

and recommended changing the wording concerning the placement of the traps to say "placed on a 1 kilometer grid." Because this change in trap placement would not compromise the detection of any fruit flies in the area and will more accurately reflect trap placement, we are making this change in § 319.56-2dd(e)(2).

Third, the commenter recommended that the proposed requirement stating that "outside of a registered greenhouse, if one fruit fly of any type is found within 2 kilometers, trap density and frequency of trap inspection must be increased to detect a reproducing colony" be changed to "outside of a registered greenhouse, if one fruit fly of the types specified in this notice is found within 2 kilometers of the facility, * * *" Because this change would not affect the protection that the regulations provide, we have changed the requirement in § 319.56-2dd(e)(4) to state that the detection of one fruit fly of the species specified in § 319.56-2dd(e) would trigger an increase in trap density and inspections. In addition, we have made editorial changes to clarify that the threshold for cancellation of exports is the capture of two Medflies or three of the same species of *Bactrocera* within 2 kilometers of each other and within 30 days.

Finally, the commenter suggested including certain specifics in the operational workplan between the country of origin and the United States and excluding that information from the regulations. For example, the proposed rule would require that "Capture of two Medflies or three of the same species of *Bactrocera* within 1 month will result in the cancellation of exports from all registered greenhouses within 2 kilometers of the find until the source of the infestation is determined and the fruit fly infestation is eradicated." The commenter stated that the distance between detections was based on detections within a 2 kilometer radius of the facility, but he recommended that we omit the specifics on the number of flies, distance between detections, and timeframe from the regulations and include that information in the operational workplan. We are not making any changes in response to this suggestion. We believe the specifics provide transparency in the regulations. These requirements, including that exports will be canceled from all registered greenhouses within 2 kilometers of the find, are consistent with our import requirements for tomatoes from Spain in § 319.56.2dd(a).

For the same reasons as discussed above under the heading "Peppers from Israel," we are removing the proposed

requirement for the sealing of shipping containers for tomatoes from Spain, France, Morocco and Western Sahara, and Australia (§ 319.56-2dd(a), (b), (c), and (e), respectively).

Another commenter requested that we review the use of "pink" and "red" to describe the ripeness of tomatoes in general. He contended that these terms are obsolete and potentially harmful with production of heirloom tomatoes of many different colors. While the regulations concerning the importations of tomatoes from Australia do not require that they be pink or red, the regulations do include this provision for certain other countries. If the pink or red criterion should become an issue with those importations, we will evaluate the adequacy of the pink or red criterion. However, at this time, we are not making any changes in response to this comment.

Persimmons From the Republic of Korea

We proposed to allow the importation of persimmons from the Republic of Korea under the conditions set forth in § 319.56-2kk. One commenter correctly stated that the proposed shipping restriction that would prohibit the entry of persimmons from the Republic of Korea into Hawaii, Puerto Rico, the Virgin Islands, and Guam would be unnecessary because the pest risk assessment was conducted for all areas of the United States. In addition, the commenter noted that persimmons from the Republic of Korea are currently imported into Guam. In response to this comment, we are removing the shipping restriction for persimmons from the Republic of Korea.

Another commenter objected to the importation of persimmons from the Republic of Korea, stating that APHIS is proposing an inadequate method of enforcement for ensuring that quarantine pests are controlled within production areas. Further, the commenter argued that establishing the orchard, which could be defined in many different ways, as the unit of reference for inspection and refusal of imports has no scientific justification.

We are allowing the importation of persimmons from the Republic of Korea into the United States under, among other things, the condition that the orchard where they were grown was inspected and found free of quarantine pests by the Republic of Korea's NPPO. After harvesting and before packaging a shipment of persimmons, the Republic of Korea's NPPO must inspect the shipment for quarantine pests, and if no pests are found, they must declare that on a phytosanitary certificate.

When the shipment enters the United States, it will be inspected again by a U.S. inspector who will decide whether to allow or refuse entry of the shipment. Costs associated with refusal of a shipment would be borne by the exporter; therefore, the exporter has added incentive to comply with the regulations. Traceback to an orchard would be accomplished through records kept by the Republic of Korea's NPPO. We regulate at the orchard level in many of our commodity import regulations, because doing so provides us with a meaningful way to eliminate products from the import chain when we identify problems; *i.e.*, we can limit enforcement actions to individual production sites rather than to entire growing areas. Based on our experience with mitigating pest risks and our success with inspection and enforcement, we believe that the conditions described above are adequate.

However, in response to this comment, we are making changes to clarify the regulations. In § 319.56-1, we are adding a definition of the term "place of production" that is consistent with the current IPPC definition. The definition for the term "place of production" is "any premises or collection of fields operated as a single production or farming unit. This may include a production site that is separately managed for phytosanitary purposes." Because the definition of the term "place of production" includes the term "field" and "production site", we are also including definitions of those terms. The term "field" is defined using the IPPC definition of "a plot of land with defined boundaries within a place of production on which a commodity is grown." The term "production site" is defined as "a defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This could include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, or premises." In § 319.56-2kk, which concerns persimmons from the Republic of Korea, we are replacing the first occurrence of the word "orchard" with "production site, which is an orchard."

Cold Treatment

One commenter voiced concerns about added provisions to allow the entry of cold treated commodities when failures of this treatment protocol have yet to be completely addressed. This commenter stated that (1) although the cold treatment for Medfly has been lengthened, the suspected operational