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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 300 and 319

[Docket No. 00-006-2]

#### Importation of Fruits and Vegetables

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

**ACTION:** Final rule.

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

We are also recognizing the Department of Petén in Guatemala and all Districts in Belize as areas free of the Mediterranean fruit fly. This action will relieve import restrictions while continuing to prevent the introduction of plant pests into the United States.

**DATES:** This regulation is effective August 28, 2001. The incorporation by reference of the material described in the rule is approved by the Director of the Federal Register as of August 28, 2001.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 7 CFR 319.56 through 319.56-8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of fruit flies and other injurious plant pests that are new to or not widely distributed within the United States.

On August 21, 2000, we published in the **Federal Register** (65 FR 50655-50666, Docket No. 00-0061-1) a proposal to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. In the proposal, we also proposed to declare Los Cabos and La Paz, Baja California Sur, Mexico, as fruit fly-free areas, and to declare Belize and the Department of Petén, Guatemala, as areas free of the Mediterranean fruit fly (Medfly). We proposed these actions at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses<sup>1</sup> that indicated these actions could be taken without significant risk of introducing plant pests into the United States.

Since the publication of the proposed rule, the Government of Mexico has reported infestations of the West Indian fruit fly (*Anastrepha obliqua*) in both the Los Cabos and La Paz areas of the State of Baja California Sur, Mexico. We are therefore, withdrawing our proposal to list those areas as fruit fly-free areas under the regulations in § 319.56-2(h).

Also, on March 14, 2001, a single female Medfly was found in a Jackson trap in the village of Placencia in the Stann Creek District of Belize. Since March 14, the Belize Agriculture Health Authority (BAHA) has increased trapping around the area where the Medfly was detected. Further, BAHA has removed available Medfly host material (including guavas and cashews)

<sup>1</sup> Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT** or by calling the Plant Protection and Quarantine (PPQ) fax vault at 301-734-3560.

from trees in Placencia. No additional Medflies have been trapped to date. Based on the lack of further detections, BAHA and APHIS believe that there is not a reproducing Medfly population in the Placencia area. Therefore, we are making no changes to our proposal to list all of Belize as Medfly-free under the regulations in § 319.56-2(j).

We solicited comments concerning our proposal for 60 days ending October 20, 2000. We received 82 comments by that date. They were from producers, exporters, researchers, and representatives of State and foreign governments. Seventy-five commenters generally supported the rule. Seven commenters expressed concerns about some aspect of the proposed rule. Their concerns are discussed below by topic.

**Papaya Systems Approach**

We proposed to amend the regulations in § 319.56-2w (referred to below as the papaya systems approach) by adding several areas in Central America to the list of locations eligible to export papayas to the United States in accordance with the papaya systems approach.

*Comment:* The listing of areas in proposed § 319.56-2w(a) is meaningless in terms of mitigating pest risk because there are large populations of Medfly in those areas.

*Response:* We did not intend for that list of areas to serve as a mitigating measure against the introduction of Medfly or other pests. Rather, the list of areas in § 319.56-2w(a) is necessary to identify those areas that are eligible to export papayas to the United States under the papaya systems approach.

*Comment:* Fully green papayas have been reported to harbor Medfly. Therefore, APHIS must provide data that demonstrate otherwise.

*Response:* Research conducted by officials in Brazil, Costa Rica, and Hawaii regarding the susceptibility of papaya at various stages of ripeness to infestation with fruit flies was critically reviewed by U.S. Department of Agriculture (USDA) personnel and found to be satisfactory. The research demonstrates that less than one-half ripe papayas (shell surface no more than one-quarter yellow, surrounded by light green) are not a host for Medfly or South American fruit fly. Further, field and cage tests conducted in Costa Rica and Brazil demonstrate that fully ripe

papayas are not a preferred host of Medfly or South American fruit fly.

In field tests in Costa Rica, papayas were purposely left on trees so that all stages of ripeness were represented at all times, and fields growing papayas for survey were not treated with pesticides. Approximately 100,000 papayas were examined over the course of 3 years. No *Anastrepha* spp. fruit flies were found in any of the papayas, even in almost fully ripe fruits, and no Medflies were found in papayas that were less than three-quarters ripe. In those 100,000 papayas, only 6 Medfly larvae were found in fruit that was three-quarters ripe or more. Those six larvae, plus trap catches in the areas where research was conducted in Costa Rica, indicate that Medflies were present in the area, but that Medflies do not prefer papayas, especially papayas that are less than one-half ripe.

In forced tests in Costa Rica, no Medfly or *Anastrepha* spp. larvae were found in papayas that were green to quarter-ripe, and only one larva was found in a half-ripe papaya.

Further, in a study conducted in Brazil, more than 100,000 papayas of all ripeness degrees, green to fully ripe (entirely yellow), were collected in commercial groves in Espirito Santo. Under these natural conditions, none of the papayas, not even fully ripe papayas, contained fruit fly larvae. Under forced conditions (e.g., cage tests, where Medfly and South American fruit fly are confined in cages with ripening papayas), Medfly and South American fruit fly only attacked fully ripe papayas. Therefore, we are confident that papayas that are less than one-half ripe present a negligible risk of introducing Medfly or South American fruit fly into the United States.

*Comment:* Trap catches of 7 or more Medflies per trap per week indicate the presence of a sizable Medfly population, and trap catches of 14 Medflies per week are well beyond acceptable levels to continue harvesting fruits for export. Control measures must be initiated at much lower levels.

