

be considered to be enrolled in the standard option of the Blue Cross and Blue Shield Service Benefit Plan. The effective date of enrollment changes under this provision will be set by OPM when it makes the announcement allowing such changes.

\* \* \* \* \*

- 4. In § 890.806 add new paragraph (j)(4)(iv) to read as follows:

**§ 890.806 When can former spouses change enrollment or reenroll and what are the effective dates?**

\* \* \* \* \*

(j) \* \* \*

(4) \* \* \*

(iv) If the discontinuance of the plan, whether permanent or temporary, is due to a disaster, the former spouse must change the enrollment within 60 days of the disaster, as announced by OPM. If the former spouse does not change the enrollment within the time frame announced by OPM, the former spouse will be considered to be enrolled in the standard option of the Blue Cross and Blue Shield Service Benefit Plan. The effective date of enrollment changes under this provision will be set by OPM when it makes the announcement allowing such changes.

\* \* \* \* \*

- 5. In § 890.1108 add new paragraph (h)(4)(iv) to read as follows:

**§ 890.1108 Opportunities to change enrollment; effective dates.**

\* \* \* \* \*

(h) \* \* \*

(4) \* \* \*

(iv) If the discontinuance of the plan, whether permanent or temporary, is due to a disaster, the enrollee must change the enrollment within 60 days of the disaster, as announced by OPM. If the enrollee does not change the enrollment within the time frame announced by OPM, the enrollee will be considered to be enrolled in the standard option of the Blue Cross and Blue Shield Service Benefit Plan. The effective date of enrollment changes under this provision will be set by OPM when it makes the announcement allowing such changes.

\* \* \* \* \*

[FR Doc. 06–2081 Filed 3–6–06; 8:45 am]

BILLING CODE 6325–39–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 05–078–2]

#### Karnal Bunt; Addition and Removal of Regulated Areas in Arizona

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the Karnal bunt regulations by adding certain areas in Maricopa and Pinal Counties, AZ, to the list of regulated areas and by removing certain areas or fields in Maricopa County, AZ, from the list of regulated areas. Those actions were necessary to prevent the spread of Karnal bunt into noninfected areas of the United States and to relieve restrictions on certain areas that were no longer necessary. **DATES:** Effective on March 7, 2006, we are adopting as a final rule the interim rule that became effective on December 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Vedpal Malik, Karnal Bunt Program Manager, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–3769.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective December 7, 2005, and published in the **Federal Register** on December 13, 2005 (70 FR 73553–73556, Docket No. 05–078–1), we amended the regulations in “Subpart—Karnal Bunt” (7 CFR 301.89–1 through 301.89–16) by adding certain areas in Maricopa and Pinal Counties, AZ, to the list of regulated areas in § 301.89–3(g), either because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. In the same interim rule, we also amended the regulations by removing certain areas or fields in Maricopa County, AZ, from the list of regulated areas based on our determination that those fields or areas had met our criteria for release from regulation.

We solicited comments concerning the interim rule for 60 days ending February 13, 2006. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This final rule also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

- Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 70 FR 73553–73556 on December 13, 2005.

Done in Washington, DC, this 28th day of February 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 06–2073 Filed 3–6–06; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 05–003–3]

#### Importation of Peppers From Certain Central American Countries

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of fruits and vegetables in order to allow certain types of peppers grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to be imported, under certain conditions, into the United States without treatment. The conditions to which the importation of peppers will be subject, including trapping, pre-harvest inspection, and shipping procedures, are designed to prevent the introduction of quarantine pests into the United States. This action will allow for the importation of peppers from those countries in Central America while continuing to provide protection against the introduction of quarantine pests into the United States.

**DATES:** *Effective Date:* March 7, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1228; (301) 734-8758.

**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 dissemination of plant pests that are new to or not widely distributed within the United States.

On October 12, 2005, we published in the **Federal Register** (70 FR 59283-59290, Docket No. 05-003-1) a proposed rule to amend the regulations to allow certain types of peppers grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to be imported into the United States without treatment under specified conditions.

