyas will be treated or inspected in Chile. After a final audit at the conclusions of each shipping season, any overpayment of funds would be returned to SAG, or held on account until needed, at SAG's option.

(d) *Costs for services in the United States.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or a representative of the owner.

(e) *Limitation of origin.* The cherimoyas must have been grown in a province of Chile that is free from the Mediterranean fruit fly (see § 319.56–2(j)).

(f) *Ports of entry.* Cherimoyas from Chile may be imported through all ports staffed by an inspector.[1]

(g) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with cherimoyas from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) of this section.

[57 FR 56436, Nov. 30, 1992, as amended at 59 FR 67610, Dec. 30, 1994]

§ 319.56–2aa Administrative instructions governing the entry of honeydew melons from Brazil.

Honeydew melons may be imported into the United States from Brazil only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) *Area considered free of the South American cucurbit fly.* The honeydew melons must have been grown in the area of Brazil considered by the Animal and Plant Health Inspection Service to be free of the South American cucurbit fly, (*Anastrepha grandis*), in accordance with § 319.56–2(e)(4) of this subpart. In addition, all shipments of honeydew melons must be accompanied by a phytosanitary certificate issued by the Departamento de Defenso Sanitaria Vegetal (the Ministry of Agriculture of Brazil) that includes a declaration indicating that the melons were grown in this area. The following area is considered free of the South American cucurbit fly: that portion of Brazil

[1] Information concerning ports staffed by inspectors may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

bounded on the north by the Atlantic Ocean; on the east by the River Assu (Acu) from the Atlantic Ocean to the city of Assu; on the south by Highway BR 304 from the city of Assu (Acu) to Mossoro, and by Farm Road RN-015 from Mossoro to the Ceara state line; and on the west by the Ceara state line to the Atlantic Ocean.

(b) *Shipping requirements.* The honeydew melons must be packed in an enclosed container or vehicle or under tarpaulin cover while in transit from the area of Brazil considered free of the South American cucurbit fly to the United States, to prevent exposure of the fruit to insect pests.

(c) *Labelling.* All shipments of honeydew melons must be labelled in accordance with §319.56-2(g) of this subpart.

[58 FR 11634, Feb. 25, 1993]

§319.56-2bb Administrative instructions governing movement of Hass avocados from Mexico to Alaska.

Hass avocados may be imported from Mexico into the United States for distribution in Alaska only under a permit issued in accordance with §319.56-4, and only under the following conditions:

(a) *Commercial shipments.* The avocados may be imported in commercial shipments only.

(b) *Safeguards in Mexico.* The avocados must have been grown in the Mexican State of Michoacan by a participant in the avocado export program administered by Sanidad Vegetal. Upon request, Sanidad Vegetal will provide APHIS with a list of all participants. Under the supervision of Sanidad Vegetal personnel:

(1) The avocados must have been inspected during growing, harvesting, and packing and must have been found free from seed weevils and other pests;

(2) The avocados must have been sealed in boxes after inspection at the packing house with a seal that will be broken when the box is opened; and

(3) The avocados must be packed in an enclosed container or vehicle or under a tarpaulin cover while in transit through Mexico to prevent exposure of the fruit to fruit flies.

(c) *Certification.* All shipments of avocados must be accompanied by a document issued by Sanidad Vegetal certifying that the conditions specified in paragraph (b) of this section have been met.

(d) *Marking requirements.* The boxes of avocados must be clearly marked with the statement "Distribution limited to the State of Alaska."

(e) *Ports.* The avocados may enter the United States only at the following ports: Galveston or Houston, Texas; the border ports at Nogales, Arizona; Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, Texas; any port in Alaska; or other ports within that area of the United States specified in paragraph (f) of this section.

(f) *Shipping areas.* Except as explained below for avocados that enter the United States at Nogales, Arizona, avocados moved by truck or rail car may transit only that area of the United States bounded on the west and south by a line extending from El Paso, Texas, to Salt Lake City, Utah, to Portland, Oregon, and due west from Portland; and on the east and south by a line extending from Brownsville, Texas, to Galveston, Texas, to Kinder, Louisiana, to Memphis, Tennessee, to Louisville, Kentucky, and due east from Louisville. All cities on these boundary lines are included in this area. If the avocados are moved by air, the aircraft may not land outside this area. Avocados that enter the United States at Nogales, Arizona, must be moved to El Paso, Texas, by the route specified on the permit, and then must remain within the shipping area described above.

(g) *Shipping requirements.* The avocados must be moved through the United States either by air or in a refrigerated truck or refrigerated rail car or in refrigerated containers on a truck or rail car. If the avocados are moved in refrigerated containers on a truck or rail car, an inspector must seal the containers with a serially numbered seal at the port of first arrival in the United States. If the avocados are moved in a refrigerated truck or a refrigerated rail car, an inspector must seal the truck or rail car with a serially numbered seal at the port of first arrival in the United States. If the avocados are transferred to another vehicle or container in the United States, an inspector must be present to supervise the

transfer and must apply a new serially numbered seal. The avocados must be moved through the United States under Customs bond.