*Response:* As stated above, research shows that papayas that are less than one-half ripe are not a host of Medfly. The trapping requirements of the systems approach guard against "high infestation pressure" in production fields, and each farm's weekly average of Medfly captures per trap will be individually calculated. In the systems approach, there are specific requirements for the placement, types, and monitoring of fruit fly traps in papaya production fields. Specifically, we require that beginning at least 1 year before harvest begins and continuing

through the completion of harvest, fruit fly traps must be maintained in the field where the papayas are grown. The traps must be placed at a rate of one trap per hectare and must be checked for fruit flies at least once weekly by plant health officials of the national plant protection organization. Fifty percent of the traps must be of the McPhail type, and 50 percent of the traps must be of the Jackson type.

The systems approach identifies trapping thresholds that will trigger action if the Medfly population in a papaya production area is too large. Specifically, in order to monitor the Medfly levels in commercial papaya production areas, we require that if the average Jackson trap catch is greater than seven Medflies per trap per week, measures, which may include Malathion bait sprays or other chemical sprays, must be taken to control the Medfly population in the production area. If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area will be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

These thresholds for Medfly trapping help detect increasing populations of these fruit flies in growing areas and help ensure that these fruit flies are not associated with imports of papayas.

*Comment:* The proposed papaya program in Guatemala should be run as a preclearance program, and APHIS should be present to supervise treatments of papayas.

*Response:* APHIS operates preclearance programs when they are determined necessary to mitigate pest risks identified by a pest risk assessment. In the case of papayas imported from Guatemala, APHIS has determined that it need not supervise firms authorized to export papayas to the United States under the systems approach because Guatemala has the infrastructure and expertise necessary to run the program in accordance with APHIS' regulations. However, APHIS personnel make periodic, often unannounced, inspections of papaya production and processing areas that are eligible to export papayas under the systems approach. The intent of these inspections is to ensure that growers and processors are operating in compliance with all applicable APHIS regulations.

*Comment:* Persons producing and shipping papayas under the systems approach have a built-in incentive to "cheat" on the hot water treatment since such treatment may hurt the fruits' shelf life.

*Response:* We agree that treatment may have an adverse effect on the quality of papayas. However, each individual measure required under the regulations is not intended to act as a stand-alone treatment for Medfly, South American fruit fly, or any other pest. The measures are overlapping, redundant safeguards that collectively form a systems approach to the importation of papayas from Brazil, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. Therefore, we believe the systems approach protects against the risks resulting from an occasional inadequately treated shipment of papayas. This is to say that, even in the event that a shipment of papayas is not treated properly, we believe that the other mitigating measures employed by the systems approach will be adequate to protect against the shipment being infested with fruit flies. The requirement that all shipments of papayas imported under the systems approach must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that states that the papayas were grown, packed, and shipped in accordance with the systems approach regulations provides assurance that papayas were treated in accordance with APHIS requirements.

Further, as a precautionary measure, in order to ensure that growers who export papayas to the United States under the systems approach are treating fruits properly, APHIS monitors the treatment of papayas through examination of fruit at the port of arrival in the United States. To date, these efforts have proven effective, as there have been no reported interceptions of fruit fly-infested papayas imported under the systems approach from Costa Rica or Brazil.

*Comment:* Other safeguards are more effective in preventing insect infestation in papaya than hot water treatment. APHIS should consider requiring the use of a fruit washing system and intensified checking of fruits during selection and packaging. Such requirements would likely be more effective in ensuring papayas' freedom from fruit flies. Hot water treatment is costly, has minimal benefits in the context of the program, and should be made an optional safeguard.

*Response:* As described above, each individual measure required under the systems approach is not intended to act as a stand-alone treatment for Medfly, South American fruit fly, or any other pest. However, we believe that the required hot water is an essential part of the systems approach, and is necessary

to minimize the pest risk associated with the importation of papayas under the systems approach. Specifically, the hot water treatment is particularly useful in mitigating the pest risk that could result if fruit flies lay eggs in papayas immediately before harvest. Further, any consideration of alternative safeguards to be used in the systems approach would have to be based on risk assessment, and would need to be the subject of another rulemaking action.

*Comment:* APHIS should amend the systems approach to allow riper fruit to be eligible for export.

*Response:* As stated above, research has shown that papayas in any stage of ripeness are not a preferred host for Medfly or South American fruit fly, and papayas that are less than one-half ripe are not a host for Medfly or South American fruit fly. Given that papayas that are more than one-half ripe could be hosts (albeit not preferred hosts) for fruit flies, we will continue to prohibit the importation under the systems approach of papayas that are not less than one-half ripe.

*Comment:* APHIS should include additional areas in Guatemala as eligible to export papayas to the United States under the systems approach.

*Response:* Persons who wish to have areas added to the list of areas eligible to export papayas to the United States under the systems approach must submit a formal request to the APHIS representative for their region, and should be prepared to provide APHIS with at least 1 year's worth of fruit fly trapping data for the area to be considered. We are not making any changes in response to this comment because any additions to the list of areas eligible to export papayas under the systems approach regulations must go through notice and comment rulemaking under the requirements of the Administrative Procedure Act.

*Comment:* APHIS should include the Tainung variety of papaya as a fruit eligible for importation into the United States under the papaya systems approach.

*Response:* Again, we are not making any changes in response to this comment because any additions to the list of fruits eligible for importation into the United States must go through notice and comment rulemaking. Persons or regions wishing to export commodities to the United States may submit all available data on the commodity, including pest risk assessments, to the person listed under **FOR FURTHER INFORMATION CONTACT.**

#### *Fruit Fly-free Areas*

*Comment:* It is likely impossible to know that Belize and the Department of Petén, Guatemala, are free of Medflies, and that all of Baja California Sur, Mexico, is free of fruit flies due to the physical impossibility of surveying the entire areas. Trapping cannot definitely prove that an area is fruit fly-free, but only that populations are below certain detectable levels.

