

Proposed Rules

Federal Register

Vol. 71, No. 24

Monday, February 6, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2006-0009]

Importation of Tomatoes From Certain Central American Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of fruits and vegetables in order to allow pink and red tomatoes grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama to be imported into the United States without treatment. The conditions to which the proposed importation of tomatoes would be subject, including trapping, pre-harvest inspection, and shipping procedures, are designed to prevent the introduction of quarantine pests into the United States. This action would allow for the importation of pink and red tomatoes from those countries in Central America while continuing to provide protection against the introduction of quarantine pests into the United States.

DATES: We will consider all comments that we receive on or before April 7, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the "Search for Open Regulations" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select APHIS-2006-0009 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can

be viewed using the "Advanced Search" function in Regulations.gov.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0009, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0009.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56-8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Section 319.56-2dd of the regulations contains administrative instructions allowing the importation of tomatoes from various countries where the Mediterranean fruit fly (Medfly, *Ceratitidis capitata*) is present. In this document, we are proposing to amend that section by adding a new paragraph (f) that would set forth administrative instructions concerning the importation of pink and red tomatoes from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

In a decision sheet¹ dated December 28, 1934, we authorized the importation of tomatoes from Central America and Mexico. However, in a subsequent set of decision sheets dated April 15, 1982, and January 27, 1983, we identified red tomatoes from Ecuador, Costa Rica, and Panama as an occasional Medfly host. Given the similar pest situations in the other Central American countries, we changed the conditions of the permits issued for Central American tomatoes to allow only green tomatoes to be imported, since they are not a Medfly host. Pink tomatoes were prohibited in order to reduce confusion between pink and red tomatoes during port-of-entry inspections.

The Government of El Salvador has requested the reauthorization of the importation of pink and red tomatoes from that country. In response, the Animal and Plant Health Inspection Service (APHIS) developed a systems approach, described below, under which tomatoes could be imported into the United States without treatment. We have determined that the systems approach could also be used by producers throughout Costa Rica, Guatemala, Honduras, Nicaragua, and Panama because of the similar pest risks present in these countries. Therefore, we are proposing to allow tomatoes to be imported into the United States from those six Central American countries under conditions very similar to current requirements for importing tomatoes from France, Morocco and Western Sahara, and Spain. Currently, tomatoes are being shipped from over 200 greenhouses in Europe using this systems approach. Since the start of the tomato systems approach in France and Spain, the number of pest interceptions has been very low, with an approximate shipment infestation rate of 0.005 percent in Spain and 0.06 percent in France.

We have prepared a document in which we examine the risks of importing tomatoes from the six Central America countries that was based on an examination of relevant information (e.g., pest risk assessments, decisions

¹ Before we routinely prepared pest risk assessments according to the guidelines provided by the Food and Agriculture Organization and the North American Plant Protection Organization we prepared decision sheets. Decision sheets contain relatively the same information that is contained in modern pest risk assessments, but without the standardized format.

sheets, pest interception data, etc.) regarding this commodity. The document may be viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov) or on the APHIS Web site at <http://www.aphis.usda.gov/ppq/prd/draft/>. The quarantine pests of concern in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, as identified in the document prepared for this proposed rule, are Medfly, the tomato fruit borer (*Neoleucinodes elegantalis*), the pea leafminer (*Liriomyza huidobrensis*), and the potato spindle tuber viroid.

With the exception of Medfly, for which we have developed the specific systems approach described below as mitigation, the pests of concern (tomato fruit borer, the pea leafminer, and the potato spindle tuber viroid) exhibit symptoms that are macroscopic and detectable upon visual inspection in the production areas or during pre-export or port-of-entry inspections. Specifically:

- Tomato fruit borer larvae penetrate the fruit and may cause the fruit to fall or become otherwise unmarketable. More mature larvae create large exit holes in the fruit that can be easily detected. In addition, the screen size required by the systems approach described below is too small to allow the entry of adult tomato fruit borers.

- Pea leafminers spend a majority of their lifecycle in larval form, mining host leaves. These mines are easily detectable via visual inspection.