(h) *Inspection.* The avocados are subject to inspection by the Animal and Plant Health Inspection Service at the U.S./Mexico border, at any stops in the United States en route to Alaska, and at the port of arrival in Alaska.

[58 FR 40037, July 27, 1993]

§ 319.56-2cc Administrative instructions governing the entry of Fuji variety apples from Japan and the Republic of Korea.

Fuji variety apples may be imported into the United States from Japan and the Republic of Korea only under the following conditions:

(a) *Treatment and fumigation.* The apples must be cold treated and then fumigated, under the supervision of an Animal and Plant Health Inspection Service (APHIS) inspector, either in Japan or the Republic of Korea, for the peach fruit moth (*Carposina niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*), in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(b) *APHIS inspection.* The apples must be inspected upon completion of the treatments required by paragraph (a) of this section, prior to export from Japan or the Republic of Korea, by an APHIS inspector and an inspector from the national plant protection agency of Japan or the Republic of Korea. The apples shall be subject to further disinfection in the exporting country if plant pests are found prior to export. Imported Fuji variety apples inspected in Japan or the Republic of Korea are also subject to inspection and disinfection at the port of first arrival, as provided in § 319.56-6.

(c) *Trust fund agreements.* The national plant protection agency of the exporting country must enter into a trust fund agreement with APHIS before APHIS will provide the services necessary for Fuji variety apples to be imported into the United States from Japan or the Republic of Korea. The agreement requires the national plant protection agency to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing services in Japan or the Republic of Korea during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the national plant protection agency to deposit a certified or cashiers check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection agency to deposit with APHIS a certified or cashiers check for the amount of the remaining costs, as determined by APHIS, before APHIS will provide any more services necessary for Fuji variety apples to be imported into the United States from that country. After a final audit at the conclusion of each shipping season, any overpayment of funds will be returned to the national plant protection agency, or held on account until needed, at that agency's option.

(d) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with Fuji variety apples from Japan and the Republic of Korea. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) or (b) of this section.

[59 FR 42154, Aug. 17, 1994]

§ 319.56-2dd Administrative instructions: conditions governing the entry of pink or red tomatoes from Spain.

(a) Pink or red tomatoes (fruit) (*Lycopersicon esculentum*) from Spain may be imported into the United States only under the following conditions:

(1) The tomatoes must be grown in the Almeria Province of Spain in

greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse shall immediately cancel exports from that greenhouse until the source of infestation is determined, all Medflies are eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area or if the single Medfly has been introduced accidentally. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1 month time period shall cancel exports from all registered greenhouses within 2 kilometers of the find, until the source of infestation is determined and all Medflies are eradicated;

(5) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a flyproof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in flyproof containers for transit to the airport and subsequent shipping to the United States.

(6) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. A phytosanitary certificate issued by MAFF and bearing the following declaration, "These tomatoes were grown in registered greenhouses in Almeria Province in Spain," must accompany the shipment.

(b) [Reserved]

[59 FR 43712, Aug. 25, 1994]

§319.56-3 Applications for permits for importation of fruits and vegetables.

(a) Persons contemplating the importation of fruits or vegetables the entry of which is authorized in the regulations in this subpart shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the country or locality of origin of the fruits or vegetables, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be given.

(d) A separate permit must be secured for shipments from each country and for each port of first arrival in the United States.

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

(44 U.S.C. 35)

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

§319.56-4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§319.56-5 Notice of arrival by permittee.

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in §319.56, at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms

provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee or his agent fails to submit the notice of arrival or gives a false notice or in any other way violates the quarantine.

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

(44 U.S.C. 35)

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

§ 319.56-6 Inspection and disinfection of importations of fruits and vegetables.

(a) All importations of fruits or vegetables shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of first arrival, as shall be required by the inspector of the Department of Agriculture, and shall be subject to reinspection at destination at the option of said Department.

(b) Should any shipment of fruits or vegetables be found to be so infested with fruit flies or other dangerous pests that, in the judgment of the inspector of the Department of Agriculture, it cannot be cleaned by disinfection or treatment, or to contain leaves, twigs, or other portions of plants as packing or otherwise, the entire shipment may be refused entry.

(c) No crate, box, hamper, or other container of fruits or vegetables, or fruits and vegetables in bulk, shall be removed from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector of the United States Department of Agriculture that the products have been inspected and found to be free from infestation and from plants or portions of plants used as packing or otherwise.

(d) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

[24 FR 10788, Dec. 29, 1959, as amended at 53 FR 15358, Apr. 29, 1988]

§ 319.56-7 Inspection of baggage and cargo on the dock.

