

before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Further, this rule eliminates the information collection or recordkeeping requirements in 7 CFR 319.74.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 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 part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.74–1 [Amended]

2. In § 319.74–1, paragraph (c) is removed.

§ 319.74–2 [Amended]

3. Section 319.74–2 is amended as follows:

- a. By removing paragraph (b).
- b. By removing paragraph (c).
- c. By removing the designation “(a)” preceding the first paragraph.

§ 319.74–2a [Removed]

4. Section 319.74–2a is removed.

§ 319.74–3 [Amended]

5. Section 319.74–3 is amended as follows:

- a. By removing paragraph (b).
- b. By redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.
- c. In paragraph (a), the first sentence, by removing the words “imported from the named foreign countries and localities, whether or not subject to permit requirements.”
- d. In paragraph (a), the second sentence, by removing the reference “(d)” and adding in its place the reference “(c)”.

§ 319.74–4 [Removed]

6. Section 319.74–4 and footnote 1 are removed.

§ 319.74–5 [Removed]

7. Section 319.74–5 is removed.

§ 319.74–6 [Redesignated]

8. Section 319.74–6 is redesignated as § 319.74–4.

§ 319.74–7 [Removed]

9. Section 319.74–7 is removed.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25486 Filed 9–24–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96–046–3]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, 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 are required to meet other special conditions. The removal of these prohibitions provides 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.

We are also amending the regulations to extend the production area in Arava, Israel, where peppers may be grown for importation into the United States; to eliminate the distribution restrictions for peppers from Arava, Israel; to eliminate the trust fund provisions for papayas from Costa Rica; to declare all Provinces in Chile free of the Mediterranean fruit fly; and to make several nonsubstantive editorial changes to the regulations. These actions relieve restrictions while continuing to prevent the introduction of plant pests into the United States.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236; (301) 734–6799.

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 and throughout the United States.

On March 25, 1997, we published in the **Federal Register** (62 FR 14037–14044, Docket No. 96–046–1) a proposal to amend the regulations by allowing certain previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that the fruits and vegetables could introduce fruit flies or other injurious plant pests into the United States. We proposed to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 60 days ending May 27, 1997. We received 11 comments by that date. They were from representatives of industry and State governments. Six of the commenters supported the proposed rule in its entirety. The remaining 5 commenters had reservations about specific provisions of the proposed rule. Of those 5 commenters, 3 commenters had concerns about the proposed importation of papayas from Brazil. Upon further review and consideration of this issue, we are taking final action at this time on all portions of our March 27, 1997, proposed rule except the portion concerning papayas from Brazil. APHIS Docket No. 96–046–2 in this edition of the **Federal Register** seeks comment on our proposal to require a hot water treatment and require that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas for the importation of papayas from both Brazil and Costa Rica. The proposal also seeks comment on any other issues involving the importation of papayas from Brazil.

The comments we have already received that raised concerns about actions other than the proposed importation of papayas from Brazil are discussed below.

Comment: Although the proposed rule mentions the risk associated with the introduction of injurious exotic insect pests and proposes criteria to prevent their movement into the United States with imported fruits and vegetables, the proposed rule does not refer to the possible introduction of exotic fungal, bacterial, and viral strains.

Response: The pest risk analysis prepared for each fruit or vegetable proposed for importation into the United States considers all of the injurious plant pests that might be associated with that fruit or vegetable. The term "pest" includes insect pests and all fungal, bacterial, and viral pathogens for which a plant may be a host. Our requirements for the importation of each fruit and vegetable covered in this rule present safeguards that we believe are adequate to prevent the introduction of all injurious plant pests into the United States.

Comment: More thorough pest risk analyses need to be prepared, and more thorough inspections need to be administered, to ensure that injurious plant pests do not enter the United States. Particularly without more detailed inspections, it is unreasonable to assume that any injurious plant pests will be, as stated in the proposed rule, "readily detectable by an inspector."

