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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27 to 52

Republication

CFR Correction

Title 7, parts 27 to 52, revised as of January 1, 2004, is being republished in its entirety. The earlier issuance inadvertently omitted Table III contained in § 52.1853 and subsequent sections 52.1854 through 52.1858, 52.3181 through 52.3188, and 52.3751 through 52.3764. The omitted table and text should immediately follow § 52.1853(c) on page 576.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02-106-2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, will be inspected and subject to treatment at the port of first arrival as may be required by an inspector. In addition, some of the fruits and vegetables will be required to meet other special conditions. We are also recognizing areas in Peru as free from

the South American cucurbit fly. These actions will provide the United States with additional types and sources of fruits and vegetables while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

EFFECTIVE DATE: December 10, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Bedigian, Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1228; (301) 734-4382.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart—Fruits and Vegetables” (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 spread of plant pests that are new to or not widely distributed within the United States.

On December 18, 2003, we published in the **Federal Register** (68 FR 70448-70463, Docket No. 02-106-1) a proposal to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. We also proposed to recognize areas in Peru as free from the South American cucurbit fly.

We solicited comments concerning our proposal for 60 days ending February 17, 2004. We received five comments by that date. They were from representatives of State governments, an industry organization, and individuals. They are discussed below by topic.

Grapes From South Korea

One commenter stated that it is impossible to determine the efficacy of the proposed risk mitigation method for grapes from South Korea until a peer review of the supporting data is conducted. The commenter further stated that data on risk mitigation for Korean grapes should be published prior to rulemaking in order to increase the transparency of the regulation.

We do not agree that a peer review of the supporting data is necessary in order for the efficacy of the phytosanitary measures for grapes from South Korea to be determined. In the proposed rule, we

cited the pests of concern identified in our risk assessment and described the phytosanitary measures that would be required to guard against the entry of those pests, but we did not explicitly link the role of each measure in addressing the risk presented by each identified pest of concern. We are providing those connections below.

The quarantine pests of concern for grapes grown in South Korea are yellow peach moth (*Conogethes punctiferalis*), grapevine moth (*Eupoecilia ambiguella*), leaf-rolling tortix (*Sparganothis pilleriana*), apple heliodinid (*Stathmopoda auriferella*), the plant pathogenic fungus *Monilinia fructigena* and the moth *Nipoptilia vitis*.

Each of these pests exhibits symptoms that are macroscopic and detectable upon visual inspection. Specifically:

- Yellow peach moth larvae bore into and tunnel the stems and fruits of host plants. Larvae on the fruit burrow into the green berries, causing them to split, shrivel, or fall off when damaged.
- Grapevine moth larvae feed on flowers and later on developing fruit. Larvae cause surface damage to leaves and fruit. Additionally, larvae may produce webbing on the flower buds and newly set fruit, which often causes affected parts to drop from the vine.
- Leaf-rolling tortix and *Nipoptilia vitis* larvae cause damage to the leaves, fruit, and stem.
- Apple heliodinid larvae cause webbing of the flower buds and newly set fruit, often causing affected plant parts to drop from the vine and burrow into the green berries, which may split, shrivel, or fall off when damaged.
- *Monilinia fructigena* causes raised light brown pustules on the fruit that often expand enclosing the fruit to form a dark, wrinkled, hard mummified fruit

There are three measures in our regulatory approach that individually and collectively mitigate the risk posed by each of the six pests. First, field inspections have proven effective since, as detailed above, the damage these pests cause makes their presence obvious. Second, fruit is bagged from the time the fruit sets until harvest. Since bagging is done when the fruit is very young, the risk of exposure to arthropods and diseases is reduced.

Third, fruit is inspected and certified to be free of the pests of concern by South Korea's national plant protection organization (NPPO). In addition, an