

§ 319.56

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be furnished on request to the importer for transmission in advance to his foreign shipper.

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

(44 U.S.C. 35)

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

Subpart—Fruits and Vegetables

QUARANTINE

§ 319.56 Notice of quarantine.

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

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

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

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

(c) On and after November 1, 1923, and until further notice, the importation from all foreign countries and local-

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

(d) This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.

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

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

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

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

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

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

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

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

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

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

(8) Lettuce from Netherlands New Guinea.

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

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

(11) Green corn on the cob.

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

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill

the requirements of §§ 319.56-3 and 319.56-4. He may waive the documentation required in § 319.56-5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

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

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

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

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

[24 FR 10788, Dec. 29, 1959, as amended at 29 FR 2329, Feb. 11, 1964; 29 FR 6614, May 21, 1964; 31 FR 5607, Apr. 9, 1966; 34 FR 14638, Sept. 20, 1969; 35 FR 9105, June 12, 1970; 35 FR 16678, Oct. 28, 1970; 58 FR 43497, Aug. 17, 1993; 65 FR 37667, June 15, 2000]

RULES AND REGULATIONS

§ 319.56-1 Definitions.

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

*Commercial shipment.* A shipment containing fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

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

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

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

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

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

*Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption

entry or (2) offered for entry for immediate transportation in bond.

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

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

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

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

(c) Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; *provided*, that the potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with § 319.37-2 of this part.

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