*Response:* The national plant protection organizations of Belize, Guatemala, and Mexico conduct fruit fly trapping surveys throughout the fruit-fly free areas. Traps are located in close proximity to all areas where fruit fly host material is located, including commercial growing areas that produce fruit fly host material for export to the United States and backyards that contain fruit fly hosts.

We agree that trapping results cannot definitely prove with absolute certainty that a given area is fruit fly-free, even if no fruit flies are trapped within the area. However, trapping is the preferred method used to by most countries to determine if there are fruit fly populations present in a given area.

As stated earlier in this document, since the publication of the proposed rule, there have been several trap catches of the West Indian fruit fly (*Anastrepha obliqua*) in the municipalities of Los Cabos and La Paz, Baja California Sur, in Mexico. Given the recent detections in those areas, we are withdrawing our proposal to declare Los Cabos and La Paz as municipalities in Baja California Sur, Mexico, that are fruit fly-free under the regulations in § 319.56–2(h).

*Comment:* Since the areas in Mexico, Belize, and Guatemala proposed to be designated as fruit fly-free areas in §§ 319.56–2(h) and (j) are adjacent to areas with large fruit fly populations, the regulations should include detailed requirements for quarantine protection, continuous monitoring, and provisions for removing listed areas if the requirements are not met.

*Response:* In accordance with the regulations in § 319.56–2(f), before an area can be listed as fruit fly-free, the Administrator of APHIS must determine that:

- Within the past 12 months, the plant protection service of the country of origin has established the absence of infestations of fruit flies in the definite area or district based on surveys performed in accordance with requirements approved by the Administrator as adequate to detect such infestations;
- The country of origin has adopted and is enforcing requirements to prevent

the introduction of fruit flies 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 APHIS' regulations to prevent the introduction into the United States and interstate spread of fruit flies; and

- 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 the requirements in § 319.56–2 to prevent the introduction of fruit flies.

In accordance with these requirements, vehicles entering fruit fly-free areas in Mexico, Belize, or Guatemala are stopped and inspected for fruit fly host material. Any fruit fly host material that is brought into free areas must be treated for fruit flies. Further, the governments of Mexico, Belize, and Guatemala conduct trapping surveys in and around fruit fly-free areas to monitor for the presence of fruit fly or Medfly populations in those areas. APHIS closely monitors the trapping data to verify that these areas do not contain active fruit fly populations.

*Comment:* APHIS is recognizing Belize as free of Medfly, yet Belize did not have to follow the same procedure and provide as much information as Guatemala did. Why?

*Response:* Belize provided APHIS with the same kinds of trapping data and descriptions of pest-control infrastructure as Guatemala did and was subject to the same approval process as Guatemala. Copies of the documentation submitted by each country can be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

*Comment:* Chile is not Medfly-free. An active infestation is present in Santiago.

*Response:* Since the publication of the proposed rule, the national plant protection organization of Chile has reported the presence of Medfly in the Provinces of Arica, Iquique, and Parinacota. In response to these reports, we will soon be publishing an interim rule to remove those provinces from the list of Medfly-free areas in Chile.

*Comment:* Why are papayas from Belize and the Department of Petén, Guatemala, not allowed into Hawaii if they are allowed into the rest of the United States without treatment for Medfly?

*Response:* The papaya fruit fly, which is a pest of quarantine significance for Hawaii, is known to exist in Belize and Guatemala. Given that Hawaii is the United States' largest producer of papaya, we prohibit the entry into

Hawaii of papayas from regions where the papaya fruit fly is known to exist to protect against the introduction of the papaya fruit fly into that State.

#### *Mangoes From Mexico*

*Comment:* Mangoes from Mexico are not always treated properly, and interceptions of live larvae have occurred at border ports. These interceptions cast doubt on the effectiveness of the mango preclearance program.

*Response:* In response to recent fruit fly interceptions in treated mangoes from Mexico, APHIS has conducted a review of the mango preclearance program in Mexico. APHIS also requested that the Agricultural Research Service (ARS) review the authorized hot water treatment for mangoes imported from Mexico and to determine whether post-treatment hydrocooling of the mangoes compromised the efficacy of the treatment. The authorized treatment did not specifically require or forbid the use of hydrocooling, and hydrocooling has been employed in Mexico in an effort to preserve the appearance and taste of treated mangoes.

An ARS report completed in February 2001 states that hydrocooling immediately after hot water treatment does indeed compromise treatment efficacy. The report also states that treatment efficacy can be maintained by requiring cooling of fruits in air for 30 minutes after the completion of hot water treatment, after which the fruit could be hydrocooled. Based on the ARS report, we are planning to publish a proposed rule that would amend the existing hot water treatment schedule for mangoes from certain areas, including Mexico. Copies of the ARS report are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

In addition to the review of the treatment for mangoes, APHIS also evaluated additional facets of the mango production process that we had not previously monitored. In our evaluation, we found additional factors that may have contributed to the infestations of mangoes offered for entry into the United States, including inadequate trapping surveys, improper fruit selection, and deficiencies in fruit-cutting examinations conducted prior to the treatment of mangoes at various production and processing areas in Mexico. In response to these issues, APHIS will be monitoring these activities throughout Mexico to ensure against further introductions of fruit flies into the United States.

*Comment:* APHIS should not transfer oversight of the existing mango

preclearance program to Mexico, given the recent interceptions of fruit flies in mangoes from Mexico, especially since APHIS supervised the treatment of those mangoes. Given the number of interceptions, the program should have been shut down.