On November 7, 2005, we published a document in the **Federal Register** (70 FR 67375, Docket No. 05-003-2) in which we corrected the Supplementary Information section of the proposed rule to state that Guatemala was the only Central American country covered by our proposal that currently contains areas free of the Mediterranean fruit fly (Medfly). In addition, we corrected the figure given in the proposed rule’s “Paperwork Reduction Act” section for the estimated annual total burden on respondents.

We solicited comments on the proposed rule for 60 days ending on December 12, 2005. We received 32 comments by that date. They were from representatives of State and foreign governments, importers and exporters, industry organizations, producers, scientists, and private citizens. Of those commenters, 31 fully supported the proposed changes, although one of those commenters posed a question, which is addressed below. The remaining commenter was opposed to the proposed rule. The issues raised by that commenter are also addressed below.

One commenter asked if the recognition and approval of fruit fly free areas in the Central American countries covered by the rule will be performed by Animal and Plant Health Inspection Service (APHIS) personnel coming from the United States or by APHIS personnel already on duty in the region.

The recognition and approval of free areas will be conducted in accordance

with the procedures described in paragraph (f) of § 319.56-2 of the regulations. The APHIS personnel involved in the approval and auditing activities called for by that paragraph may be already stationed in the region or may be drawn from APHIS offices in the United States.

The commenter who opposed the proposed rule stated that from 1999 to 2005, there were 794 interceptions in Florida of the pests of concern identified in the pest risk assessment and the proposed rule. The commenter stated that allowing the importation of hosts of these pests would add to the likelihood of pest introduction.

We are not making any changes to our proposal in response to this comment. We suspect the commenter’s figure includes pest interceptions on other fruits and vegetables, not only peppers, and that the majority of these interceptions were in passenger baggage, not commercial cargo. An examination of our interception records from the port of Miami, FL, from 1999 to 2005 revealed that there were only two interceptions of any of the quarantine pests identified in the proposed rule; these interceptions were made in commercial shipments of processed peppers. It is unlikely that those processed peppers were subjected to any of the phytosanitary measures described in the proposed rule and required by this final rule. For the reasons detailed in the proposed rule, we are confident that the risks associated with commercial shipments of peppers imported into the United States from Central America will be effectively mitigated through the application of the phytosanitary measures required by this final rule.

The same commenter agreed that the proposed phytosanitary measures were conceptually well-grounded, but expressed doubt as to whether the national plant protection organizations (NPPOs) of the individual countries would be able to provide sufficient oversight of those measures to prevent the movement of pests into Florida.

The commenter provided no evidence to support his contention regarding the inability of the Central American NPPOs to oversee the prescribed phytosanitary measures. The continued ability of producers in those countries to export peppers to markets such as the United States is dependent on their ability to meet our phytosanitary standards. We are confident that the NPPOs in Central America are fully capable of overseeing the application of the measures required by this rule. Further, this rule provides that APHIS will maintain oversight by participating in the approval and

monitoring of production sites and by reviewing the trapping records that must be maintained for each site. If, through trapping records, site visits, or port of entry inspections, we find that any of the required mitigation measures are not being properly administered, we will suspend shipments from the offending sites.

**Miscellaneous Change**

In our proposed provisions concerning the placement of Medfly traps in the buffer area surrounding each production site, we referred to Medfly traps with an approved protein bait. In this final rule, those provisions (§ 319.56-200(b)(3)(iii)) refer Medfly traps with an approved lure, as it will be parapheromone lures, rather than protein baits, that will be used outside of the greenhouses.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in the previous paragraph.

**Note:** In our October 2005 proposed rule, we proposed to add the conditions governing the importation of peppers from Central America as § 319.56-2nn. In this final rule, those conditions are added as § 319.56-200.