- Potato spindle tuber viroid is primarily a pest of potatoes, but may also affect tomatoes. Symptoms of the viroid, except for mild strains, would be readily detected with the naked eye. Recent data on the potato spindle tuber viroid indicate there has only been one interception of the viroid from one country in Central America, Costa Rica. The interception was on potatoes, not tomatoes, and was easily detected by inspectors. This evidence suggests that it is unlikely that the potato spindle tuber viroid will be found on tomatoes from Central America, and we believe that inspections throughout the growing season will provide sufficient mitigation.

Thus, we would utilize inspection as the primary mitigation measure for tomato fruit borer, pea leafminer, and potato spindle tuber viroid, and the specific systems approach described in this document would serve to mitigate the risks associated with Medfly. The systems approach, outlined below, utilizes pest exclusionary greenhouses and packinghouses. As stated previously, we believe this approach

could be used by producers throughout Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, given the similar pest risks present in these countries. We are confident that these measures would effectively mitigate the risk posed by Medfly while production site, pre-export, and port-of-entry inspections would continue to provide mitigation for any additional pests. Green tomatoes could continue to be imported as before, but the systems approach would provide importers with alternative sources of tomatoes at a more advanced stage of ripeness. In addition, we would also allow the importation of pink or red field-grown tomatoes from areas certified free of Medfly. The proposed conditions for the importation of greenhouse-grown and field-grown tomatoes are explained in the following paragraphs.

Areas Where Medfly Is Present

Tomatoes grown in an area that has not been determined to be free of Medfly would be required to be grown in approved production sites registered with the national plant protection organization (NPPO) of the exporting country and would be subject to the systems approach detailed below. Initial approval of the production sites would be completed jointly by the exporting country's NPPO and APHIS. Representatives of the exporting country's NPPO would have to visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS could monitor the production sites at any time during this period.

Tomato production sites would have to consist of pest exclusionary greenhouses with self-closing double doors. All additional openings would be required to be covered with 1.6 (or less) millimeter screening. Registered sites would have to contain traps with an approved protein bait for the detection of Medfly within the greenhouses at a density of four traps per hectare, with a minimum of at least two traps per greenhouse. Traps would have to be serviced on a weekly basis. Medfly traps with an approved protein bait would also have to be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares. These traps would have to be checked at least once every 7 days. At least one trap would have to be near the greenhouse. Traps would have to be set for at least 2 months prior to export, and trapping would have to continue to the end of harvest. Capture of 0.7 or more Medflies per trap per week within the buffer zone

would suspend or delay the harvest, depending on whether the harvest had begun, for consignments of tomatoes from that production site until APHIS and the exporting country's NPPO determine that the pest risk has been mitigated.

If a single Medfly is detected inside a registered production site or in a consignment, the registered production site would lose its ability to export tomatoes to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation has been achieved. For the other pests of concern listed above, the greenhouse would have to be inspected prior to harvest, and if any of these pests or any other quarantine pests is found to be generally infesting the greenhouse, the NPPO would not allow export from that production site until APHIS and the NPPO agree that risk mitigation has been achieved. If the NPPO detected any quarantine pests in the consignment, the shipment would be deemed ineligible for export to the United States.

The exporting country's NPPO would have to maintain records of trap placement, checking of traps, and any Medfly captures, as well as production site and packinghouse inspection results. In addition, the exporting country's NPPO would have to maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records would have to be maintained for APHIS's review.

We would require that tomatoes be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The tomatoes would have to be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit from the production site to the packinghouse and while awaiting packing. The tomatoes would have to be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the United States. These safeguards would have to remain intact until arrival in the United States or the shipment would not be allowed to enter the United States.

During the time the packinghouse is in use for exporting fruit to the United States, the packinghouse could accept fruit only from registered approved production sites.

The exporting country's NPPO would be responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes would have to be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These

tomatoes were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box would have to be labeled with the identity of the production site.

Medfly-Free Areas

We would allow tomatoes grown in a Medfly-free area to be imported under conditions less stringent than those described above for tomatoes grown in areas where Medfly is present. The tomatoes would have to be grown and packed in an area that APHIS has determined to be free of Medfly in accordance with the procedures described in § 319.56–2(f); currently, the Department of Peten in Guatemala is the only Medfly-free area in the Central American countries covered by this proposed rule.