*Response:* As stated above, we believe the recent fruit fly interceptions at the border were attributable to the use of hydrocooling immediately after the authorized hot water treatment and problems with other pretreatment pest management issues—not with APHIS' or others' oversight of the treatment. With the revised treatment protocol described above in place, and with the additional monitoring of production and processing described above, we believe there is no reason to expect any further fruit fly interceptions in treated mangoes from Mexico, regardless of who supervises the treatments. Therefore, we are making no changes in response to this comment.

*Comment:* Given the change of the mango program in Mexico from a preclearance program to a national certification program, is APHIS prepared to apply the equivalency principle to other countries with similar programs?

*Response:* Yes, APHIS will consider requests that would result in the transfer of an existing preclearance program to the national plant protection organization of a particular country. For each such request, we would publish a proposed rule in the **Federal Register** and solicit public comment on the proposed transfer of certification authority. We would propose such actions only after determining that the national plant protection organization of the exporting region has the infrastructure and expertise necessary to conduct the export program in accordance with APHIS' regulations. Further, APHIS would still monitor such operations, and would make periodic inspections of treatment facilities to ensure compliance with APHIS' regulations.

*Comment:* Has APHIS studied the correlation between live fruit fly finds and the presence of full-time APHIS inspectors at each treatment facility and/or APHIS inspectors covering a number of facilities? Were these studies considered in developing the proposed rule?

*Response:* APHIS has not conducted such a study, nor was such a study considered in the development of the proposed rule. However, in any case when APHIS allows a foreign plant protection agency to certify treatments required by APHIS, such a decision is typically based on a combination of

prior experience working with the plant protection organization of the affected country and risk. In short, APHIS maintains a presence in exporting regions only if APHIS' presence is necessary to ensure that commodities to be exported to the United States are free of quarantine pests and diseases.

#### *Carambola From Mexico*

*Comment:* APHIS should supervise cold treatment of carambolas from Mexico and should specify in the regulations the exact level of APHIS supervision that will be required. There is a built-in incentive for Mexico to "cheat" on cold-treatment of carambolas. Cold treatment for 11 days or more causes significant damage to carambolas, and damage worsens as temperature is lowered and duration increased.

*Response:* APHIS will monitor the treatment of carambolas from Mexico to ensure that the treatments are performed in accordance with the PPQ Treatment Manual. An APHIS representative will typically be present when treatment begins and when treatment ends, and will review the temperature readings recorded during the treatment that are required to be kept by the treatment facility in accordance with the PPQ Treatment Manual.

Further, treatment facilities that treat carambolas under the regulations are required to be certified by, and must operate under a compliance agreement with, APHIS. Shipments of carambolas that are treated at facilities that do not meet the requirements will be refused entry into the United States.

*Comment:* Increased imports of carambolas from Mexico would hurt U.S. carambola producers.

*Response:* In our initial regulatory flexibility analysis for our August 21, 2000, proposed rule, we stated that there were no data available regarding production of carambolas in the United States, and Mexico's Center for Agricultural Statistics does not believe that there are any commercial carambola production areas in Mexico. Based on the lack of available data, we stated that imports of carambola from Mexico would be unlikely to have any measurable economic effect on U.S. producers or consumers. However, since the proposed rule was published, we have gathered additional information related to domestic carambola production. The information is discussed below in our final regulatory flexibility analysis.

#### *Inspection of Fruits and Vegetables*

*Comment:* In the proposed rule, APHIS states that pest risk analyses

indicate potential pests of passion fruit, kiwi, carambola, and lettuce that are not "treated for" would be readily detectable by an inspector. There are two problems with this statement:

1. Representatives from APHIS have publicly stated that many pests are extremely difficult to detect in a high-volume setting such as a port of entry.

2. APHIS examines only a tiny volume of products imported into the United States.

*Response:* The fruits cited by the commenter would be allowed to enter the United States from certain countries if treated in accordance with the PPQ Treatment Manual for certain pests.

In conducting a risk assessment for each of these fruits, APHIS identified the pests of concern that could be associated with each particular imported commodity. APHIS then considered the damage each pest could cause and the likelihood of each pest being introduced into the United States via the imported commodity and assigned each pest a risk level of high, medium, or low. APHIS then determined what, if any, mitigating measures (e.g., treatments) are available to address the risks presented by the identified pests of concern. APHIS does not typically require additional mitigation measures other than inspection at the port of arrival for pests that are identified as low risk according to risk assessment.

The commenter is correct that APHIS inspects only a portion of imported products. However, APHIS does inspect at least a small portion of every documented shipment of plant products that is imported into the United States, and randomly selects fruits and vegetables from each shipment for inspection.

#### *Eggplant and Watermelon From Spain*

*Comment:* Eggplant and watermelon should be packaged in pest-proof containers when being moved from commercial growing locations.

*Response:* APHIS requires that certain commodities from certain areas to be packaged in pest-proof containers prior to movement from production areas in the region of origin to ensure that the commodities are not vulnerable to pest infestation during transit from the production area to the United States. However, APHIS does not believe that such controls are necessary to protect eggplant and watermelon from Spain. These commodities are not hosts to pests of quarantine significance in the United States.

#### *Peppers From New Zealand*

*Comment:* Peppers can be host to serious plant pests, including *Helicoverpa armigera* Hubner and *Spodoptera litura* Fabricus. The risk of introducing these pests is too great to allow the importation of peppers from New Zealand.

*Response:* As stated in our proposed rule, in order to protect against the introduction of *H. armigera* and *S. litura*, we are requiring that the peppers be grown in insect-proof greenhouses approved by the New Zealand Ministry of Agriculture and Forestry (MAF). We are requiring the greenhouses to be equipped with double self-closing doors and that any vents or openings in the greenhouses (other than the double closing doors) be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse. We are also requiring that these greenhouses be examined periodically by MAF to ensure that the screens are intact.

