

not definitive enough when stating that the vapor heat treatment may have mitigating effects on surface pests. One commenter argued that the use of the words “may,” “likely,” and “unlikely” in the pest risk assessment demonstrates a lack of a thorough risk assessment and that stating that it is “very unlikely” for a pest to remain with the imported fruit is unacceptable.

Our pest risk assessment was conducted in accordance with NAPPO and IPPC guidelines, which are referenced in our pest risk assessment. ISPM No. 11, “Guidelines for Pest Risk Analysis for Quarantine Pests,” describes three stages of pest risk analysis: Initiation, risk assessment, and risk management. The pest risk assessment for yellow pitaya from Colombia satisfies the requirements for the first two stages, initiation and risk assessment, by determining if a pest is a quarantine pest and evaluating the risk associated with its introduction via pitaya imported from Colombia. The pest risk assessment is qualitative, where risk is expressed in descriptive terms (high, medium, and low), rather than quantitative, where risk would be expressed in probabilities or frequencies. In addition to reflecting a qualitative risk assessment, our use of terms, such as “may” and “likely” reflects the fact that we cannot completely eliminate risk. Using more absolute terms, such as “will” and “definitely,” would be inaccurate. The pest risk management stage is not part of the pest risk assessment document that we prepared.

Pest risk management involves the process of reducing the risk of introduction of a quarantine pest and leads to a decision of whether to allow the importation of the commodity, and under what conditions. The conditions for pest risk management for imports of yellow pitaya fruit from Colombia were provided in the proposed rule. The risk management approach used to kill the internal feeders—*Anastrepha fraterculus* and the Medfly—is the vapor heat treatment. The risk management approach for external pests is inspection. We believe that the risks will be managed through inspection and treatment. In addition, in accordance with § 319.56–6, an inspector may refuse entry of a shipment that is contaminated with plant pests, soil, or other contaminants.

One commenter expressed concern that pesticides used on the pitaya crop in Colombia would not be allowed on similar fruit in the United States. The U.S. Food and Drug Administration (FDA) samples and tests imported fruits and vegetables for pesticide residues. If

residue from a pesticide that is not approved in the United States is found, the FDA will deny the shipment’s entry into the United States.

The commenter also disagreed with the statement in the pest risk assessment that the pesticides used on pitaya in Colombia would mitigate the pest risks. He questioned whether evidence exists that Colombia would administer the pesticides to all shipments of pitaya.

Colombia is a major producer of yellow pitaya and successfully exports fresh yellow pitaya fruit to dozens of countries. While any pesticides applied may help manage the risk of external pests, the risk management approach used for external pests is inspection. As discussed above, however, an inspector may refuse entry of a shipment if it is infested.

Citrus From Australia

We proposed to amend § 319.56–2v to add specific geographic areas to that section’s list of areas in Australia from which citrus may be imported. One commenter recommended that we distinguish the Parish of Onley in the Shire of Mildura, Victoria, from the geographic subdivisions called “hundreds.” As the Parish of Onley is not one of the hundreds, we have changed § 319.56–2v(a)(1) in this final rule to distinguish the Parish of Onley from the listed hundreds. Data were submitted showing that the Parish of Onley and the additional hundreds meet the criteria for pest-free areas.

Another commenter stated that APHIS is proposing to allow new Australian production areas to export citrus to the United States but does not define its process for overseeing the continued freedom of those production areas from quarantine pests and diseases. Before a country conducts a survey, APHIS approves the survey protocol used to determine pest-free status. Once a free area is established, APHIS verifies that the area remains pest free. In addition to notification from the country concerning the maintenance of pest-free areas, we have several methods to verify that an area remains pest free. APHIS personnel are stationed overseas to evaluate the effectiveness of the survey and regulatory programs that the country of origin uses to maintain the pest-free areas. Another method is through agriculture inspection at the port of entry, as any findings of quarantine pests could indicate that an area is no longer a pest-free area. In the case of citrus from Australia, the regulations provide that in the event that surveys detect quarantine pests in the designated free areas, the citrus could be cold treated, if a treatment is

available for the pest of concern, and remain eligible for importation into the United States.

The commenter correctly indicated that we do not define the process or our role in verifying the status of pest-free areas. Therefore, we are amending § 319.56–2(f) by stating that APHIS must approve the survey protocol used to determine pest-free status, and pest-free areas are subject to audit by APHIS to verify their status.

A commenter stated that APHIS is rewarding Australian producers with increased U.S. market access at the same time that Australia is dramatically restricting American growers from exporting to Australia. Our proposal and decision to allow imports of citrus from additional areas in Australia were based on data that indicated that the areas are free of destructive fruit flies.

One commenter correctly indicated that the value of citrus that Australia exported was underreported in the initial regulatory flexibility analysis at \$37,000. We will adjust the final regulatory flexibility analysis to show \$108.7 million as the value of Australian citrus exports for 2001.

Tomatoes

We proposed to amend § 319.56–2dd to allow the importation of tomatoes from Australia. We specified certain phytosanitary conditions under which the importation would be allowed to manage the risks presented by several species of fruit flies, loopers, worms, and caterpillars. One commenter recommended specific changes to these phytosanitary requirements.

First, the commenter recommended removing the requirement that McPhail traps be used and replacing that requirement with “fruit fly traps of an approved type” because specifying the type of fruit-fly trap is too restrictive. In response to this comment, we are removing the specification in § 319.56–2dd(e)(2) that the fruit-fly traps be McPhail traps and specifying instead that the traps be APHIS approved. As long as the regulations require the use of an APHIS-approved fruit-fly trap, phytosanitary security will not be affected.

Second, the commenter recommended rephrasing the wording used for the rate that fruit-fly traps must be set. The proposed rule stated that “in all areas outside of the greenhouse and within 8 kilometers of the greenhouse, fruit-fly traps must be placed at the rate of at least four per square kilometer.” The commenter reported that the current trapping grid in production areas in the fruit fly exclusion zone is based on a 1 km grid with a trap set at each corner