Response: All fruits and vegetables imported into the United States are subject to inspection at the port of entry in the United States by a U.S. Department of Agriculture (USDA) inspector. The inspector visually examines shipments for plant pests, or evidence of the presence of plant pests (for example, holes bored into fruit). When we say that certain plant pests are "readily detectable by an inspector," we mean that these pests can be detected upon visual examination. The level of inspection we provide for a given shipment takes into account a number of factors, including pest interception records and the relative risk presented by pests associated with a particular fruit or vegetable. We believe that our inspections are conducted in a manner that provides a high degree of assurance that we will detect plant pests if they are present.

Regarding our pest risk analyses, we believe that the pest risk analyses we prepare and the safeguards we propose effectively prevent the introduction of plant pests by the commodities proposed for entry. Our pest risk

analyses follow the guidelines accepted by the United Nations' Food and Agriculture Organization, International Plant Protection Convention, and North American Plant Protection Organization and provide written documentation on the pest risk potential for organisms that rank high for the likelihood of introduction and establishment. Pest risk analyses prepared for our proposed rules are available for public review and comment during the public comment period for the proposed rules.

Comment: Due to the stem nematode *Ditylenchus dispaci*, basil from Guatemala and leeks from Belgium and the Netherlands should be fumigated in accordance with the same provisions proposed for garlic from Romania before entering the United States.

Response: *Ditylenchus dispaci* is widespread in the United States and, therefore, is not considered an exotic plant pest. It is not subject to the same stringent measures, such as fumigation, taken to prevent the introduction of exotic plant pests into the United States.

However, there are certain factors that will mitigate the risk of *Ditylenchus dispaci* entering the United States with a shipment of leeks from Belgium or the Netherlands. Nematodes, including *Ditylenchus dispaci*, are found in soil or on the roots of plants; the plant hosts of nematodes must be planted, or must have a considerable amount of soil attached, in order for the nematodes to survive. Neither roots nor soil will be attached to basil imported from Guatemala, and though a small number of root hairs may be attached to leeks imported from Belgium or the Netherlands, those leeks will be required, under 7 CFR 330.300, to be cleaned of soil before importation to the United States. Further, basil from Guatemala and leeks from Belgium and the Netherlands will be imported into the United States for human consumption, not propagation.

For all of these reasons, we are not making any changes to the proposed rule in response to this comment.

Comment: Leeks from Belgium and the Netherlands could introduce several mites and aphids which may carry several serious pathogens, including leek yellow stripe potyvirus, shallot latent virus, and white tip disease, into the United States. Therefore, further consideration needs to be taken before these leeks are allowed to enter the United States.

Response: Leek yellow stripe potyvirus and shallot latent virus are spread by insect vectors, such as mites and aphids, but these viruses are transmitted in a nonpersistent manner, that is, the virus only survives in the

vector for a few minutes. Therefore, it is unlikely that a mite or aphid associated with leeks from Belgium or the Netherlands arriving in the United States would carry an active strain of either virus.

White tip disease is not transmitted by vectors, so it is unlikely that a mite or aphid associated with leeks from Belgium or the Netherlands would introduce this disease into the United States. Therefore, we are making no changes to the proposed rule in response to this comment.

Comment: *Globodera rostochiensis* and *Globodera pallida* cysts could infest leeks from both Belgium and the Netherlands, as well as garlic from Romania. However, these pests are not mentioned in the pest risk analysis for leeks. Further analysis of the risk associated with these pests should be completed before the importation of such leeks or garlic is approved.

Response: Long considered one species, the golden nematode (*Heterodera rostochiensis*), also referred to as the potato cyst nematode, includes in fact two distinct species forming the genus *Globodera*: *Globodera rostochiensis* and *Globodera pallida*. Golden nematode, as a collective reference to *Globodera rostochiensis* and *Globodera pallida*, creates cysts on the roots of host crops. These nematodes are not listed in the pest risk analysis for leeks from Belgium and the Netherlands or garlic from Romania because *Allium* spp. are not host crops for these nematodes.

In addition, as discussed earlier, neither roots nor soil will be attached to leeks imported from Belgium or the Netherlands, or to garlic from Romania. Therefore, we do not believe that nematodes of any species will be associated with these imports. Also, the risk that any nematode would be introduced and become established in the United States on imported leeks is minimized by the fact that the leeks are imported for human consumption, not propagation.

