

with the Plant Protection and Quarantine Programs to secure the services of an inspector.

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

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

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

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

[37 FR 19799, Sept. 22, 1972]

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

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

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

structions), at such ports as shall be authorized in the permits.

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

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

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

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

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

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

fruit required to be cold treated under this subpart.

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

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section. The precooling may be conducted in accordance with either paragraph (b)(2) (i) or (ii) of this section:

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

temperature readings shall accompany the certificate.

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

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

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

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the

required cold treatment, such safeguards against the spread of fruitfly infestation as the inspector may prescribe shall be immediately applied.

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

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

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

(iv) *Special requirements for the maritime port of Wilmington, NC*. Shipments of fruit arriving at the maritime port of Wilmington, NC, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

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

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

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

(D) The cold treatment facility must remain locked during non-working hours.

(v) *Special requirements for the maritime port of Seattle, WA*. Shipments of fruit arriving at the maritime port of Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

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

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

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

(D) The cold treatment facility must remain locked during non-working hours.

(E) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(F) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(vi) *Special requirements for the airports of Atlanta, GA, and Seattle, WA*. Shipments of fruit arriving at the airports of Atlanta, GA, and Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk and containerized shipments of fruit must arrive in fruit fly-proof

packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit arriving for cold treatment must be cold treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the aircraft on which they arrived at the airport and the cold treatment facility. The movement of shipments from aircraft to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

(D) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(E) The cold treatment facility must remain locked during non-working hours.

(F) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(G) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(vii) *Special requirements for the port of Gulfport, MS.* Shipments of fruit arriving at the port of Gulfport, MS, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) All fruit entering the port for cold treatment must move in maritime containers. No bulk shipments (those shipments which are stowed and unloaded by the case or bin) are permitted at the port of Gulfport, MS.

(B) Within the container, the fruit intended for cold treatment must be enclosed in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(C) All shipments of fruit arriving at the port for cold treatment must be cold treated within the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(D) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the vessel on which they arrived at the port and the cold treatment facility. The movement of shipments from vessel to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

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

(F) Devanning, the unloading of fruit from containers into the cold treatment facility, must adhere to the following requirements:

(1) All containers must be unloaded within the cold treatment facility; and

(2) Untreated fruit may not be exposed to the outdoors under any circumstances.

(G) The cold treatment facility must remain locked during non-working hours.

(H) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(I) During cold treatment, a backup system must be available to cold treat the shipments of fruit should the primary system malfunction. The facility must also have one or more reefers (cold holding rooms) and methods of identifying lots of treated and untreated fruits.

(J) The cold treatment facility must have the ability to conduct methyl bromide fumigations on-site.

(K) The cold treatment facility must have contingency plans, approved by the Deputy Administrator, for safely destroying or disposing of fruit.

(6) *Containers and season of arrival.* Containers should be uniform and suitably constructed to maintain firm

stacking in the compartment throughout the voyage. Shipments may be made during any season of the year. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately destroyed in a manner satisfactory to the inspector.

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

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

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

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

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

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

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

shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

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

(ix) The certificate of precooling, when required, shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airtailed to the inspector of the Plant Protection and Quarantine Programs in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20520. A record showing calibration of the elements of the temperature recording instruments, as required in paragraph (b)(7)(vii) of this section shall be attached to each certificate, along with any record of the fruit temperature readings required in paragraph (b)(2)(i) of this section. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Deputy Administrator of the Plant Protection and Quarantine Programs before any phase of cold treatment is begun. Requests for such approval shall be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.¹ Hereafter before a shipboard refrigeration installation will be approved it must first be certified by the

¹Applications for permits to import fruit under this subpart may be made to the Animal and Plant Health Inspection Service,

American Bureau of Shipping or a comparable agency as in good order, with the insulated spaces clean and otherwise in satisfactory condition.

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

[31 FR 16601, Dec. 29, 1966; as amended at 32 FR 12832, Sept. 8, 1967; 32 FR 13215, Sept. 19, 1967; 35 FR 5031, Mar. 25, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 59 FR 40796, Aug. 10, 1994; 59 FR 67610, Dec. 30, 1994; 61 FR 47666, Sept. 10, 1996]

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

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

(b) On and after December 7, 1939, therefore, fumigation with methyl bro-

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

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

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

§ 319.56-2f Administrative instructions governing importation of grapefruit, lemons, and oranges from Argentina.

Fresh grapefruit, lemons, and oranges may be imported from Argentina into the continental United States (the contiguous 48 States, Alaska, and the District of Columbia) only under permit and only in accordance with this section and all other applicable requirements of this subpart.

(a) *Origin requirement.* The grapefruit, lemons, or oranges must have been grown in a grove located in a region of Argentina that has been determined to be free from citrus canker. The following regions in Argentina have been determined to be free from citrus canker: The States of Catamarca, Jujuy, Salta, and Tucuman.

(b) *Grove requirements.* The grapefruit, lemons, or oranges must have been grown in a grove that meets the following conditions:

(1) The grove must be registered with the citrus fruit export program of the Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA).

(2) The grove must be surrounded by a 150-meter-wide buffer area. No citrus fruit grown in the buffer area may be offered for importation into the United States.

Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.