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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 318

[Docket No. 02–026–5]

Hot Water Dip Treatment for Mangoes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, by amending the hot water dip treatment schedule for rounded varieties of mangoes from Mexico, Central America, Puerto Rico, the U.S. Virgin Islands, and the West Indies to provide for the treatment of mangoes weighing between 701 and 900 grams. Because that hot water dip treatment schedule previously provided only for the treatment of mangoes weighing up to 700 grams, this action will provide for the importation or interstate movement of larger rounded-variety mangoes from Mexico, Central America, Puerto Rico, the U.S. Virgin Islands, and the West Indies. We are also making other changes to the treatment schedule, including the extension of the treatment time if the mangoes are to be hydrocooled within 30 minutes of the treatment.

DATES: This regulation is effective May 23, 2003. The incorporation by reference of the material described in the rule is approved by the Director of the Federal Register as of May 23, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

To prevent the introduction into, and the dissemination within, the United States of plant pests, the Animal and Plant Health Inspection Service (APHIS) restricts the importation and interstate movement of many articles, including fruits. As a condition of importation or interstate movement, some fruits are required to be treated for plant pests in accordance with our regulations in title 7, chapter III, of the Code of Federal Regulations (7 CFR parts 300 to 399). The Plant Protection and Quarantine (PPQ) Treatment Manual contains approved treatment schedules and is incorporated by reference into the regulations at 7 CFR 300.1.

On January 2, 2003, we published a proposed rule in the **Federal Register** (68 FR 69–71, Docket No. 02–026–3) to amend the PPQ Treatment Manual to provide for the treatment of rounded mangoes from Mexico or Central America weighing from 701 to 900 grams. We also proposed to make other changes to the treatment schedule, including extending the treatment time for mangoes that would be hydrocooled within 30 minutes of treatment.

We solicited comments concerning our proposal for 45 days ending February 18, 2003. We received 11 comments by that date. They were from growers, a student, and State Government representatives. Nine commenters supported our proposal, although two of the nine raised issues concerning the proposed rule; the remaining two commenters voiced objections to the proposal. The issues raised by the commenters are discussed below.

Comment: Large mangoes, like the mangoes discussed in the proposed rule, are also grown in Puerto Rico. Will growers in Puerto Rico be able to use the amended treatment schedule to qualify their large mangoes for movement?

Response: As noted in the proposed rule, the duration of the hot water dip treatment is determined based on the origin, shape, and weight of the mangoes. Three tables, sorted by region of origin, are provided under treatment T102-a: Table 5–2–1 for Puerto Rico, U.S. Virgin Islands, or West Indies (excluding Aruba, Bonaire, Curacao, Margarita, Tortuga or Trinidad and Tobago); table 5–2–2 for Mexico or Central America (north of and including

Costa Rica); and table 5–2–3 for Panama, South America, or West Indies islands of Aruba, Bonaire, Curacao, Margarita, Tortuga, or Trinidad and Tobago.

Because the proposed rule was prompted by a request from producers in Mexico, we had proposed to include the treatment for rounded variety mangoes weighing between 701 and 900 grams in table 5–2–2 only (*i.e.*, for mangoes from Mexico or Central America). However, based on this comment, we have carefully evaluated the available research and have determined that the same treatment schedule for rounded variety mangoes weighing between 701 and 900 grams can also address the risks presented by such mangoes produced in Puerto Rico, the U.S. Virgin Islands, or the West Indies. Therefore, in this final rule, we have also amended table 5–2–1 under treatment schedule T102-a to provide for the treatment of rounded variety mangoes weighing between 701 and 900 grams from Puerto Rico, the U.S. Virgin Islands, or the West Indies.

The regulations in § 318.58–2(b) of “Subpart—Fruits and Vegetables from Puerto Rico or Virgin Islands” contain a 700-gram limit on the size of mangoes that are eligible for movement if they meet certain conditions, which include treatment in accordance with the PPQ Treatment Manual. Because that limitation was based on the size limitation in the PPQ Treatment Manual, we are also amending § 318.58–2(b) in this final rule to reflect the availability of the treatment of mangoes weighing up to 900 grams.

Comment: Since the Commonwealth of Puerto Rico is a mango producer and a territory of the United States, Puerto Rico’s mango production should have been reflected in the discussion of U.S. production contained in the proposed rule’s regulatory flexibility analysis. Mangoes grown in Puerto Rico are shipped to the mainland United States, exported, or sold locally in Puerto Rico.

Response: The commenter is correct that we should have included data on Puerto Rico’s mango production in our economic analysis. In addition, we should have considered Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. We have adjusted the information presented under “Executive Order 12866 and Regulatory Flexibility Act” in this final rule to include available data concerning mango