**Effective Date**

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule relieves restrictions on the importation of peppers from certain countries while continuing to protect against the introduction of plant pests into the United States. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. The shipping season for peppers from eligible Central American countries is in progress. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year’s shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the regulations governing the importation of fruits and vegetables in order to allow certain types of peppers grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to be imported, under certain conditions, into the United States without treatment. The conditions to which the importation of peppers will be subject, including trapping, pre-harvest inspection, and shipping procedures, are designed to prevent the introduction of quarantine pests into the United States. This action will allow for the importation of peppers from those countries in Central America while continuing to provide protection against the introduction of quarantine pests into the United States.

The Regulatory Flexibility Act (RFA) requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. In accordance with section 604 of the RFA, we have prepared a final regulatory flexibility analysis describing the expected impact of the changes in this rule on small entities. During the comment period for our proposed rule, we did not receive any comments pertaining to the initial regulatory flexibility analysis presented in that document.

### Central American Production and Exports

While agriculture is an important industry in the countries that will be affected by this rule, it does not account for the largest share of gross domestic product in any of the countries. Peppers do not appear to be a major crop in those Central American countries. However, production and exports of peppers are following upward trends.

Over the past four decades, pepper production in Central America has been on the rise. For the last 11 years, exports of peppers from this region have also increased. However, much of the increase in exports is a reflection of increased trade among the countries in this region. During this time period, an average of 62.23 percent of exports were intra-regional. Although this percentage has fluctuated substantially, the percentage of peppers exported from Central American countries to other Central American countries has been generally above 70 percent since 1997 with the exception of 2002. In 2003, approximately 96 percent of all Central American pepper exports were sent to other countries within the region.

It is estimated that about 31,040 metric tons of peppers may be imported into the United States each year from Costa Rica, El Salvador, Guatemala,

Honduras, and Nicaragua as a result of this rule.<sup>1</sup>

### U.S. Production and Trade Levels

In 2004, U.S. pepper production totaled 843,696 metric tons (table 1). While domestic production has fluctuated from year to year and has declined or remained steady since 2000, there has been an upward trend in domestic pepper production over the last 9 years. Imports have also been on the rise, and these have been increasing at a rapid pace since 1996. Per capita consumption of bell peppers has remained fairly constant over the past 9 years, while consumption of chili peppers has been growing at a steady pace since 1996, as seen in table 1. Although the levels of production, imports, and per capita consumption are reported for all pepper varieties, information on exports and domestic consumption is not available for all varieties. This is only reported in the case of bell peppers, and is shown in table 2. That table shows that most production is consumed domestically, with approximately 10 percent devoted to exports. Additionally, as mentioned above, per capita consumption of bell peppers has been steady despite the overall increase in imports.

TABLE 1.—U.S. PRODUCTION, IMPORTS, AND PER CAPITA CONSUMPTION OF ALL PEPPERS, 1996–2004

Year	Production and imports (metric tons)		Per capita consumption (pounds)		
	Production	Imports	Bell peppers	Chili peppers	Total
1996 .....	752,976	277,334	7.1	4.6	11.7
1997 .....	680,400	290,557	6.4	4.5	10.9
1998 .....	662,256	329,336	6.4	4.7	11.1
1999 .....	707,616	342,128	6.7	4.7	11.4
2000 .....	911,736	346,660	7.0	5.1	12.1
2001 .....	857,304	366,514	6.9	5.1	12.0
2002 .....	843,696	408,499	6.8	5.7	12.5
2003 .....	843,696	426,197	6.9	5.5	12.4
2004 .....	843,696	445,982	7.1	6.0	13.1

Source: USDA/ERS, "Vegetables and Melons Yearbook," <http://usda.mannlib.cornell.edu/data-sets/specialty/89011/>.

TABLE 2.—U.S. SUPPLY AND UTILIZATION OF FRESH BELL PEPPERS, 1996–2004

Year	Supply			Utilization		
	Production*	Imports*	Total*	Exports*	Domestic*	Per capita use (pounds)
1996 .....	754,745	171,143	925,888	60,465	865,423	7.1
1997 .....	678,540	179,217	857,758	60,692	797,066	6.4
1998 .....	660,260	199,085	859,345	57,970	801,375	6.4
1999 .....	705,892	206,524	912,416	66,309	846,107	6.7
2000 .....	765,631	198,190	963,822	71,479	892,342	7.0
2001 .....	748,168	215,596	963,764	73,347	890,417	6.9
2002 .....	710,700	249,979	960,679	73,166	887,514	6.8

<sup>1</sup> These estimates were provided by the exporting countries and have been aggregated for the purpose of this analysis.

TABLE 2.—U.S. SUPPLY AND UTILIZATION OF FRESH BELL PEPPERS, 1996–2004—Continued

Year	Supply			Utilization		
	Production*	Imports*	Total*	Exports*	Domestic*	Per capita use (pounds)
2003 .....	731,112	245,715	976,828	72,077	904,751	6.9
2004 .....	762,184	258,053	1,020,237	73,438	946,799	7.1

Source: USDA/ERS, "Vegetables and Melons Yearbook," <http://usda.mannlib.cornell.edu/data-sets/specialty/89011/>.

\* Amounts shown are in metric tons.

From 1995 to 2003, most of the peppers imported into the United States came from Mexico, Canada, and the Netherlands, with the majority supplied by Mexico. Given the close ties created by the North American Free Trade Agreement, these trading patterns are not surprising.

It is unlikely that this rule will lead to dramatic increases in U.S. import levels of peppers. The amount of peppers expected to be imported from the countries covered by this rule (31,040 metric tons) represents approximately 6.95 percent of the 2004 import level (445,982 metric tons). Thus, Central American imports are not expected to command a large portion of the U.S. imported pepper market.

#### Effects on Small Entities

This rule will affect domestic producers of peppers as well as importers that deal with these commodities. It is likely that the entities affected will be small according to Small Business Administration (SBA) guidelines. As detailed below, information available to APHIS indicates that the effects on these small entities will not be significant.

Two alternatives to this rule are as follows: (1) Maintaining the regulations as they are currently written regarding the importation of peppers from these Central American countries or (2) allowing importation of the peppers under phytosanitary requirements less stringent than those described in this rule.

The first alternative would maintain current safeguards against the entry of quarantine pests, *i.e.*, continue the current prohibition on the importation of fresh peppers from the countries covered by this rule. However, given our determination that the application of the phytosanitary measures described in this rule will effectively mitigate the risks associated with the importation of commercial shipments of peppers from the specified Central American countries, we do not believe a continued prohibition on those imports would be appropriate or justifiable. Further, this option would also mean that those specified Central American countries, as

well as the United States, would forgo the economic benefits expected to be afforded by the trade of Central American peppers.

The second alternative—allowing importation of fresh peppers from certain Central American countries under phytosanitary requirements less restrictive than those in this rule—could potentially lead to the introduction of pests not currently found in the United States. This option could result in significant damage and costs to domestic production and is not desirable for those reasons.

Affected U.S. pepper producers are expected to be small based on 2002 Census of Agriculture data and SBA guidelines for entities in two farm categories: Other Vegetable (except Potato) and Melon Farming (North American Industry Classification System [NAICS] number 111219) and Other Food Crops Grown Under Cover (NAICS number 111419). The SBA classifies producers in these farm categories as small entities if their total annual sales are no more than \$750,000. APHIS does not have information on the size distribution of domestic pepper producers, but according to 2002 Census data, there were a total of 2,128,892 farms in the United States.<sup>2</sup> Of this number, approximately 97 percent had total annual sales of less than \$500,000 in 2002, which is well below the SBA's small entity threshold for commodity farms.<sup>3</sup> This indicates that the majority of farms are considered small by SBA standards, and it is reasonable to assume that most of the 4,748 pepper farms that could be affected by this rule would also qualify as small. In the case of fruit and vegetable wholesalers (NAICS number 422480),<sup>4</sup> those entities with fewer than 100 employees are considered small by SBA standards.<sup>5</sup> In

<sup>2</sup> This number represents the total number of farms in the United States, thus including barley, buckwheat, corn, millet, oats, rice, soybean, and sugarcane farms.

