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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 94-114-2]

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, will be 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 will be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or 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.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper or Mr. Peter Grosser, Senior Operations Officers, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737–

1236; (301) 734-8645.

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 injurious insects that are new to or not widely distributed within and throughout the United States.

On May 24, 1995, we published in the Federal Register (60 FR 27428–27437, Docket No. 94–114–1) a proposal to amend the regulations by allowing additional 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 injurious insects 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 assessments that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 30 days ending June 23, 1995. We received two comments by that date. They were from a State agency and an industry group. Both commenters had reservations to specific provisions of the proposed rule. The comments are discussed below by topic:

Papayas From Belize

Comment: The Animal and Plant Health Inspection Service (APHIS) did not indicate in the proposal how it would ensure that cartons of papayas marked "Not for importation into or distribution in HI" would not enter Hawaii.

Response: Papayas from Belize may not be imported into Hawaii. All importations into Hawaii from foreign countries are inspected by APHIS officials, and any papaya from Belize arriving in Hawaii would be seized or rejected. Belizean papayas shipped from the mainland United States would be intercepted by State of Hawaii Department of Agriculture inspectors, who routinely inspect cargo arriving from the mainland. The State inspectors would inform APHIS of the violation, and APHIS would seize the shipment and determine whether enforcement procedures should be initiated.

Ya Pears From the Peoples Republic of China

Comment: APHIS has not indicated in the proposal how the conditions for the importation of Ya pears from China would be maintained. Also, China has not yet developed a program for pest-free areas for phytosanitary certification, and there is no indication that the current farming and packing practices will lend themselves to the incorporation of a systems approach to attain pest-free status. Should the proposed conditions not be met, what resources does APHIS have to detect pests prior to dissemination in the United States?

Response: The results of APHIS personnel visits to Hebei Province in China to study production and safeguarding procedures for Ya pears led us to propose the requirements explained in the proposal. We believe that the required safeguards will be observed by the Chinese. All shipments will be inspected at the U.S. port of arrival. Any findings of significant quarantine pests will be an indication that the required safeguards are not being applied adequately and will be cause for action by APHIS to ensure that corrective measures are taken. As is our practice, repeated findings of significant quarantine pests will be cause for prohibiting future shipments of the produce. In addition, APHIS intends to make periodic visits to the growing area in Hebei Province to monitor production and safeguarding procedures.

Comment: The agency's pest risk assessment explains that some of the pathogens that attack pears in China differ from those in Japan and Korea. Therefore, the agency's experience with dealing with the disease risk involved in the importation into the United States of produce from Japan and Korea does not account for the added disease risks involved in the importation into the United States of Ya pears from China. The conditions, regulatory capabilities (infrastructure), and differing pests and diseases should be considered when assessing the pest risk of the importation into the United States of Ya pears from China. It should not be assumed by the agency that the systems approach can work for exports from every country.

Response: The pest list does differ between Japan, Korea, and China.