For the tomato fruit borer, pea leafminer, and potato spindle tuber viroid, the production site would have to be inspected prior to harvest and if any of these pests or any other quarantine pests are found to be generally infesting the production site, the NPPO would not allow export from that production site until APHIS and the NPPO agree that risk mitigation has been achieved. If the NPPO detects any quarantine pests in the consignment, the shipment would be deemed ineligible for export to the United States.

We would require that the tomatoes be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the United States. These safeguards would have to remain intact until arrival in the United States or the shipment would not be allowed to enter the United States. These measures would be necessary since, although the production area is Medfly-free, the tomatoes would need to be protected against infestation while in transit.

The exporting country's NPPO would be responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes would have to be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box would have to be labeled with the identity of the production site.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule

has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Regulatory Flexibility Act (RFA) requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. In accordance with section 603 of the RFA, we have prepared an initial regulatory flexibility analysis describing the expected impact of the changes proposed in this document on small entities.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests and noxious weeds.

We are proposing to amend the regulations governing the importation of fruits and vegetables in order to allow pink and red tomatoes grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama to be imported into the United States without treatment. The conditions to which the proposed importation of tomatoes would be subject, including trapping, pre-harvest inspection, and shipping procedures, are designed to prevent the introduction of quarantine pests into the United States. This action would allow for the importation of pink and red tomatoes from those countries in Central America while continuing to provide protection against the introduction of quarantine pests into the United States.

Central American Production and Exports

While agriculture is an important industry in the countries that would be affected by this rule, it does not account for the largest share of gross domestic product in any of the countries. Tomatoes do not appear to be major crops in those Central American countries. However, production and exports of tomatoes are following upward trends.

Tomato production in Central America has been steadily increasing since the early 1960s. Over this period, production has increased almost 300 percent. In conjunction with this increase in production, exports of tomatoes from the region have also increased. Exports in 2003 were 42 times the exports in 1962. Between 1980 and 2003, exports increased by 45 percent. From 1962 to 2003, exports of tomatoes to countries within Central America accounted for 96 percent of

total exports. In more recent times, specifically the period between 1980 and 2003, this percentage has increased by 99 percent. Thus, the vast majority of the tomatoes exported from any Central American country are destined for another country within the same region.

U.S. Import Levels

U.S. imports of Central American tomatoes have fluctuated greatly over the last 15 years.² In fact, 2003 was the end of a 10-year period during which the United States did not import tomatoes from any Central American country. U.S. imports of fresh tomatoes principally originate in Mexico, Canada, and the Netherlands, with Mexico being by far the largest supplier.

Although this proposed rule would allow for more liberal importation of tomatoes from certain Central American countries, it is unlikely that the proposed changes would lead to dramatic increases in U.S. import levels from this region.

Effects on Small Entities

This proposed rule would affect domestic producers of tomatoes as well as importers that deal with these commodities. It is likely that the entities affected would be small according to Small Business Administration (SBA) guidelines. As detailed below, information available to APHIS indicates that the effects on these small entities would not be significant.

Two alternatives to the proposed course of action are as follows: Maintaining the status quo with respect to the importation of tomatoes from these Central American countries (i.e., green tomatoes only) or allowing importation without establishing the proposed risk mitigations.

The first alternative would maintain current safeguards against the entry of quarantine pests. However, this option would also mean that those specified Central American countries as well as the United States would forgo the economic benefits expected to be afforded by the proposed trade.

Allowing the importation of fresh tomatoes from certain Central American countries under phytosanitary requirements less restrictive than are proposed could potentially lead to the introduction of pests not currently found in the United States. This option could result in significant damage and costs to domestic production and is not desirable for those reasons.

² It is important to note here that this discussion refers to imports of all varieties of tomatoes. Disaggregated data were not available for this analysis.

