

7 CFR 319.37-7 Postentry quarantine.

(a) The following restricted articles, from the designated countries and localities, and any increase therefrom must be grown under postentry quarantine conditions specified in paragraphs (c) and (d) of this section, and may be imported or offered for importation into the United States only:

(1) If destined for a State that has completed a State postentry quarantine agreement in accordance with paragraph (c) of this section;

(2) If a postentry quarantine growing agreement has been completed and submitted to Plant Protection and Quarantine in accordance with paragraph (d) of this section. The agreement must be signed by the person (the importer) applying for a written permit for importation of the article in accordance with §319.37-3; and,

(3) If Plant Protection and Quarantine has determined that the completed postentry quarantine growing agreement fulfills the applicable requirements of this section and that services by State inspectors are available to monitor and enforce the postentry quarantine:

<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>
<i>Abelmoschus</i> spp. (okra)	All except Africa, Bangladesh, Brazil, Canada, India, Iraq, Papua New Guinea, Sri Lanka, and Trinidad and Tobago.
<i>Acacia</i> spp. (acacia)	All except Australia, Canada, and Oceania.
<i>Acer</i> spp. (maple)	All except Canada, Europe, and Japan.
<i>Actinidia</i> spp. (Chinese gooseberry, kiwi)	All except Australia, Canada, Japan, New Zealand, and Taiwan.
<i>Aesculus</i> spp. (horsechestnut)	All except Canada, Czech Republic, Germany, Romania, Slovakia, United Kingdom.
<i>Althaea</i> spp. (althaea, hollyhock)	All except Africa, Bangladesh, Canada, India, and Sri Lanka.
<i>Berberis</i> spp. (barberry) destined to any State except the eradication States listed in §301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38-1 of this chapter)	All.
<i>Blighia sapida</i> (akee)	All except Canada, Cote d'Ivoire, and Nigeria.
<i>Bromeliaceae</i> (bromeliads) destined to Hawaii	All.
<i>Brugmansia</i> spp.	All except Canada and Colombia.
<i>Cedrus</i> spp. (cedar)	All except Canada and Europe.
<i>Chaenomeles</i> spp. (flowering quince)	Countries listed in §319.37-5(b) except Canada.

meeting the conditions for importation in §319.37–5(b)	
<i>Chrysanthemum</i> spp. (chrysanthemum, includes <i>Dendranthema</i> spp.) meeting the conditions in §319.37–5(c)	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
<i>Crataegus monogyna</i> Jacq. (hawthorne, thorneapple, red haw)	Europe.
<i>Crocasmia</i> spp. (montebretia) (except bulbs) not meeting the conditions for importation in §319.37–5(l)	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
<i>Cydonia</i> spp. (quince) meeting the conditions for importation in §319.37–5(b)	Countries listed in §319.37–5(b) except Canada.
<i>Datura</i> spp.	All except Canada and India.
<i>Datura</i> spp. (woody species)	(See <i>Brugmansia</i> spp.)
<i>Dendranthema</i> spp. (chrysanthemum)	See <i>Chrysanthemum</i> spp.
<i>Dianthus</i> spp. (carnation, sweet-william)	Great Britain, unless exempted from postentry quarantine conditions pursuant to §319.37–5(d), and all other countries and localities except Canada.
<i>Eucalyptus</i> spp	All except Canada, Europe, Sri Lanka, and Uruguay.
<i>Euonymus</i> spp. (euonymus)	All except Canada, Japan, and Europe.
Fruit and nut articles listed by common name in paragraph (b) of this section	All except Canada.
<i>Gladiolus</i> spp. (gladiolus) (except bulbs) not meeting the condition for importation in §319.37–5(l)	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.

