

inspectors have intercepted the pigeon pea pod fly over 300 times during domestic terminal predeparture inspections of baggage from passengers destined for the United States from Puerto Rico. The pigeon pea pod fly is currently widely distributed in Asia and Australasia, and surveys are ongoing to determine the extent of its distribution in the Caribbean basin. The pigeon pea pod fly is a serious pest of pigeon pea in its natural range and could be of economic concern if it becomes established in North America outside the Caribbean basin.

The natural range for the pigeon pea pod fly is in the warmest climatic zones—equatorial and tropical, so areas of the United States other than Puerto Rico and the U.S. Virgin Islands most at risk for the introduction and establishment of this pest are the warmer southwestern States, southern Florida, and Hawaii. Recent studies have shown that eggs, larvae, and pupae can develop in temperatures ranging from 52 to 56 degrees Fahrenheit, however, and the pigeon pea pod fly has also been found in high concentrations in northern India and Nepal, both of which experience cold winters where the temperatures range from 20 to 50 degrees Fahrenheit. This wide geographic distribution outside its natural range demonstrates some adaptability to adverse climatic conditions, so there exists a moderate risk for the introduction and establishment of the pigeon pea pod fly in the more temperate, northern States as well.

Although the pigeon pea pod fly's primary host is the pigeon pea, it has been reported on alternate host plants in other countries when pigeon pea is unavailable. Since pigeon pea is grown to a limited extent only in southern Florida, the potential impact of this pest on the continental United States would depend upon its ability to find a suitable, alternate host. Studies into potential alternate hosts for the pigeon pea pod fly present in the continental United States, including kidney bean, chick pea, and black-eyed pea, are ongoing but no findings have been confirmed.

Considering that the pigeon pea pod fly is now established in the Caribbean even though its natural range is Asia and Australasia, this pest has demonstrated an ability to disperse and to establish itself readily if suitable hosts and climate are present. The pest's apparent climatic adaptability, as discussed above, combined with its ability to survive on secondary hosts, could lead to its establishment in the continental United States despite the

fact that pigeon pea is not commercially grown here. The potential impact of the establishment of this pest is difficult to predict, but it has a devastating effect on its primary host in its natural range.

To prevent the spread of the pigeon pea pod fly into additional areas of the United States, this interim rule requires all pigeon peas (fresh shelled or in the pod) from Puerto Rico to be treated with methyl bromide, which is known to be effective against the pigeon pea pod fly, for movement into any other part of the United States. This rule places the mandatory treatment requirement for pigeon peas from Puerto Rico in a new paragraph (b)(4) in § 318.58–2. In conjunction with this change, we have amended § 318.58–2(b)(1) and (b)(2) so that the requirements for pigeon peas in those paragraphs now apply only to pigeon peas from the U.S. Virgin Islands.

Prior to this interim rule, § 318.58(c) allowed unrestricted movement of all fruits or vegetables in either direction between Puerto Rico and the U.S. Virgin Islands. At this time, the pigeon pea pod fly has not been detected in the U.S. Virgin Islands; therefore, we are amending § 318.58(c) to specify that the movement of pigeon peas (fresh shelled or in the pod) from Puerto Rico to the U.S. Virgin Islands is restricted, in accordance with § 318.58–2(b)(4).

#### *Pigeon Peas From the Dominican Republic*

In “Subpart—Fruits and Vegetables,” paragraph (e) of § 319.56–2 provides conditions under which fruits or vegetables that are not otherwise restricted by quarantines or other orders may be imported. Under § 319.56–2(e), such fruits and vegetables may be imported under a permit if, among other things, the fruits or vegetables are not attacked in the country of origin by injurious insects, including fruit and melon flies (*Tephritidae*).

Until recently, untreated pigeon peas (fresh shelled or in the pod) from the Dominican Republic were allowed to be imported into the United States under permit in accordance with § 319.56–2(e). Although no commercial shipments of pigeon peas have been exported to the United States from the Dominican Republic in over a decade, individuals arriving in the United States from the Dominican Republic sometimes bring pigeon peas in their baggage, which is subject to inspection by USDA inspectors in accordance with § 319.56–7. During these inspections, USDA inspectors have detected the pigeon pea pod fly in pigeon peas (fresh shelled and in the pod) from the Dominican Republic.

To prevent the introduction of the pigeon pea pod fly from the Dominican Republic into noninfested areas of the United States, this interim rule requires that pigeon peas (fresh shelled or in the pod) from the Dominican Republic be treated with methyl bromide for importation into the United States. We are adding this requirement to § 319.56–2x(a), which lists fruits and vegetables that may be imported only if treated in accordance with the PPQ Treatment Manual. However, because pigeon pea pod fly exists in Puerto Rico, we will not require pigeon peas (fresh shelled or in the pod) from the Dominican Republic to be treated for importation into Puerto Rico.

#### *Mangoes From the British Virgin Islands*

In accordance with § 319.56–2(d), fruits and vegetables from the British Virgin Islands may be imported into the U.S. Virgin Islands without a permit, or other restriction, subject to the requirements in § 319.56–6. Under § 319.56–6, all imported fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a USDA inspector to detect and eliminate plant pests.

The mango seed weevil (*Sternuchus mangiferae*) is a pest of mangoes that is undetectable until the larvae tunnel their way out of the seed, which can make visual detection difficult. However, USDA inspectors in the U.S. Virgin Islands have detected the mango seed weevil on a regular basis in shipments of mangoes from the British Virgin Islands.

In order to ensure that the mango seed weevil is not introduced into the U.S. Virgin Islands, we are amending § 319.56–2(d) to prohibit the importation of mangoes from the British Virgin Islands into the U.S. Virgin Islands. Although we recently approved an irradiation treatment for mangoes, which has been shown to eliminate the mango seed weevil, we chose prohibition in this case because there does not appear to be commercial shipment of mangoes or other fruits and vegetables from the British Virgin Islands to the U.S. Virgin Islands that would support an irradiation facility in the British Virgin Islands. If, at a later date, an approved irradiation facility is built and operated under a compliance agreement in accordance with the regulations in § 305.2, we will reconsider this prohibition.

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the introduction of the pigeon pea pod fly