In the unlikely event that golden nematode is associated with a shipment of leeks from Belgium or the Netherlands or garlic from Romania, the cysts that this pest creates are readily detectable by inspection. If, upon inspection, a shipment of leeks from Belgium or the Netherlands or garlic from Romania is determined to be infested with golden nematode, the shipment would be destroyed or returned to its country of origin. Therefore, we are not making any changes to the proposed rule in response to this comment.

Comment: In order to limit the introduction into Florida of exotic pests, such as *Retithrips syriacus*, that may be associated with peppers from Israel, APHIS should continue to limit the distribution of peppers from Israel to the northern United States.

Response: *Retithrips syriacus* has been established in Florida for several years; therefore, this pest cannot be considered an exotic plant pest and is not subject to the same stringent quarantine measures taken to prevent the introduction of an exotic plant pest into the United States. As such, neither APHIS nor the State of Florida has promulgated regulations to restrict the movement of this pest. However, there is little risk of *Retithrips syriacus* or other plant pests entering the United States with a shipment of peppers from Israel's Arava Valley. In the Arava Valley, Israel, peppers are grown, sorted, and packaged in insect-proof screenhouses. This production method effectively controls pest populations in growing, sorting, and packaging areas and helps ensure that pests are not present in export shipments of peppers. Therefore, we are not making any changes to the proposed rule in response to this comment.

Comment: Eggplant is a host of the Mediterranean fruit fly (Medfly), and Medfly occurs in both Nicaragua and El Salvador. However, Medfly is not discussed in the pest risk analysis for eggplant from Nicaragua and El Salvador. The pest risk potential associated with the importation of eggplant should be determined prior to allowing the importation of eggplant from these two countries.

Response: Review of the scientific literature reveals that eggplant is a host of Medfly only when fully ripe and when other Medfly hosts are not available.

For this reason, we believe that eggplant imported from Nicaragua or El Salvador presents a relatively low risk of harboring Medfly. However, to further reduce the risk of Medfly associated with eggplant imported from Nicaragua and El Salvador, we are allowing only commercial shipments of eggplant from these countries to enter the United States. Commercial shipments, as defined in § 319.56-1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification is 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.

Eggplant produced for sale and distribution in mass markets is harvested at a stage of development when susceptibility to Medfly infestation is unlikely. Conversely, wild or "backyard" produce, including eggplant, is generally grown and handled under very different conditions than commercially-produced fruits and vegetables (e.g., wild or backyard produce usually involves different varieties of produce and different cultivating techniques, little or no pest control, and a lack of sanitary controls during growing and packing, such as removal and destruction of overripe and damaged fruit). As a result, there is reason to believe that wild or backyard produce presents a greater pest risk than commercially produced fruits and vegetables. This rule will not allow eggplant grown under these conditions to be imported into the United States.

Comment: In the pest risk analysis for eggplant from Nicaragua and El Salvador, APHIS states that it has not determined the pest risk potential for *Faustinus* spp., insect pests that may be carried into the United States with the eggplant. This pest risk needs to be determined, and if necessary additional mitigation measures taken, before eggplant from Nicaragua or El Salvador is allowed entry into the United States.

Response: Because we are limiting imports of eggplant to commercial shipments, as discussed above, we expect the measures taken by commercial growers in Nicaragua and El Salvador to prevent the introduction of injurious plant pests, including *Faustinus* spp., into the United States. However, there are other factors that help mitigate the risk of the introduction of *Faustinus* spp. into the United States. Larvae of the *Faustinus* spp. bore into the shoots and stems of eggplant to pupate and are only very occasionally associated with the fruit of eggplant. Because § 319.56-2(a) of the regulations requires all importation of fruits and vegetables to be free of plants or portions of plants, all but a very small portion of an eggplant's stem is removed prior to shipment to the United States. Therefore, we do not expect *Faustinus* spp. to be associated with eggplant from Nicaragua or El Salvador.