In order to verify that these conditions are being met in New Zealand, we are requiring peppers from New Zealand to be accompanied by a phytosanitary certificate of inspection stating that the peppers were grown in greenhouses in accordance with the above conditions.

We believe that these conditions, as well as all other applicable requirements in § 319.56–6, will be adequate to prevent the introduction of plant pests into the United States with peppers imported from New Zealand.

#### *Miscellaneous Comments*

*Comment:* "Cuke-asaurus"<sup>TM</sup> horned fruit from Chile should be added to the list of fruits that are eligible, under specified conditions, for importation into the United States.

*Response:* As noted previously, any additions to the list of fruits eligible for importation into the United States must be the subject of notice and comment rulemaking. Persons or regions wishing to export commodities to the United State may submit all available data on the commodity, including pest risk assessments, to the person listed under **FOR FURTHER INFORMATION CONTACT.**

*Comment:* The proposed rule contains a mistake: Mangoes should not be included in the list of fruits eligible for importation without treatment for fruit fly (if from fruit fly-free areas).

*Response:* In our proposed rule, we specifically proposed to add mangoes to the list of fruits that may be imported from areas listed in § 319.56–2(h) without treatment for fruit flies, since no species of fruit fly known to attack mango exists in any of the areas listed in § 319.56–2(h). Mangoes from the

areas listed in § 319.56–2(h) do not present a risk of fruit fly introduction.

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

#### **Effective Date**

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

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

#### **Executive Order 12866 and Regulatory Flexibility Act**

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

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

This final rule amends the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, will be inspected and subject to such disinfection at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables will be required to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables. This final rule will also recognize the Department of Petén,

Guatemala, and all Districts in Belize as areas free of the Mediterranean fruit fly.

We have used all available data to estimate the potential economic effects of allowing these fruits and vegetables to be imported into the United States. However, some of the data we believe would be helpful in making this determination have not been available. Specifically, data are not available on: (1) The quantity of specific fruits and vegetables produced domestically; (2) the quantity of potential imports; and (3) the degree to which imported fruits and vegetables will displace existing imported or domestic products. In our proposed rule, we invited commenters to provide such data. However, we did not receive any comments providing the kinds of data we requested. We did, however, receive one comment related to our analysis of the effects of importing carambolas from Mexico. That comment is discussed earlier in this document under the heading *Carambola from Mexico*. We have updated our analysis related to carambola from Mexico (see below).

#### Effects on Small Entities

Data on the number and size of U.S. producers of the various commodities that may be imported into the United States under this final rule are not available. However, since most fruit and vegetable farms are small by Small Business Administration (SBA) standards, it is likely that the majority of U.S. farms producing the commodities examined below are small entities. The potential economic effects of this final rule are discussed below by commodity and country of origin.

#### *Oregano and Marjoram From Argentina*

There are no data available regarding production of oregano and marjoram in the United States. Argentina claims to produce approximately 800 tons of oregano per year, but only exports 20 to 60 tons of that amount. It is likely that some of those exports could be diverted to the United States. However, it is unlikely that Argentina will increase its production of oregano, so any exports to the United States will likely be minimal and will not have any significant economic effect on U.S. producers, whether small or large, or on consumers. Data on production of marjoram by Argentina are not available. We are, therefore, unable to determine the effect this final rule will have on U.S. producers or consumers of marjoram.

#### *Cole and Mustard Crops (Brassica species) From Costa Rica and Honduras*

The United States produced 1.37 million tons of *Brassica* spp. in 1997 and exported 46,212 tons and imported 40,604 tons in 1999. Any imports of *Brassica* spp. from Costa Rica that could result from this final rule are likely to be only a small fraction of domestic production and have a negligible economic effect on domestic producers and consumers. Honduras produced 259 tons of cole crops in 1998 and exported 171 tons to other Central American countries. Honduras could potentially expand production and export up to 330 tons to the United States if there is sufficient market demand. However, potential imports from Honduras are equal to only 0.024 percent of domestic production and represent 0.8 percent of current imports and thus will not have a measurable effect on either U.S. consumers or producers.

#### *Marjoram From Peru*

There are no data available regarding production of marjoram in the United States or Peru. We are, therefore, unable to determine the effect this final rule will have on U.S. producers or consumers of marjoram.

#### *Eggplant From Spain*

The United States produced 36,900 tons of eggplant in 1997 and, in 1999, exported over 12,000 tons and imported 35,669 tons. Imports of eggplant from Spain resulting from this final rule could total 1,000 tons per year, equaling 2.7 percent of U.S. production in 1997 and representing 2.8 percent of U.S. imports in 1999. Therefore, imports of eggplant from Spain are unlikely to have a significant economic effect on U.S. consumers or producers.

#### *Lettuce From Spain*

The United States produced 3.4 million tons of lettuce in 1997, and, in 1999, exported over 196,000 tons and imported only 14,000 tons. The peak lettuce growing season in Spain roughly corresponds to U.S. production seasons. Imports of lettuce from Spain that could result from implementation of this final rule could total 2,500 tons, representing a 17 percent increase in imports (equal to 0.07 percent of U.S. production in 1997). Therefore, imports of lettuce from Spain that could result from this final rule are unlikely to have a significant economic effect on U.S. consumers or producers.

#### *Watermelon From Spain*

The United States produced 2.03 million tons of watermelon in 1997 and imported 240,302 tons of watermelon in

1999. The amount projected to be imported from Spain represents only 1.04 percent of U.S. imports in 1999 and equals 0.12 percent of U.S. production in 1997. Therefore, it is unlikely that imports of watermelon from Spain will have a significant economic effect on domestic producers or consumers.