Inspectors of the U.S. Department of Agriculture are authorized to cooperate with the customs inspectors in the examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of enforcing the provisions of § 319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

§ 319.56-8 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

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

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

PART 300—INCORPORATION BY REFERENCE

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

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

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

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992 and includes all revisions through March 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.56–2r [Amended]

4. In § 319.56–2r, paragraph (a)(1) is amended by adding, in alphabetical order, "Spain,".

5. In § 319.56–2r, paragraph (g)(1) is amended by adding "Spain," immediately before "Sweden".

6. In § 319.56–2t, the table is amended by revising "South Korea" to read "Republic of Korea" and by adding in alphabetical order, the following:

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

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina			
* * *	* * *	* * *	* * *
	Currant	*Ribes* spp	Fruit.
* * *	* * *	* * *	* * *
	Gooseberry	*Ribes* spp	Fruit.
Australia	Currant	*Ribes* spp	Fruit.
	Gooseberry	*Ribes* spp	Fruit.
Austria	Asparagus, white	*Asparagus officinalis*	Shoot.[3]
* * *	* * *	* * *	* * *
Belize			
* * *	* * *	* * *	* * *
	Sage	*Salivia officinalis*	Leaf and stem.
* * *	* * *	* * *	* * *
El Salvador	Cilantro	*Coriandrum sativum*	Above ground parts.
	Dill	*Anethum graveolens*	Above ground parts.
* * *	* * *	* * *	* * *
Honduras			
* * *	* * *	* * *	* * *
	Cilantro	*Coriandrum sativum*	Above ground parts.
* * *	* * *	* * *	* * *
Indonesia			
* * *	* * *	* * *	* * *
	Onion	*Allium cepa*	Bulb.
	Shallot	*Allium ascalonicum*	Bulb.
* * *	* * *	* * *	* * *
Nicaragua	Cilantro	*Coriandrum sativum*	Above ground parts.
* * *	* * *	* * *	* * *
Peru			
* * *	* * *	* * *	* * *
	Cornsalad	*Valerianella spp*	Whole plant.
* * *	* * *	* * *	* * *
	Lambsquarters	*Chenopodium album*	Above ground parts.

Country/locality	Common name	Botanical name	Plant part(s)
* * *	* * *	* * *	* * *
Republic of Korea			
* * *	* * *	* * *	* * *
	Eggplant	*Solanum melongena*	Fruit.
	Kiwi	*Actinidia deliciosa*	Fruit.
	Lettuce	*Lactuca sativa*	Leaf.
* * *	* * *	* * *	* * *
Tonga			
* * *	* * *	* * *	* * *
	Jicama	*Pachyrhizus tuberosus*	Root.
* * *	* * *	* * *	* * *

[3] No green may be visible on the shoot.

7. In § 319.56–2x, paragraph (a), the table is amended by adding, in alphabetical order, the following:

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

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Blueberry	*Vaccinium* spp	Fruit.
* * *	* * *	* * *	* * *
El Salvador	Garden bean	*Phaseolus vulgaris*	Pod or shelled.
* * *	* * *	* * *	* * *
Israel			
* * *	* * *	* * *	* * *
	Lettuce	*Lactuca sativa*	Leaf.
* * *	* * *	* * *	* * *
Taiwan	Carambola	*Averrhoa carambola*	Fruit.
* * *	* * *	* * *	* * *

* * * * * * *

Done in Washington, DC, this 9th day of March 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–6370 Filed 3–15–95; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act "Appliance Labeling Rule"

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces non-substantive amendments to its Appliance Labeling Rule ("Rule"). Specifically, the Commission is amending the Rule's water flow rates disclosure requirements for showerheads and faucets to specify that the metric disclosures "liters per minute" and "liters per cycle" be abbreviated as "L/min" and "L/cycle" rather than "Lpm" and "Lpc."

EFFECTIVE DATE: May 16, 1995.

FOR FURTHER INFORMATION CONTACT: Terrence J. Boyle, Attorney, (202) 326–3016, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act of 1975 ("EPCA") directed the Commission to issue rules requiring various categories of home appliances and other products to be labeled with information about their energy consumption and efficiency.[1] Pursuant to EPCA, the Commission on November 19, 1979, issued the Appliance Labeling Rule requiring label disclosures of energy operating costs and/or efficiency for seven categories of products.[2]

The Energy Policy Act of 1992 ("EPA 92") amended EPCA to add showerheads, faucets, water closets and urinals as covered products. As amended, EPCA establishes for showerheads and faucets a national maximum water flow rate standard of 2.5 gallons per minute at 80 pounds per square inch ("psi") water pressure and, for those products, adopted the testing methods of the American Society of Mechanical Engineers ("ASME") Standard A112.18.1M as "the proper protocols for measuring the water usage."[3] EPA 92 also directed the Commission to issue rules requiring these plumbing products to be permanently marked with their water flow rates and to bear disclosures "consistent with the marking and

[1] 42 U.S.C. 6291, 6294.

[2] 44 FR 66466.

[3] 42 U.S.C. 6293(b) (7)(A) and (8)(A).