Affected U.S. tomato producers are expected to be small based on the 2002 Census of Agriculture data and SBA guidelines for entities in two farm categories: Other Vegetable (except Potato) and Melon Farming (North American Industry Classification System [NAICS] code 11219) and Other Food Crops Grown Under Cover (NAICS code 11419). The SBA classifies producers in these farm categories as small entities if their total annual sales are \$750,000 or less. APHIS does not have information on the size distribution of domestic tomato producers, but according to 2002 Census data, there were a total of 2,128,892 farms in the United States.³ Of this number, approximately 97 percent had total annual sales of less than \$500,000

in 2002, which is well below the SBA's small entity threshold for commodity farms.⁴ This indicates that the majority of farms are considered small by SBA standards, and it is reasonable to assume that most of the 19,539 tomato farms that could be affected by the proposed rule would also qualify as small. In the case of fruit and vegetable wholesalers (NAICS code 422480),⁵ those entities with fewer than 100 employees are considered small by SBA standards.⁶ In 1997, there were a total of 4,811 fruit and vegetable wholesale trade farms in the United States.⁷ Of these farms, 4,610 or 95.8 percent employed fewer than 100 employees and were considered small by SBA standards. Between 1997 and 2002, there is not likely to have been

substantial changes in the industry. Therefore, domestic producers and importers that may be affected by this proposed rule are predominantly small entities.

Economic analysis of the expected increase in imports of tomatoes from Central America shows that the proposed importation of this commodity would lead to negligible changes in domestic prices. APHIS estimates that an additional 13,092 metric tons of tomatoes may be imported from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama on a yearly basis. Using historical consumption data to estimate an elasticity of demand for tomatoes, an increase in imports of this size would result in a price decrease of \$0.50 per hundredweight (cwt) overall.

TABLE 1.—U.S. SUPPLY, UTILIZATION, AND FARM WEIGHT PRICE OF FRESH TOMATOES, 2000–2005

Year	Supply			Utilization			Season-average price		
	Production	Imports	Total	Exports	Domestic	Per capita use	Current dollars	Constant 2000 dollars	
	(Million pounds)						(Pounds)	(\$/cwt)	
2000	4,162.0	1,609.5	5,771.5	410.4	5,361.2	19.0	\$30.70	\$30.70	
2001	4,061.1	1,815.6	5,876.7	398.2	5,478.5	19.2	30.00	29.30	
2002	4,289.3	1,896.2	6,185.5	332.1	5,853.4	20.3	31.60	30.36	
2003	3,909.8	2,070.7	5,980.5	314.1	5,666.4	19.5	36.70	34.62	
2004	3,975.7	2,054.6	6,030.3	367.5	5,662.8	19.3	36.70	33.92	
2005 ^f	4,086.0	2,000.0	6,086.0	360.0	5,726.0	19.4	—	—	

Notes: —= not available, f = ERS forecast.
 Source: USDA/ERS, "Vegetables and Melons Yearbook," <http://usda.mannlib.cornell.edu/data-sets/specialty/89011/>.

For this analysis, it is assumed that imports of tomatoes from Central America would compete with all fresh tomatoes produced domestically. In 2004, U.S. fresh tomato production totaled 3,976 million pounds (table 1). APHIS estimates that an additional 13,092 metric tons (28.7 million pounds) of tomatoes would be imported from Central America. These imports would account for only 0.7 percent of domestic production in 2004 and 1.4 percent of 2004 imports. Given the additional imports, it is possible that the domestic price would fall by as much as \$0.50 per cwt. In 2004, the average producer price was \$36.70 per cwt. Thus, the expected price decline would represent a 1.4 percent decline. However, this percentage is likely overstated because the new imports would be close substitutes for tomatoes from other countries. Imports from

Central America would probably displace at least some of those imports from other countries. This likely substitution is not taken into account in the analysis.

In order to put this price change into perspective, we consider it in terms of average revenue for small-entity tomato producers. Due to the lack of data on tomato farming, it is difficult to determine an accurate potential change in revenues for all producers. Averaging the total drop in revenues across all firms would overstate the loss to small producers while understating that for the larger ones. Data from the 2002 Census of Agriculture were used to estimate tomato production by small and large firms. This, in turn, was used to estimate revenues for these two categories. An average revenue per firm was then calculated. We conclude that any producer with fewer than 80 acres

of tomatoes may be considered small, based on industry yields and revenues and the small-entity definition of not more than \$750,000 in annual revenue. For small-entity producers with fewer than 100 acres (the reported category closest to 80 acres), a price change of \$0.50 per cwt would lead to an estimated per firm decline in annual revenue of \$293, or 1.6 percent. Given this small change and recalling that these effects are likely overstated, domestic producers are not likely to be significantly impacted by the proposed rule.

