DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2012–0002]

RIN 0579–AD63

Importation of Avocados From Continental Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of avocados from continental Spain (excluding the Balearic Islands and Canary Islands) into the United States. As a condition of entry, avocados from Spain will have to be produced in accordance with a systems approach that includes registration of production locations and packinghouses, pest monitoring, sanitary practices, chemical and biological controls, and phytosanitary treatment. The fruit will have to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to the port of entry in the United States. Consignments will have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Spain certifying that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. Consignments of avocados other than the Hass variety would also have to be treated for the Mediterranean fruit fly either prior to moving to the United States or upon arrival prior to release. This action will allow for the importation of avocados from continental Spain while continuing to protect against the introduction of plant pests into the United States.

DATES: *Effective Date:* January 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith C. Jones, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737–1231; (301) 851–2018.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–63, 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.

On January 30, 2013, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** (78 FR 6222–6227, Docket No. APHIS–2012–0002), a proposal [1] to amend the fruits and vegetables regulations to allow the importation of avocados from continental Spain (excluding the Balearic Islands and Canary Islands) into the United States subject to a systems approach and treatment. We proposed to allow the importation of avocados from continental Spain only if they were produced in accordance with a systems approach jointly agreed upon in a bilateral workplan between APHIS and the national plant protection organization (NPPO) of Spain. The systems approach addresses one pest of quarantine significance present in continental Spain that could be introduced into the United States through the importation of avocados. That pest is *Ceratitis capitata* (Wiedemann), the Mediterranean fruit fly.

The proposed systems approach included the following requirements:

- Registration, monitoring, and oversight of places of production;
- Grove sanitation;
- Harvesting requirements for safeguarding and identification of the fruit;
- