

Another commenter partly supported the reference to the IPPC standard but was concerned that stating that a country's program meets the requirements of the standard for a pest-free area is not entirely transparent. The standards are written broadly, and measures such as ad hoc monitoring, general surveillance, and specific surveillance vary from situation to situation. Only measures specifically applied to the identified pest risk should be used to support a statement that the appropriate level of protection has been attained.

We agree that the standards used to determine whether an area is pest free will vary. When we evaluate whether an area is pest free, we consider and apply the appropriate measures. We believe that the survey, data, research, pest risk assessment, and other elements that must be addressed under ISPM No. 4, which must be approved in each particular case by APHIS and which will be made available to the public for review before we make a final determination as to an area's pest free status, will provide for a transparent decisionmaking process and will ensure that measures specifically applied to the identified pest risks will be used to support our determinations.

Another concern expressed by a commenter was that incorporating this standard by reference would result in surrendering the survey for pests to the country of origin. Incorporating the IPPC standard for pest-free areas into the regulations will not affect the way that we approve pest surveys in the country of origin. Agricultural authorities in the country where the area is located will continue to conduct the surveys as they have done in the past, and the surveys will continue to be performed according to procedures approved by APHIS. Given that we will continue to approve the survey methodology and resulting data prior to determining whether an area is indeed pest free, APHIS' role in ensuring that the surveys are valid and meet the requirements of the regulations will not be affected by this amendment to the regulations.

One commenter voiced concern that adopting the IPPC standard could be a prelude to establishing low prevalence pest areas that would be totally governed by the IPPC. We will not use this standard to establish low prevalence pest areas, let alone such areas that would be totally governed by the IPPC. The scope of ISPM No. 4 does not provide for the recognition of low prevalence pest areas; it is limited to the requirements for pest-free areas, which the standard defines, in part, as "an area

in which a specific pest does not occur.

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One commenter suggested that we change the proposed language incorporating the IPPC standard by reference so that pest-free areas would not have to be added to our regulations through rulemaking before imports could be allowed from such areas. Specifically, he recommended that the Administrator of APHIS authorize administratively the importation of a fruit or vegetable under § 319.56–2(e)(3) or (4), whenever he or she determines that the fruit or vegetable is being imported from an area that satisfies the requirements of ISPM No. 4 for recognition as a pest-free area with respect to the pests of concern for that fruit or vegetable. We are considering the suggestion, and if we determine that making that change would be appropriate, we will propose it in a separate document published in the **Federal Register** for comment.

In this final rule, we are not making any changes based on the comments received on incorporation by reference of ISPM No. 4. However, we are making two editorial changes. First, we are clarifying that the Administrator must determine that the area is free of the pest or pests in accordance with the criteria for establishing freedom found in ISPM No. 4. In the proposed rule, we stated that ISPM specifies *requirements* for an area to meet; however, *criteria* are actually specified. Second, we are retaining the paragraph in the regulations that states that "[w]hen used to authorize importation under § 319.56–2(e)(3), the criteria must be applied to all injurious insects that attack the fruit or vegetable; when used to authorize importation under § 319.56–2(e)(4), the criteria must be applied to those particular injurious insects from which the area or district is to be considered free." As proposed, that paragraph would have been removed, but we believe retaining that paragraph is necessary to specify how the criteria are applied to a definite area or district in the country of origin that is free from all injurious insects that attack the fruit or vegetable (§ 319.56–2(e)(3)) or is free from certain injurious insects that attack the fruit or vegetable (§ 319.56–2(e)(4)).

Rambutan From Central America and Mexico

We proposed to amend § 319.56–2t to allow the importation of rambutan from Central America and Mexico. One commenter supported the importation of rambutan from Central American countries but questioned whether cold treatment or other treatment of

rambutan was required. If treatment is required, the commenter stated, electrification, irradiation, vapor, hot water, or fumigation treatments would be preferable to cold treatment. Rambutan from Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, and Panama will be eligible to be imported under § 319.56–2t, which lists fruits and vegetables for which treatment is not a condition of entry. However, under § 319.56–6, rambutan, like any fruit or vegetable, may be subject to treatment if the inspector finds a pest of concern during inspection at the port of first arrival and determines that treatment is necessary. If a quarantine pest were to be found, an inspector would determine what action to take, including treatment, reexportation, or destruction of the shipment.

Another commenter requested more studies to support the importation of rambutan from Central America and Mexico. The commenter stated that fruit cutting for two seasons and the reliance on interceptions in passenger baggage and other information on which APHIS' decision was based are insufficient evidence that rambutan is not a fruit fly host in Central America and Mexico.

We believe that the evidence presented in the pest risk assessment is sufficient to support our decision to allow the importation of rambutan from Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, and Panama. The research indicates that fruit flies that occur in Central America and Mexico are not likely to follow the pathway on undamaged rambutan fruit, and they are not reported as pests of rambutan in these regions. In the field study in which 47,188 fruits of 10 varieties were cut over two seasons, no Medfly was found. Another study that was conducted under laboratory conditions indicates that the Medfly was able to oviposit, but with very low pupation rate, in damaged fruit.¹ Therefore, we are requiring that the country of origin's national plant protection organization (NPPO) declare on the phytosanitary certificate that they have supervised the removal of all damaged fruit from the shipment prior to export to the United States. An additional study in Hawaii, which is not cited in the pest risk assessment, showed that Medfly could not successfully oviposit on rambutan

¹ Vasques, L.A. 2000. Evaluation of rambutan *Nephelium lappaceum* L. as a host of three species of fruit flies: *Ceratitis capitata* Weidemann, *Anastrepha ludens* Loew, and *Anastrepha obliqua* Macquart, in Honduras Department of Plant Protection, Honduran Foundation Agriculture Research, FHIA, report submitted to USDA, APHIS.