Although domestic producers may face slightly lower prices as a result of the potential increase in the tomato supply, these price changes are expected to be negligible. APHIS welcomes public comment on these preliminary estimates. Domestic import firms, on the other hand, may actually

³ This number represents the total number of farms in the United States, thus including barley, buckwheat, corn, millet, oats, rice, soybean, and sugarcane farms.

⁴ Source: SBA and 2002 Census of Agriculture.

⁵ Note that this NAICS code relates to the 1997 Economic Census. The 2002 NAICS code for this group is 424480.

⁶ For NAICS 424480, SBA guidelines state that an entity with not more than 100 employees should be considered small unless that entity is a Government contractor. In this case, the size standard increases

to 500 employees. However, in this instance, it is fair to assume that fruit and vegetable importers will not be under Government contract since it is against regulations for imports to be used in relevant Government programs (e.g. school lunch programs).

⁷ Source: SBA and 1997 Economic Census.

benefit from more open trade with Central America resulting from increased opportunities that could be made available as a result of establishing new sources of tomatoes at a more advanced stage of ripeness. In both instances, changes of the magnitude presented here should not have large repercussions for either domestic producers or importers of tomatoes.

This proposed rule contains information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

Executive Order 12988

This proposed rule would allow pink and red tomatoes grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama to be imported into the United States. If this proposed rule is adopted, State and local laws and regulations regarding tomatoes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of the potential environmental impacts associated with the importation of tomatoes from Central America, we have prepared an environmental assessment. The environmental assessment, entitled "Proposed Rule for the Importation of Tomatoes from Central America," was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of

the reading room). You may request paper copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2006–0009. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0009, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to allow certain types of tomatoes grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to be imported into the United States without treatment, under certain conditions. Those conditions include trapping, pre-harvest inspection, and shipping procedures designed to prevent the introduction of quarantine pests into the United States. These precautions, along with other requirements, would allow for the importation of tomatoes from those countries in Central America while continuing to provide protection against the introduction of quarantine pests into the United States.

Allowing tomatoes to be imported would necessitate the use of certain information collection activities, including the completion of pre-harvest inspections, phytosanitary certificates, and fruit fly monitoring records.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.0061148 hours per response.

Respondents: National plant protection organizations and growers.

Estimated annual number of respondents: 172.

Estimated annual number of responses per respondent: 26,081.

Estimated annual number of responses: 4,485,992.

Estimated total annual burden on respondents: 27,431 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–2dd would be amended by adding a new paragraph (f) to read as follows:

§ 319.56–2dd Administrative instructions: conditions governing the entry of tomatoes.

* * * * *

(f) *Tomatoes (fruit) (*Lycopersicon esculentum*) from certain countries in Central America.* Pink or red tomatoes may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions:

(1) From areas free of Mediterranean fruit fly:

(i) The tomatoes must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in § 319.56–2(f) of this subpart.

(ii) A pre-harvest inspection of the production site must be conducted by the national plant protection organization (NPPO) of the exporting country for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests are found to be generally infesting the production site, the NPPO may not allow export from that production site until the NPPO and APHIS have determined that risk mitigation has been achieved.

(iii) The tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(iv) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements."

(2) From areas where Medfly is considered to exist:

(i) The tomatoes must be grown in approved registered production sites. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must visit and inspect the production sites monthly starting 2 months before

harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(ii) Tomato production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(iii) Registered sites must contain traps for the detection of Medfly both within and around the production site as follows:

(A) Traps with an approved protein bait for Medfly must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(B) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export tomatoes to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(C) Medfly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(D) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of tomatoes from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(E) The greenhouse must be inspected prior to harvest for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, exports from that production site will be halted until the exporting country's NPPO and APHIS determine that the pest risk has been mitigated.

(iv) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Medfly captures in addition to production site and packinghouse inspection records. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS's review.

(v) The tomatoes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The tomatoes must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(vi) During the time the packinghouse is in use for exporting tomatoes to the United States, the packinghouse may only accept tomatoes from registered approved production sites.

(vii) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

Done in Washington, DC, this 31st day of January 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–1553 Filed 2–3–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC03

Common Crop Insurance Regulations; Mint Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to add to 7 CFR part 457 a new § 457.169 that provides insurance for mint. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to convert the mint pilot crop insurance program to a permanent