Certain species of *Faustinus* are established in areas of the United States, and these species are therefore not considered exotic pests and are not subject to the same stringent quarantine measures taken to prevent the introduction of an exotic plant pest into the United States. However, at the U.S. port of entry inspection, the holes

created by the larvae in the stems or fruit of any eggplant infested with *Faustinus* would be readily detectable, and an infested shipment of eggplant would not be released until APHIS personnel have identified the pests within the shipment. If a shipment of eggplant from Nicaragua or El Salvador is determined to be infested by an exotic species of *Faustinus*, the shipment would be destroyed or returned to its country of origin. Therefore, we are making no changes to the proposed rule in response to this comment.

Miscellaneous

We are not revising the incorporation by reference of the Plant Protection and Quarantine Treatment Manual at § 300.1 of the regulations, as we proposed, because the treatment schedule for the methyl bromide fumigation of garlic borer (*Brachycerus* spp.) and garlic moth (*Dyspessa ulula* [Bkh.]) will not change. The countries from which garlic may be exported to the United States, including Romania, are only listed in § 319.56-2g of the regulations; the PPQ Treatment Manual does not list those eligible countries and therefore does not require revision.

We are also making several nonsubstantive editorial changes to the regulations for clarity and consistency.

Therefore, based on the rationale presented in our proposed rule and in this document, we are adopting the provisions of the proposed rule, with exception of the proposed importation of papayas from Brazil, as a final rule with the changes described above.

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**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. 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, set forth below,

regarding the economic impact of this rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic impact on a substantial number of small entities.

Under the Federal Plant Pest Act and the Plant Quarantine Act (7 U.S.C. 150dd, 150ee, 150ff, 151–165, and 167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could have introduced injurious plant pests into the United States.

In our proposal, we solicited comments on the potential effects of the proposed action on small entities. In particular, we sought data and other information to determine the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. We received no comments on the Initial Regulatory Flexibility Analysis contained in the proposed rule.

Our rule is based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk analyses indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables are required to undergo mandatory treatment for injurious plant pests as a condition of entry, or to meet other special conditions. This action provides the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

Availability of Data

For many of the commodities made eligible for importation into the United States by this document, data on the levels of production and the anticipated import volume is unavailable for a number of reasons. First, many of these

commodities are not produced in significant quantities either in the United States or in the country that would be exporting the commodity to the United States; generally, less statistical data is collected—and therefore available—for commodities produced in small quantities when compared to a country's more heavily-produced commodities. Second, some of these commodities do not appear to be produced in the United States at all; therefore, data on the U.S. production and export levels for those commodities does not exist. Finally, estimates of potential exports of commodities from foreign countries to the United States are often difficult to obtain, due in part to the uncertainty surrounding the cost and availability of transportation and the demand for the commodity in the United States.

Leeks from Belgium

No information is available on U.S. production of leeks. Data is available, however, on U.S. exports and imports of the commodity. In 1995, the United States imported 2,764 metric tons of leeks, an increase over the 1993 and 1994 levels (2,328 metric tons and 2,042 metric tons, respectively). In 1995, the United States exported 3,279 metric tons of leeks, also an increase over the 1993 and 1994 levels (2,519 metric tons and 2,708 metric tons, respectively).

The fact that the United States exports leeks suggests that the commodity is produced in the United States. However, the volume of exports suggests that the level of production is low relative to other, more popular vegetables.

Data on the number or size of leek producers in the United States is not available. However, since most U.S. vegetable and melon farms are small by Small Business Administration (SBA) standards, it is very likely that the U.S. farms that produce leeks are also small.

Data on the volume of potential exports of leeks from Belgium to the United States is not available.

Radicchio from Ecuador

Data on radicchio production for the entire United States is not available. However, production data is available for the State of California, where most, if not all, of U.S. radicchio is produced. In 1994, California produced 7,040 metric tons of radicchio, an increase over the State's 1993 volume of 6,387 metric tons. California's 1994 production had a value of \$7.7 million. No information on U.S. (or California) trade in radicchio is available.

Data on the number or size of radicchio producers in the United States

(or California) is not available. However, since most U.S. vegetable and melon farms are considered small by SBA standards, it is very likely that the U.S. farms that produce radicchio are also small.

