

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****7 CFR Parts 318 and 319****[Docket No. 00-059-1]****Movement and Importation of Fruits and Vegetables****AGENCY:** Animal and Plant Health Inspection Service.**ACTION:** Interim rule and request for comments.

SUMMARY: We are amending the regulations that govern the movement of fruits and vegetables from Puerto Rico and the U.S. Virgin Islands to require the treatment of pigeon peas (fresh shelled or in the pod) from Puerto Rico for movement into any other area of the United States. In addition, we are amending the regulations to require the treatment of pigeon peas (fresh shelled or in the pod) from the Dominican Republic for importation into any area of the United States except Puerto Rico, and to prohibit the importation of mangoes from the British Virgin Islands into the U.S. Virgin Islands. These actions are necessary to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

DATES: This interim rule is effective January 21, 2003. We will consider all comments that we receive on or before March 24, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00-059-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-059-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00-059-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Hesham A. Abuelnaga, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-5334.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in "Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands" (7 CFR 318.58 through 318.58-16) are designed to prevent the dissemination of plant pests, including diseases, from Puerto Rico and the U.S. Virgin Islands into other parts of the United States. The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56-8) 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 plant pests that are new to or not widely distributed within the United States.

In this document, we are amending the regulations in "Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands" to require the treatment of pigeon peas (fresh shelled or in the pod) from Puerto Rico for movement into any other area of the United States. In addition, we are amending the regulations in "Subpart—Fruits and Vegetables" to require the treatment of pigeon peas (fresh shelled or in the pod) from the Dominican Republic for importation into any area of the United States, except Puerto Rico, and to prohibit the importation of mangoes from the British Virgin Islands into the U.S. Virgin Islands. We believe that these actions are necessary to protect the United States from the introduction or spread of injurious plant pests.

Pigeon Peas From Puerto Rico

In "Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands," § 318.58-2, among other things, lists the fruits and vegetables that are considered regulated articles and that must be moved in accordance with the requirements of that section because they present a pest risk to other parts of the United States.

Pigeon peas in the pod are among the fruits and vegetables listed in § 318.58-2(b)(1) that may be moved interstate from Puerto Rico or the U.S. Virgin

Islands when they are free from plant litter, meet the container marking requirements of § 318.58-6, and have either been inspected and certified by an inspector of the Animal and Plant Health Inspection Service (APHIS) as being free from injurious insect infestation or have been subjected to a prescribed treatment. Further, § 318.58-2(b)(1) provides that pigeon peas in the pod from Puerto Rico and the U.S. Virgin Islands may be moved to Baltimore, MD, and Atlantic Coast ports north of Baltimore, MD, without treatment, but must undergo a prescribed treatment under supervision of an inspector if moved to Pacific Coast ports or to Atlantic Coast ports south of Baltimore, MD. The Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at 7 CFR 300.1, lists methyl bromide fumigation as the prescribed treatment for pigeon peas (fresh shelled or in the pod). The pest of concern has been *Maruca testulalis* (the bean pod borer).

Similarly, fresh shelled pigeon peas from Puerto Rico and the U.S. Virgin Islands are among the fruits and vegetables listed in § 318.58-2(b)(2) that may be moved interstate from Puerto Rico and the U.S. Virgin Islands without meeting the certification, marking, treatment, or other requirements of the subpart as long as they are free from plant litter and soil. The fruits and vegetables listed in § 318.58-2(b)(2) are, however, subject to inspection, either in the field or when presented for shipment, as an inspector may require; if injurious insects are detected in the course of an inspection, the movement of the fruit or vegetable may be prohibited or certification and treatment measures may be required.

Individuals leaving Puerto Rico and the U.S. Virgin Islands by aircraft sometimes take pigeon peas (fresh shelled or in the pod) to other parts of the United States. In accordance with § 318.58-10(a), all air passengers must offer their carry-on and check-in baggage and other personal effects for inspection by APHIS inspectors prior to boarding flights from Puerto Rico or the U.S. Virgin Islands to other parts of the United States, except Guam. The purpose of the inspections is to ensure that the baggage does not contain any agricultural articles that could carry plant pests to other parts of the United States.

During these required inspections, inspectors have detected *Melanagromyza obtusa* (pigeon pea pod fly) in untreated pigeon peas (fresh shelled and in the pod) from Puerto Rico. In fact, since February 2000,