<i>Hibiscus</i> spp. (kenaf, hibiscus, rose mallow)	All except Africa, Brazil, Canada, and India.
<i>Humulus</i> spp. (hops)	All.
<i>Hydrangea</i> spp. (hydrangea)	All except Canada and Japan.
<i>Jasminum</i> spp. jasmine)	All except Canada, Belgium, Germany, Great Britain, India, and the Philippines.
<i>Juniperus</i> spp. (juniper)	All except Canada and Europe.
<i>Larix</i> spp. (larch)	All except Canada, Japan, and Europe.
<i>Leucanthemella serotina</i>	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
<i>Ligustrum</i> spp. (privet)	All except Canada and Europe.
<i>Mahoberberis</i> spp. destined to any State except the eradication States listed in §301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38–1 of this chapter)	All.
<i>Mahonia</i> spp. (mahonia) destined to any State except the eradication States listed in §301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38–1 of this chapter)	All.
<i>Malus</i> spp. (apple, crabapple) meeting the conditions for importation in §319.37–5(b)	Countries listed in §319.37–5(b) except Canada.
<i>Mespilus germanica</i> (medlar)	Countries listed in §319.37–5(b) except Canada.

<i>Morus</i> spp. (mulberry)	All except Canada, India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.
<i>Nipponanthemum nipponicum</i>	All except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
Nut and fruit articles (see fruit and nut articles)	
<i>Passiflora</i> spp. (passion fruit, granadilla)	All except Canada.
<i>Philadelphus</i> spp. (mock orange)	All except Canada and Europe.
<i>Picea</i> spp. (spruce)	All except Canada, Europe, Japan, and Siberia.
<i>Pinus</i> spp. (pine) (2-or-3 leaved)	All except Canada, Europe, and Japan.
<i>Populus</i> spp. (aspen, cottonwood, poplar)	All except Canada and Europe.
<i>Prunus</i> spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in §319.37–5(b)	Countries listed in §319.37–5(b) except Canada.
<i>Pseudolarix</i> spp. (golden larch)	All except Canada, Japan, and Europe.
<i>Pseudotsuga</i> spp. (Douglas fir)	All except Canada and Europe.
<i>Pyrus</i> spp. (pear) meeting the conditions for importation in §319.37–5(b)	Countries listed in §319.37–5(b) except Canada.
<i>Quercus</i> spp. (oak)	All except Canada and Japan.
<i>Ribes</i> spp.	All except Canada, Europe, and New Zealand.

<i>Rosa</i> spp. (rose)	All except Australia, Bulgaria, Canada, Italy, and New Zealand.
<i>Rubus</i> spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry)	All unless exempted from postentry quarantine conditions pursuant to §319.37–5(e).
<i>Salix</i> spp. (willow)	All of Europe (except Belgium, Germany, Great Britain, and the Netherlands).
<i>Sorbus</i> spp. (mountain ash)	All except Canada, Czech Republic, Denmark, Germany, and Slovakia.
<i>Syringa</i> spp. (lilac)	The Netherlands, if the articles meet the conditions for importation in §319.37–5(i), and all other places except Canada and Europe.
<i>Ulmus</i> spp. (elm)	All except Canada and Europe.
<i>Watsonia</i> spp. (bugle lily) (except bulbs) not meeting the conditions for importation in §319.37–5(l)	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.

(b) *Fruit and nut articles* (common names are listed after scientific names).

Achras—(Synonym for *Manilkara*)

Annona—custard apple, cherimoya, sweetsop, sugarapple, soursop, bullock's heart, alligator apple, suncoya, ilama, guanabana, pond apple

Anacardium—cashew

Artocarpus—breadfruit, jackfruit

Averrhoa—carambola

Carica—papaya, pawpaw

Carissa—natal plum

Ceratonia—St. Johnsbread

Chrysobalanus—coco plum

Chrysophyllum—starapple

Corylus—filbert, hazel, hazelnut, cobnut

Crataegus—hawthorne

Diospyros—persimmon, kaki, mabola

Durio— durian

Eriobotrya— loquat, Japanese medlar, Japanese plum

Euphoria— longan

Eugenia— roseapple, Malayapple, Curacaoapple

Feijoa— feijoa, pineapple guava (except from New Zealand if accompanied by a phytosanitary certificate of inspection in accordance with §319.37–5(k))