Information on Ecuador's production and export of radicchio, including potential exports to the United States, is not available.

Eggplant from El Salvador

In 1995, the United States produced 28,710 metric tons of eggplant, with a value of \$16.2 million. In 1993 and 1994, domestic production levels were 34,160 metric tons and 35,380 metric tons, respectively. U.S. production has been supplemented by a steadily growing level of eggplant imports, 18,154 metric tons in 1993, 21,302 metric tons in 1994, and 24,946 metric tons in 1995. The United States is a net importer of eggplant, as exports of the commodity from the United States did not exceed 9,090 metric tons in any of the years between 1993 and 1995.

In 1992, the latest year for which data is available, eggplant was produced at 2,203 farms in the United States. It is not known how many of these farms are considered small entities under SBA standards, since information as to their size is not available. However, most are probably small, since most vegetable and melon farms in the United States are small.

Data on the volume of eggplant production in El Salvador is not available. Data on the volume of potential exports of eggplant from El Salvador to the United States is also not available.

Basil and Dill from Guatemala

Information on U.S. production and exportation of basil is not available, but indicators suggest that basil is not grown commercially in significant quantities in the United States. In 1995, the United States imported 3,404 metric tons of basil with a value of \$4.9 million. U.S. basil imports in 1994 and 1993 were 3,216 metric tons and 2,449 metric tons, respectively.

Information on U.S. production and exportation of dill is not available, but indicators suggest that dill, like basil, is not grown commercially in significant quantities in the United States. In 1995, the United States imported 766 metric tons of dill with a value of \$1.0 million. U.S. dill imports in 1994 and 1993 were 949 metric tons and 828 metric tons, respectively.

Guatemala currently produces basil and dill for its local market only. No data is available on the exact level of basil or dill production in Guatemala,

but the volume is believed to be very small. Data on the volume of potential exports of these commodities from Guatemala to the United States is not available.

Mioga Ginger from Japan

No information is available on U.S. production or exportation of the flowers, leaves, and stems of mioga ginger. The absence of such data suggests that commercial production of mioga ginger in the United States is negligible, at most. Mioga ginger is a spice, and most spices are not grown commercially in significant quantities in the United States. Data on U.S. imports of mioga ginger is also not available.

Japan produced 6,638 metric tons of mioga ginger in 1994. No information is available on the potential volume of exports of this commodity from Japan to the United States. At the present time, all mioga ginger produced in Japan is consumed locally; none is exported.

Leeks from the Netherlands

Data on U.S. production and trade of leeks is discussed above under the heading "Leeks from Belgium."

In 1994, the Netherlands produced 102,727 metric tons of leeks, and its exports of leeks that year totaled 43,764 metric tons. In 1995, the Netherlands exported 51,062 metric tons of leeks, with just over 50 percent of those exports directed to Germany. Potential exports of leeks from the Netherlands to the United States could reach 1,000 metric tons annually, depending on such factors as the cost and availability of air transportation and demand in the United States. However, as the United States is a net exporter of leeks, it is doubtful that consumer demand in the United States will encourage a substantial volume of leek imports from the Netherlands.

Eggplant from Nicaragua

Data on U.S. production and trade of eggplant is discussed above under the heading "Eggplant from El Salvador."

To date, all of the eggplant produced commercially in Nicaragua has been consumed locally. No data is available, however, on the volume of eggplant production in Nicaragua. In addition, no data on the volume of potential exports of eggplant from Nicaragua to the United States is available. However, relatively small quantities are likely to be imported. In 1993, for example, Nicaragua produced little or no eggplant, and its production of all vegetables and melons that year totaled only 59,000 metric tons. By comparison, U.S. supply (domestically produced and imported) of eggplant alone in 1993

totaled 52,314 metric tons, just slightly less than Nicaragua's entire vegetable and melon production that year.

Radicchio from Nicaragua

Data on the production of radicchio in California is discussed above under the heading "Radicchio from Ecuador."