#### *Kiwi From Argentina and Spain*

The United States produced 39,400 tons of kiwi in 1997 and, in 1999, imported over 49,000 tons while exporting 14,792 tons. Data on potential kiwi imports from Argentina are not available. Data on potential kiwi imports from Spain are also not available, but the amount is expected to be small and should not have a significant economic effect on U.S. consumers or producers.

#### *Passion Fruit From Chile*

There are no data available regarding production of passion fruit by the United States or Chile. We are, therefore, unable to determine the effect this final rule will have on U.S. producers or consumers of passion fruit.

#### *Carambola From Mexico*

Carambola is grown in both Florida and Hawaii. Florida has approximately 10 producers, with a total of 250 acres of carambola. One firm accounts for approximately half of the total acres. Most of the other firms would meet SBA guidelines for small agricultural businesses (less than \$750,000 in yearly receipts).

September through February is the major picking time for carambola. However, trees are productive throughout the year. April through June is the slowest season for picking. Trees can start producing in as little as 13 months under ideal conditions, and within 3 years under normal circumstances. Trees must be sheltered from the wind, and erecting and maintaining windbreaks is a major expense in carambola production. Production costs range from \$1,500 per acre to a more typical cost of \$2,700 per acre.

An acre of carambola trees can produce 30,000 to 40,000 pounds of fruit. The average packout, or amount of fruit that is suitable for the commercial market, is approximately 60 percent of the total production. With proper handling, the fruit can be stored up to 30 days. Prices for carambola have fluctuated from a low of 16 cents per pound up to \$1.50 per pound. Forty-five cents per pound is a typical price. In 1995 to 1996, the estimated annual value of Florida carambola production was \$17 million.

Hawaii had 25 producers in 1999 with a total of 20 acres of carambola. The total value of sales was \$66,000. All of

Hawaii's producers would likely meet SBA guidelines for small agricultural businesses. The table below provides

details about Hawaii's carambola production.

| Carambola (Starfruit) | Farms | Planted acres | Harvested acres | Total trees | Bearing trees | Farm price (per pound) | Value of sales |
|-----------------------|-------|---------------|-----------------|-------------|---------------|------------------------|----------------|
| 1997 .....            | 35    | 25            | 20              | 2100        | 1900          | \$0.46                 | \$41,400       |
| 1998 .....            | 25    | 25            | 25              | 1900        | 1900          | 0.97                   | 36,000         |
| 1999 .....            | 25    | 20            | 15              | 1800        | 1700          | \$0.66                 | \$63,000       |

Any projections of possible imports from Mexico are merely speculation at this point. It is not believed that there currently is any commercial production of carambola in Mexico. However, because carambola can come into production quickly, whether or not there is current commercial production in Mexico does not alter the potential economic effect of the rule. Carambola imports will directly compete with domestic production and domestic producers may lose market share. Domestic consumers will benefit if imports increase the availability of fruit and if increased competition results in lower prices.

The costs associated with increased imports will be borne by a small group of domestic producers, while the more diffuse group of consumers will enjoy the benefits. Because the costs are concentrated among a small group, they are more apparent. Benefits enjoyed by consumers, while real, will likely be too small to be measured or even noticed.

*Papaya From Belize, El Salvador, Guatemala, Honduras, Nicaragua, and Panama*

The United States produced 20,500 tons of papaya in 1997 and, in 1999, imported over 73,000 tons and exported 6,533 tons. The top exporters of papaya to the United States were Mexico with 61,619 tons, Belize with 4,188 tons, Jamaica with 2,094 tons, the Dominican Republic with 1,212 tons, and Costa Rica with 771 tons.

We estimate papaya imports of 330 tons from El Salvador, 660 tons from Guatemala, and up to 840 tons from Panama as a result of this final rule. These volumes of imports are insignificant when compared to domestic production and other papaya imports. Imports of papaya from El Salvador will equal 1.6 percent of U.S. domestic production and less than one-half of 1 percent of U.S. papaya imports. Imports of papaya from Guatemala will equal 3.2 percent of U.S. domestic production and less than 1 percent of U.S. papaya imports. Imports of papaya from Panama will equal 4 percent of domestic production and 1.1 percent of U.S. papaya imports. However, most

papaya varieties now grown in Panama are not suitable for export, since they are large, with soft skin. Only four growers are currently planting Solo variety of papayas of exportable quality, and of those, only one is prepared to export fruit at this time.

Honduras currently produces 184 tons of papaya and exports 129 tons, but estimates that it could produce and export up to 2,200 tons of papayas (75 percent fresh, 25 percent processed) to the United States if a market for the papayas exists. To export such a volume of papayas to the United States, Honduras will have to increase production by almost 12 times the current level. It is unlikely that such export levels will be realized in the foreseeable future, and even if Honduras could export 2,200 tons of papayas to the United States, that amount represents only 3 percent of current papaya imports.

Data on potential imports of papayas from Nicaragua are not available.

Prior to this final rule, certain areas in Belize were already recognized as free of Medfly. Producers in those areas have been able to export papayas to the United States without treatment for Medfly. This final rule adds the remainder of Belize, except Stann Creek, as well as the Department of Petén, Guatemala, to the list of areas recognized as free of Medfly, thereby eliminating treatment requirements for papaya imported into the United States from those Medfly-free areas in Belize and Guatemala. However, it is unlikely that this final rule will have a significant effect on the volume of papayas currently exported by Belize or the potential exports by Guatemala that are described above.

U.S. consumers could benefit from potentially lower prices for papayas that could result from adoption of this rule.

