

for the remainder of the current shipping season.

(4) *Action on repeat violators.* APHIS may deny an application for an import permit from, or refuse to enter into a compliance agreement with, any person who has had his or her import permit or compliance agreement revoked under paragraph (k)(2) or (k)(3) of this section twice within any 5-year period.

(Approved by the Office of Management and Budget under control number 0579-0129.)

[62 FR 5313, Feb. 5, 1997, as amended at 64 FR 68005, Dec. 6, 1999]

§ 319.56-2gg Administrative instructions; conditions governing the entry of peppers from Spain.

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

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

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Deputy Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing

population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded against fruit fly infestation from harvest to export. Such safeguarding includes covering newly harvested peppers with fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packing the peppers in fruit fly-proof cartons, or cartons covered with fruit-fly proof mesh or plastic tarpaulin, and placing those cartons in enclosed shipping containers for transit to the airport and subsequent shipment to the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, "These peppers were grown in Almeria Province in Spain," must accompany the shipment.

[63 FR 65656, Nov. 30, 1998]

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

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

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at

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the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days pending the receipt of the permit.

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

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

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(44 U.S.C. 35)

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

§ 319.56-4 Issuance of permits.

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

§ 319.56-5 Notice of arrival by permittee.

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in § 319.56, at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee or his agent fails to submit the notice

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of arrival or gives a false notice or in any other way violates the quarantine.

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(44 U.S.C. 35)

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

§ 319.56-6 Inspection and other requirements at the port of first arrival.

(a) *Inspection and treatment.* All imported fruits or vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector, and shall be subject to reinspection at other locations at the option of an inspector. If an inspector finds a plant pest or evidence of a plant pest on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests, the owner or agent of the owner of the fruit or vegetable shall clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(b) *Assembly for inspection.* The owner or agent of the owner shall assemble imported fruits and vegetables for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(c) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited or is so infested with a plant pest that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(d) *Release for movement.* No person shall move from the port of first arrival any imported fruit or vegetable unless and until an inspector notifies the person (in person, in writing, by telephone, or through electronic means) that the fruit or vegetable:

- (1) Has been released; or