Ficus— fig

Garcinia— mangosteen, gourka

Juglans— walnut, butternut, heartnut, regranut, buartnut

Lansium— langsat

Litchi— lychee, leechee

Macadamia— macadamia nut, queensland nut

Malpighia— Barbados cherry

Mammea— mammeapple, mamey

Mangifera— mango

Manilkara— sapodilla

Melicoccus— honeyberry, mamoncilla, spanish lime, genip

Nephelium— rambutan, pulasan

Olea— olive

Persea— avocado, alligator pear

Phyllanthus— otaheite-gooseberry

Pistacia— pistachio

Psidium— guava, guayala

Punica— pomegranate, granada

Pyronia— quinpear

Rhodomyrtus— hill gooseberry, rose myrtle

Spondias— yellow mombin, red mombin, hog plum

Syzygium— Malayapple, rose apple, java plum

Vaccinium— blueberry, cranberry

Ziziphus— jujube

(c) *State Postentry quarantine agreement.* (1) Articles required to undergo postentry quarantine in accordance with this section may only be imported if destined for postentry quarantine growing in a State which has entered into a written agreement with the Animal and Plant Health Inspection Service, signed by the Administrator or his or her designee and by the State Plant Regulatory Official. In accordance with the laws of individual States, inspection and other postentry quarantine services provided by a State may be subject to charges imposed by the State.

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph: All U.S. States and Territories, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands.

(ii) [Reserved]

(2) In any such written agreement, the State shall agree to:

(i) Establish State regulations and requirements prior to the effective date of the agreement and enforce such regulations and requirements necessary to inspect sites and plants growing in postentry quarantine and to monitor and enforce compliance with postentry quarantine growing in accordance with this section;

(ii) Review pending permit applications for articles to be grown under postentry quarantine conditions in the State, upon request of Plant Protection and Quarantine, and report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the State would be able to provide inspection and monitoring services for the proposed postentry quarantine;

(iii) Provide the services of State inspectors to: inspect sites to be used for postentry quarantine; report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the site is of adequate size to contain the number of plants proposed for importation, including potential increase if increase is allowed; inspect plants for evidence of exotic pests at least once during the first year and once during the second year for plants required to be grown in postentry quarantine for 2 years, and at least once for plants required to be grown in quarantine for less than 2 years; and monitor and enforce compliance with the requirements of this section during the use of the sites for postentry quarantine;

(iv) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any evidence of plant pests that are not known to exist in the United States and that are found at a postentry quarantine site by State inspectors; recommend to Plant Protection and Quarantine safeguards or mitigation measures to control the pests; and supervise the application of safeguards or mitigation measures approved by Plant Protection and Quarantine; and

(v) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any propagation or increase in the number of plants that occurs during postentry quarantine.

(3) In any such written agreement, the Administrator shall agree to:

(i) Seek State review of permit applications for postentry quarantine material in that State, and issue permits only after determining that State services are available to monitor the postentry quarantine;

(ii) Upon request of the State, provide training, technical advice, and pest identification services to State officials involved in providing postentry quarantine services in accordance with this section;

(iii) Notify State officials, in writing and within ten days of the arrival, when plant material destined for postentry quarantine in their State arrives in the United States, and notify State officials in writing when materials in postentry quarantine may be released from quarantine in their State.

(4) *Termination of State postentry quarantine agreement.* A State postentry quarantine agreement may be terminated by either the Administrator or the State Plant Regulatory Official by giving written notice of termination to the other party. The effective date of the termination will be 60 days after the date of actual receipt of notice, with regard to future importation to that State of articles requiring postentry quarantine in accordance with this section. When a postentry quarantine agreement is terminated by either the State Plant Regulatory Official or the Administrator, APHIS and the affected State shall continue to provide postentry quarantine services in accordance with the postentry quarantine agreement, until the time the plant material is eligible to be released from quarantine, for all postentry quarantine material already in the State, and for all postentry quarantine material that arrives in the State prior to the effective date of termination.

(d) *Postentry quarantine growing agreements.* Any restricted article required to be grown under postentry quarantine conditions, as well as any increase therefrom, shall be grown in accordance with a postentry quarantine growing agreement signed by the person (the importer) applying for a written permit in accordance with §319.37-3 for importation of the article and submitted to Plant Protection and Quarantine. On each postentry quarantine growing agreement, APHIS shall also obtain the signature of the State Plant Regulatory Official for the State in which regulated articles covered by the agreement will be grown. The postentry quarantine growing agreement shall specify the kind, number, and origin of plants to be imported, and shall certify to APHIS and to the State in which the articles are grown that the signer of the agreement will comply with the following conditions for the period of time specified below:

(1) To grow such article or increase therefrom only on specified premises owned, rented, or otherwise in possession of the importer, within a space of dimensions designated by an inspector, and to move, propagate, or allow propagation of the article or increase therefrom or parts thereof only with the written permission of the coordinator, Postentry Quarantine Unit, USDA, APHIS, PPQ, Building 580, BARC-East, Beltsville, MD 20705;

(2) To permit an inspector to have access to the specified premises for inspection of such article during regular business hours;

(3) To keep the article and any increase therefrom identified with a label showing the name of the article, port accession number, and date of importation;

(4) To keep the article separated from any other plant or plant product by no less than 3 meters (approximately 10 feet) unless such other plant or plant product is of the same genus as the article, entered postentry quarantine with the article, and arrived together with the article in a single shipment from a foreign region;

(5) To allow or apply remedial measures (including destruction) determined by an inspector to be necessary to prevent the spread of an injurious plant disease, injurious insect pest, or other plant pest;

(6) To notify an inspector, orally or in writing, within 30 days of the time the importer or the person in charge of the growing site finds any abnormality of the article, or the article dies or is killed by the importer, the person in charge of the growing site, or any other person; to retain the abnormal or dead article for at least 60 days following that date of notification; and to give the abnormal or dead article to an inspector upon request;

(7) To grow the article or increase therefrom in postentry quarantine for a period of 2 years unless specified otherwise in the following:

(i) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe, only in a greenhouse with screening of a minimum of 16 mesh per inch.

(ii) To grow the article or increase therefrom only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 6 months after importation for an article of *Chrysanthemum* spp., *Dendranthema* spp, *Leucanthemella serotina* , and *Nipponanthemum nipponicum* , for a period of 1 year after importation for an article of

Dianthus spp. (carnation, sweet-william), and for a period of 9 months after importation for an article of *Hydrangea* spp.

(iii) To grow the article or increase therefrom, if an article of *Humulus* spp. (hops), a meristem culture of the imported plant will be observed for 6 months, and the original plant will be destroyed after the meristem culture is established. After the 6-month observation, the meristem culture-generated plant must remain in postentry quarantine for an additional year.

(e) A completed postentry quarantine agreement shall accompany the application for a written permit for an article required to be grown under postentry quarantine conditions.⁹

⁹ Postentry quarantine agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236, or local offices of the Plant Protection and Quarantine Programs which are listed in telephone directories.

(f) *Inspector-ordered disposal, movement, or safeguarding of restricted articles; costs and charges, civil and criminal liabilities* —(1) *Growing at unauthorized sites.* If an inspector determines that any article subject to the postentry quarantine growing requirements of this section, or any increase therefrom, is being grown at an unauthorized site, the inspector may file an emergency action notification (PPQ form 523) with the owner of the article or the person who owns or is in possession of the site on which the article is being grown. The person named in the form 523 must, within the time specified in form 523, sign a postentry quarantine growing agreement, destroy, ship to a point outside the United States, move to an authorized postentry quarantine site, and/or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, as prescribed by an inspector to prevent the introduction of plant pests into the United States. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(2) *Growing at authorized sites.* If an inspector determines that any article, or any increase therefrom, grown at a site specified in an authorized postentry quarantine growing agreement is being grown contrary to the provisions of this section, including in numbers greater than the number approved by the postentry quarantine growing agreement, or in a manner that otherwise presents a risk of introducing plant pests into the United States, the inspector shall issue an emergency action notification (PPQ form 523) to the person who signed the postentry quarantine growing agreement. That person shall be responsible for carrying out all actions specified in the emergency action notification. The emergency action notification may extend the time for which the articles and the increase therefrom must be grown under the postentry quarantine conditions specified in the authorized postentry quarantine growing agreement, or may require that the person named in the notification must destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, within the time specified in the emergency action notification. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(3) *Costs and charges.* All costs pursuant to any action ordered by an inspector in accordance with this section shall be borne by the person who signed the postentry quarantine growing agreement covering the site where the articles were grown, or if no such agreement was signed, by the owner of the articles at the growing site.

(4) *Civil and criminal liabilities.* Any person who moves an article subject to postentry quarantine growing requirements from the site specified for that article in an authorized postentry quarantine growing agreement, or who otherwise handles such an article contrary to the requirements of this section, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 7734, or other applicable Federal statutes.