*Mangoes From Mexico*

Prior to the effective date of this rule, mangoes from all areas in Mexico were required to be treated for fruit flies prior to importation into the United States. This final rule provides for mangoes from specified fruit fly-free areas in

Mexico to be imported into the United States without treatment for fruit flies.

Mexico exported 13,800 tons of mangoes to the United States in 1998 and 11,800 tons in 1999. These exports accounted for 78 and 44 percent of U.S. mango imports for 1998 and 1999, respectively. It is unlikely that removing treatment requirements for mangoes imported from areas listed in § 319.56-2(h) as fruit fly-free areas will measurably reduce the costs of exporting mangoes to the United States or the cost of mangoes in the United States.

*Peppers From Israel*

In 1999, Israel shipped 15.7 tons of peppers to the United States, accounting for only 0.046 percent of peppers imported by the United States in that year. Allowing peppers to be shipped through ports other than Tel Aviv is not expected to result in an increase in the volume of peppers exported by Israel and, therefore, should not have any measurable economic effect on U.S. producers or consumers.

*Ya Pears From China*

The United States produced 970,000 and 1,021,000 tons of pears in 1998 and 1999, respectively. The United States is a net exporter of pears, as shown in the following table.

|                      | 1999    | 2000    |
|----------------------|---------|---------|
| Imports (tons) ..... | 89,785  | 93,631  |
| Exports (tons) ..... | 142,738 | 165,641 |

In 2000, most of the pears imported into the United States came from Argentina (52 percent), Chile (26.5 percent), New Zealand (5.6 percent), and China (5.6 percent). The main importers of U.S. pears are Mexico (50 percent) and Canada (28 percent), with the remaining quantities distributed among approximately 50 other destinations. According to the 1997 Census of Agriculture, there were approximately 4,897 farms producing pears in the United States in 1997, about 98 percent of which are considered small entities according to SBA guidelines.

When this rule is adopted, China expects to export a total of 1,250 to 1,850 tons of Ya pears to the United States from Hebei and Shandong Provinces. (Imports from Hebei province are already allowed under § 319.56–2ee.)

The proportion of China's exports of pears to the United States that were Ya pears is unknown. However, since Ya pears are a unique variety of pear produced only in China, Ya pears would not compete with domestically grown pears.

*Peppers From New Zealand*

The United States produced 838,650 tons of peppers in 1997. New Zealand exported 1,600 tons of peppers for the year ending June 1999—a 28 percent increase over the previous year. The United States is potentially a major market for this commodity from New Zealand. However, the volume of any imports of peppers from New Zealand will be negligible in comparison to the amount of U.S. production and will have an insignificant economic effect on domestic producers and consumers, since New Zealand's exports of 1,600 tons represent less than 0.2 percent of U.S. production.

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

**Executive Order 12988**

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

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

*et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0158.

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

Accordingly, we are amending 7 CFR parts 300 and 319 as follows:

**PART 300—INCORPORATION BY REFERENCE**

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

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

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

**§ 300.1 Materials incorporated by reference.**

(a) *Plant Protection and Quarantine Treatment Manual.* In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Office of the Federal Register has approved, for incorporation by reference in 7 CFR chapter III, the Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and all revisions through May 2000; and Treatments T101–n–2 and T102–b, and Table 5–2–5, revised July 2001.

\* \* \* \* \*

**PART 319—FOREIGN QUARANTINE NOTICES**

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

**Authority:** 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. In § 319.56–2, paragraphs (h) and (j) are revised to read as follows.

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

\* \* \* \* \*

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

\* \* \* \* \*

(j) The Administrator has determined that all Districts in Belize, all Provinces in Chile, and the Department of Petén in Guatemala meet the criteria of paragraphs (e) and (f) of this section with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitidis capitata* [Wiedemann]). Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for Medfly.

\* \* \* \* \*

5. In § 319.56–2t, the table is amended as follows:

- a. Under Argentina, by revising the entry for "Artichoke, globe".
- b. Under Belize, by revising the entry for "Papaya".
- c. Under Mexico, by placing the entry for "Arugula" in alphabetical order.
- d. By adding, in alphabetical order, entries for marjoram and oregano from Argentina; cole and mustard crops from Costa Rica; papaya from Guatemala; cole and mustard crops from Honduras; apple, apricot, grapefruit, mango, orange, peach, persimmon, pomegranate, and tangerine from Mexico; marjoram from Peru; and eggplant and watermelon from Spain.

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

\* \* \* \* \*

| Country/locality | Common name            | Botanical name               | Plant part(s)         |
|------------------|------------------------|------------------------------|-----------------------|
| Argentina .....  | Artichoke, globe ..... | <i>Cynara scolymus</i> ..... | Immature flower head. |



| Country/locality | Common name  | Botanical name                | Plant part(s)  |
|------------------|--|-------------------------------|--|
| *                | Marjoram .....   | <i>Origanum</i> spp .....     | Above ground parts.  |
| *                | Oregano .....  | <i>Origanum</i> spp .....     | Above ground parts.  |
| Belize           |  |                               |  |
| *                | Papaya .....   | <i>Carica papaya</i> .....    | Fruit (from Medfly-free areas—see § 319.56–2(j). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Belize stating that the fruit originated in a Medfly-free area listed in § 319.56–2(j).) Papayas are prohibited entry into Hawaii due to papaya fruit fly. Cartons in which fruit is packed must be stamped “Not for importation into or distribution within HI.”    |
| Costa Rica       |  |                               |  |
| *                | Cole and mustard crops, including cabbages, broccoli, cauliflower, turnips, mustards, and related varieties. | <i>Brassica</i> spp .....     | Whole plant of edible varieties only.  |
| Guatemala        |  |                               |  |
| *                | Papaya .....   | <i>Carica papaya</i> .....    | Fruit (from Medfly-free areas—see § 319.56–2(j). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Guatemala stating that the fruit originated in a Medfly-free area listed in § 319.56–2(j).) Papayas are prohibited entry into Hawaii due to papaya fruit fly. Cartons in which fruit is packed must be stamped “Not for importation into or distribution within HI.” |
| Honduras         |  |                               |  |
| *                | Cole and mustard crops, including cabbages, broccoli, cauliflower, turnips, mustards, and related varieties. | <i>Brassica</i> spp .....     | Whole plant of edible varieties only.  |
| Mexico           |  |                               |  |
| *                | Apple .....  | <i>Malus domestica</i> .....  | Fruit (from fruit fly-free areas—see § 319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”)   |
| *                | Apricot .....  | <i>Prunus armeniaca</i> ..... | Fruit (from fruit fly-free areas—see § 319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”)   |