Nicaragua currently produces radicchio for its local market. No data is available on the exact volume of radicchio production in Nicaragua, but the volume is believed to be very small. Data on the volume of potential exports of radicchio from Nicaragua to the United States is also not available.

Garlic from Romania

In 1995, the United States produced 232,010 metric tons of fresh garlic, valued at \$179.8 million. In 1993 and 1994, domestic production levels were 188,690 metric tons and 208,200 metric tons, respectively. While U.S. production has been growing rapidly, U.S. imports of garlic have steadily declined, 39,381 metric tons in 1993, 21,705 metric tons in 1994, and 18,594 metric tons in 1995. U.S. exports of the commodity have also steadily declined, from 11,274 metric tons in 1993 to 7,659 metric tons in 1995.

In 1992, garlic was produced at 619 U.S. farms. It is not known how many of these farms are considered small entities under SBA standards, since information as to their size is not available. However, most are probably small, since most vegetable and melon farms in the United States are small.

In 1995, Romania produced 58,000 metric tons of garlic, an increase over the country's 1994 and 1993 production levels (56,400 metric tons and 48,900 metric tons, respectively). In 1996, Romanian garlic production is estimated to have fallen to approximately 50,000 metric tons, due to unfavorable weather conditions. Data on the volume of potential exports of garlic from Romania to the United States is not available. However, trade sources within Romania indicate that the prospects for future exports to the United States are reduced, owing to both the high price and low quality of Romanian garlic.

The alternative to this rule was to make no changes in the regulations. After consideration, we rejected this alternative because there is no biological reason to prohibit the importation into the United States of the fruits and vegetables listed in this document.

The information collection requirements contained in this rule, which were described in the proposed rule, have been submitted for approval to the Office of Management and Budget.

Executive Order 12988

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will 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 section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

List of Subjects in 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 part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.56–2 [Amended]

2. In § 319.56–2, paragraph (j) is amended by removing the words "except Arica, Iquique, and Parinacota".

3. In § 319.56–2g, paragraph (a) is revised to read as follows:

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

(a) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in

vacuum fumigation chambers, in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Armenia, Austria, Azerbaijan, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Latvia, Lithuania, Moldova, Morocco, Portugal, Romania, the area of the Russian Federation west of the Ural Mountains, Slovakia, South Africa (Republic of), Spain, Switzerland,

Syria, Turkey, Ukraine, and the area of the former 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.

* * * * *

§ 319.56–2r [Amended]

4. In § 319.56–2r, paragraph (a)(1) is amended by removing the words “, and West Germany”, by adding the word “Germany,” immediately following the word “France”, and by adding the word “and” immediately following the word “Sweden,”.

5. In § 319.56–2t, the table is amended by adding, in alphabetical order, the following entries:

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

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Country/locality	Common name	Botanical name	Plant part(s)
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Belgium	Leek	<i>Allium</i> spp.	Whole plant. (Must be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture of Belgium stating that the leek is apparently free of <i>Acrolepiopsis assectella</i> .)
* * * * *			
Ecuador			
* * * * *			
El Salvador	Radicchio	<i>Cichorium</i> spp.	Above ground parts.
* * * * *			
	Eggplant	<i>Solanum melongena</i> .	Fruit, commercial shipments only.
* * * * *			
Guatemala			
* * * * *			
	Basil	<i>Ocimum</i> spp.	Above ground parts.
	Dill	<i>Anethum graveolens</i> .	Above ground parts.
* * * * *			
Japan	Mioga Ginger	<i>Zingiber mioga</i>	Above ground parts.
* * * * *			
Netherlands	Leek	<i>Allium</i> spp.	Whole plant. (Must be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture of The Netherlands stating that the leek is apparently free of <i>Acrolepiopsis assectella</i> .)
* * * * *			
Nicaragua			
* * * * *			
	Eggplant	<i>Solanum melongena</i> .	Fruit, commercial shipments only.
	Radicchio	<i>Cichorium</i> spp.	Above ground parts.
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§ 319.56–2u [Amended]

6. Section 319.56–2u is amended as follows:

a. In paragraph (b)(1), by removing the words “in the Paran region of”.

b. In paragraph (b)(2), by removing the word “Paran” and by adding in its place the words “the Arava Valley”.

c. By removing paragraph (b)(6) and redesignating paragraphs (b)(7) through (b)(9) as paragraphs (b)(6) through (b)(8), respectively.

d. In newly designated paragraph (b)(6), by removing the word “Paran”

and by adding in its place the words “the Arava Valley”.

e. In newly designated paragraph (b)(7), by removing the word “Paran” and by adding in its place the words “the Arava Valley”.

