

under forced infestation experiments under controlled laboratory conditions.<sup>2</sup> Another consideration is that there is no valid report or other evidence that this fruit is a host of either Medfly or fruit flies of the genus *Anastrepha* under field conditions.

One commenter supported the importation of rambutan as well as other commodities from Honduras. He reported that Honduras would export approximately 1,500 metric tons of rambutan from the estimated 250 hectares of rambutan that will be in production in 2003. He also reported that there are more than 125 growers of rambutan in Honduras. We will include this information in the final regulatory flexibility analysis for this rule.

*Fennel From El Salvador, Guatemala, and Nicaragua*

We proposed to amend § 319.56–2t to allow the importation of fennel from El Salvador, Guatemala, and Nicaragua. Commenters indicated that imports of fennel would harm U.S. fennel producers. The commenters reported that fennel is grown in California and Arizona in sufficient quantities to meet the demand for commercial fennel. Commenters also objected to the use of fennel seed data in the economic analysis instead of data for fennel leaves and stems and provided production data for two of the four California counties in which they stated fennel is produced.

We have included information provided by the commenters regarding domestic fennel production in this rule's final regulatory flexibility analysis. We were unable to find supporting or additional data, which could be because this commodity is a specialty crop. We have removed the data on imports of fennel seed from El Salvador from the final regulatory flexibility analysis because they do not apply to the importation of fennel leaves and stems. We also address effects on domestic producers in the final regulatory flexibility analysis.

Several commenters objected to the importation of fennel into the United States from El Salvador, Guatemala, Honduras, and Nicaragua based on their dissatisfaction with the pest risk assessment. The commenters voiced concern that the pest risk assessment contained insufficient detail concerning research conducted to identify all potential pests. Commenters questioned whether *Agrotis segetum* is limited only

to Honduras as reported in the pest risk assessment.

We would like to point out that while the pest risk assessment was conducted to examine the pest risk associated with the importation of fennel from El Salvador, Guatemala, Honduras, and Nicaragua, we proposed to allow the importation of fennel from only three of those countries—El Salvador, Guatemala, and Nicaragua.

The research conducted for the pest risk assessment was complete and thorough. We conducted an exhaustive search of literature and reviewed our historical plant pest database and interception information. In addition to the literature sources cited in the pest risk assessment, we consulted more than 135 other sources. One of those sources, the Government of Honduras, indicated that *A. segetum* is present in Honduras. *A. segetum* is a quarantine pest that the pest risk assessment identified as likely to follow the pathway. After considering the pest risk assessment and available mitigation measures for that quarantine pest, we determined that fennel from Honduras could not be proposed for importation into the United States. However, *A. segetum* was not listed in the sources consulted as occurring in El Salvador, Guatemala, or Nicaragua.

Some of the commenters voiced concerns that an interception from Guatemala of Lepidoptera species was not analyzed, referring to the note in the pest risk assessment that the absence of taxonomic information at the species level makes biological evaluations difficult. The interception of the Lepidoptera species was not further analyzed in the pest risk assessment as it was a single occurrence that was intercepted in fennel from Guatemala in 1996 with an inconclusive determination of quarantine status.

Several commenters were concerned about pests that were identified in the pest risk assessment as likely to follow the pathway. Table 2 of the pest risk assessment lists pests of fennel in El Salvador, Guatemala, Honduras, and Nicaragua that have been reported in scientific and regulatory literature. While table 2 lists 12 pests that are known to occur in these 4 Central American countries, only 1 of the 12 is a quarantine pest—*A. segetum*. Even though 11 of the pests were identified as likely to follow the pathway, we do not consider them quarantine pests because they are established in the United States. Under § 319.56–6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to disinfection at the port of first

arrival if an inspector requires it. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated.

Several commenters recommended that the exporting country must prove that it has a system in place to ensure that pests are not transported in fennel shipments, rather than relying on APHIS inspections at the port of entry, because they are concerned that there are no indications that inspections are sufficient to prevent an infested shipment from entering the United States.

APHIS successfully uses inspection at the point of entry as the only phytosanitary measure needed to mitigate the pest risk posed by several commodities from various countries. Inspectors are trained to find pests in agricultural commodities. In 2002, APHIS inspectors intercepted 68,556 quarantine pests, and it is estimated that an equal number of nonquarantine pests were intercepted. As discussed above, no quarantine pests were identified in the pest risk assessment as occurring in fennel from El Salvador, Guatemala, and Nicaragua. Therefore, inspection at the port of entry mitigates the pest risk posed by the importation of fennel from El Salvador, Guatemala, and Nicaragua.

Several commenters expressed concern that the pest risk assessment did not address the impact on U.S. growers should any pest be introduced. The pest risk assessment is consistent with the guidance provided by the North American Plant Protection Organization (NAPPO), the IPPC, and APHIS' Guidelines for Pathway-Initiated Pest Risk Assessments. The pest risk assessment examined pest risk associated with the importation into the United States of fresh leaves and stems of fennel from El Salvador, Guatemala, Honduras, and Nicaragua. Risk of introduction of pests was evaluated in qualitative terms of high, medium, and low. One of the risk elements that we considered in determining the consequences of introduction for *A. segetum* was the economic impact. As shown in table 3 of the pest risk assessment, we rated the economic impact of such an introduction as high.

*Peppers From Israel*

We proposed to amend § 319.56–2u to require that insect-proof containers remain intact during transit and be intact upon arrival in the United States. We also proposed an alternative packaging method of covering non-insect-proof boxes with insect-proof

<sup>2</sup>Phillips, Thomas W. 1998. Quarantine Hot Air Treatment for Hawaiian-Grown Rambutan, *Nephelium lappaceum*, To Disinfest the Fruit Flies *Bactrocera dorsalis* and *Ceratitis capitata*, USDA, Agricultural Research Service, report submitted to USDA, APHIS.