<sup>3</sup> Source: SBA and 2002 Census of Agriculture.

<sup>4</sup> Note that this NAICS code relates to the 1997 Economic Census. The 2002 NAICS code for this group is 424480.

<sup>5</sup> For NAICS 424480, SBA guidelines state that an entity with not more than 100 employees should be

1997, there were a total of 4,811 fruit and vegetable wholesale trade firms in the United States.<sup>6</sup> Of these firms, 4,610 or 95.8 percent employed fewer than 100 employees and were considered small by SBA standards. Between 1997 and 2002 there is not likely to have been substantial changes in the industry. Therefore, domestic producers and importers that may be affected by this rule are predominantly small entities.

Economic analysis of the expected increase in imports of peppers from Central America shows that the importation of these commodities will lead to negligible changes in domestic prices. Based on historical consumption data, an increase in imports of this magnitude would lead to a decrease in price of approximately \$0.01 to \$0.02 per pound at the retail level, based on an average price of \$1.15 per pound over the last 25 years.

Although domestic producers may face slightly lower prices as a result of the increase in the pepper supply, these price changes are expected to be negligible. Changes of the magnitude presented here should not have large repercussions for either domestic producers or importers of peppers.

This rule contains information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

#### Executive Order 12988

This final rule allows peppers to be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. State and local laws and regulations regarding peppers imported under this rule will be preempted while the fruit is in foreign commerce. Fresh peppers are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce

considered small unless that entity is a government contractor. In this case, the size standard increases to 500 employees. However, in this instance, it is fair to assume that fruit and vegetable importers will not be under government contract since it is against regulations for imports to be used in relevant government programs (*e.g.*, school lunch programs).

<sup>6</sup> Source: SBA and 1997 Economic Census.

until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of peppers under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.<sup>7</sup> Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget

(OMB) under OMB control number 0579–0274.

### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

### PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. A new § 319.56–200 is added to read as follows:

#### § 319.56–200 Administrative instructions: Conditions governing the entry of peppers from certain Central American countries.

Fresh peppers (*Capsicum* spp.) may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua only under the following conditions:

(a) For peppers of the species *Capsicum annuum*, *Capsicum frutescens*, *Capsicum baccatum*, and *Capsicum chinense* from areas free of Mediterranean fruit fly (Medfly), terms of entry are as follows:

(1) The peppers must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in § 319.56–2(f) of this subpart.

(2) A pre-harvest inspection of the growing site must be conducted by the national plant protection organization (NPPO) of the exporting country for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato

mottle virus, and tomato yellow mosaic virus, and if these pests are found to be generally infesting the growing site, the NPPO may not allow export from that production site until the NPPO has determined that risk mitigation has been achieved.

(3) The peppers must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(4) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements."

(b) For peppers of the species *Capsicum annuum*, *Capsicum frutescens*, *Capsicum baccatum*, *Capsicum chinense*, and *Capsicum pubescens* from areas in which Medfly is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO will visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(2) Pepper production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(3) Registered sites must contain traps for the detection of Medfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export peppers to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

<sup>7</sup> Go to <http://www.regulations.gov>, click on the "Advanced Search" tab and select "Docket Search." In the Docket ID field, enter APHIS–2005–0095 then click on "Submit." The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

(iii) Medfly traps with an approved lure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Mexfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS' review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(6) During the time the packinghouse is in use for exporting peppers to the United States, the packinghouse may accept peppers only from registered approved production sites.

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and

bearing the declaration, "These peppers were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(c) For peppers of the species *Capsicum pubescens* from areas in which Mexican fruit fly (Mexfly) is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(2) Pepper production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(3) Registered sites must contain traps for the detection of Mexfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Mexfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to ship under the systems approach until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(iii) Mexfly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export, and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Mexflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit

borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Mexfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS's review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(6) During the time the packinghouse is in use for exporting peppers to the United States, the packinghouse may accept peppers only from registered approved production sites.

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(Approved by the Office of Management and Budget under control number 0579-0274)

Done in Washington, DC, this 1st day of March 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

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