7. Section 319.56–2w is revised to read as follows:

§ 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 papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were 1/2 or more ripe (more than 1/4 of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(c) When packed, the papayas were less than 1/2 ripe (the shell surface was no more than 1/4 yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(d) 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.

(e) 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 national Ministry of Agriculture.

(f) 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 national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. The national Ministry of Agriculture 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 upon request. The records were maintained for at least 1 year.

(g) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25488 Filed 9–24–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319, 321, and 330

[Docket No. 97–010–2]

Foreign Potatoes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations concerning imported plants and plant products to prohibit the importation of potato tubers from Bermuda and to prohibit the importation of potato plants from Newfoundland and a portion of Central Saanich, British Columbia, Canada. These changes appear necessary to prevent the introduction of foreign potato diseases and insect pests into the United States. We are also reorganizing and streamlining the regulations concerning the importation of potatoes into the United States. These changes remove unnecessary regulations and relieve restrictions that no longer appear warranted.

EFFECTIVE DATE: October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, Staff Officer, Import-Export Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236; (301)–734–6799; fax (301)–734–5786; or e-mail: jpdmanage@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations concerning the importation of foreign potato tubers have been contained in 7 CFR part 321, Restricted Entry Orders, Subpart—Foreign Potatoes (referred to below as the Foreign Potatoes regulations). The Foreign Potatoes regulations have allowed the importation of potato tubers from Bermuda and Canada (except for Newfoundland and a portion of South Saanich, British Columbia) without restriction. The Foreign Potatoes regulations also have contained provisions for importing potato tubers from other countries that are free of injurious potato diseases and insect pests that are new to or not widely

distributed throughout the United States. However, only Bermuda and parts of Canada have been considered free of injurious potato diseases and insect pests.

The regulations concerning the importation of foreign potato plants are contained in 7 CFR 319.37 through 319.37–14, Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products (referred to below as the Nursery Stock regulations). The Nursery Stock regulations prohibit the importation of potato plants from all parts of the world except Canada.

The regulations concerning the importation of most foreign fruits and vegetables are contained in 7 CFR 319.56 through 319.56–8, Subpart—Fruits and Vegetables (referred to below as the Fruits and Vegetables regulations). The Fruits and Vegetables regulations have referred readers to the Foreign Potatoes regulations for rules governing the importation of potatoes.

These regulations are intended to prevent the introduction of foreign plant diseases and insect pests into the United States.

On May 7, 1997, we published in the **Federal Register** (62 FR 24849–24851), Docket No. 97–010–1), a proposal to prohibit the importation of potato plants from Newfoundland and a portion of Central Saanich, British Columbia, Canada. We also proposed to prohibit the importation of potato tubers from Bermuda. These actions were intended to prevent the introduction of foreign potato diseases and insect pests into the United States. Further, we proposed to move the prohibitions on the importation of potato tubers from Bermuda, parts of Canada (Newfoundland and a portion of Central Saanich, British Columbia), and all other parts of the world from the Foreign Potatoes regulations to the Nursery Stock regulations. In conjunction with this change, we proposed to remove the Foreign Potatoes regulations from the Code of Federal Regulations, since the remainder of the regulatory text appeared to be unnecessary. We also proposed to amend the Fruits and Vegetables regulations to refer readers to the Nursery Stock regulations, rather than the Foreign Potatoes regulations, for rules governing the importation of potatoes. These actions were intended to consolidate the regulations for importing potatoes into one place and eliminate provisions that are not being used.

We also proposed to make an editorial change in the Federal Plant Pest regulations, contained in 7 CFR part 330.