| Country/locality | Common name | Botanical name            | Plant part(s)   |
|------------------|-------------|---------------------------|---|
| *                | Grapefruit  | <i>Citrus paradisi</i>    | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Mango       | <i>Mangifera indica</i>   | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Orange      | <i>Citrus sinensis</i>    | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Peach       | <i>Prunus persica</i>     | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Persimmon   | <i>Diospyros</i> spp      | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Pomegranate | <i>Punica granatum</i>    | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| *                | Tangerine   | <i>Citrus reticulata</i>  | Fruit (from fruit fly-free areas—see §319.56–2(h). Fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: “These regulated articles originated in an area free from pests as designated in 7 CFR 319.56–2(h).”) |
| Peru             | Marjoram    | <i>Origanum</i> spp       | Above ground parts.   |
| Spain            | Eggplant    | <i>Solanum melongena</i>  | Fruit, commercial shipments only.   |
| *                | Watermelon  | <i>Citrullus vulgaris</i> | Fruit, commercial shipments only.   |

6. In § 319.56–2u, paragraph (b)(7) is revised to read as follows and paragraph (b)(8) is removed:

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

\* \* \* \* \*

(b) \* \* \*

(7) The peppers must be packed in insect-proof containers prior to movement from approved insect-proof screenhouses in the Arava Valley.

7. Section 319.56–2w is amended by revising the heading, the introductory

text, and paragraph (a) to read as follows:

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

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands only under the following conditions:

- (a) The papayas were grown and packed for shipment to the United States in one of the following locations:
  - (1) Brazil: State of Espirito Santo.
  - (2) Costa Rica: Provinces of Guanacaste, Puntarenas, San Jose.
  - (3) El Salvador: Departments of La Libertad, La Paz, and San Vicente.

(4) Guatemala: Departments of Escuintla, Retalhuleu, Santa Rosa, and Suchitepéquez.

(5) Honduras: Departments of Comayagua, Cortés, and Santa Bárbara.

(6) Nicaragua: Departments of Carazo, Granada, Managua, Masaya, and Rivas.

(7) Panama: Provinces of Coclé, Herrera, and Los Santos; Districts of Aleanje, David, and Dolega in the Province of Chiriquí; and all areas in the Province of Panama that are west of the Panama Canal.

\* \* \* \* \*

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

- a. By revising the entry for Belize.
- b. By adding, in alphabetical order, entries for kiwi from Argentina, passion fruit from Chile, and carambola from Mexico.
- c. Under Mexico, by revising the entry for "Mango".
- d. By adding a new entry for Spain.

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

\* \* \* \* \*

| Country/locality | Common name                    | Botanical name   | Plant part(s)  |
|------------------|--------------------------------|--|--|
| Argentina        |                                |  |  |
| *                | *                              | *  | *  |
| Belize           | Kiwi .....<br>Papaya .....     | <i>Actinidia deliciosa</i> .....<br><i>Carica papaya</i> .....   | Fruit.<br>Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56-2(j)).)  |
| Chile            |                                |  |  |
| *                | *                              | *  | *  |
|                  | Passion fruit .....            | <i>Passiflora</i> spp .....                                      | Fruit.   |
| Mexico           |                                |  |  |
| *                | *                              | *  | *  |
|                  | Carambola .....<br>Mango ..... | <i>Averrhoa carambola</i> .....<br><i>Mangifera indica</i> ..... | Fruit.<br>Fruit. (Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: "These mangoes were treated in accordance with the Plant Protection and Quarantine Treatment Manual," unless fruit was grown in a fruit fly-free area listed in § 319.56-2(h).) |
| Spain            |                                |  |  |
| *                | *                              | *  | *  |
|                  | Kiwi .....<br>Lettuce .....    | <i>Actinidia deliciosa</i> .....<br><i>Lactuca</i> spp .....     | Fruit.<br>Above ground parts, commercial shipments only.   |
| *                | *                              | *  | *  |

\* \* \* \* \*

**§ 319.56-2ee [Amended]**

9. In § 319.56-2ee, paragraph (a)(1) is amended by removing the words "Hebei Province" and inserting in their place the words "the Hebei or Shadong Provinces".

10. A new § 319.56-2hh is added to read as follows:

**§ 319.56-2hh Conditions governing the entry of peppers from New Zealand.**

Peppers from New Zealand may be imported into the United States only under the following conditions:

(a) The peppers must be grown in New Zealand in insect-proof greenhouses approved by the New

Zealand Ministry of Agriculture and Forestry (MAF).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be examined periodically by MAF to ensure that the screens are intact.

(d) Each shipment of peppers must be accompanied by a phytosanitary certificate of inspection issued by MAF bearing the following declaration: "These peppers were grown in greenhouses in accordance with the conditions in § 319.56-2hh."

Done in Washington, DC, this 22nd day of August 2001.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

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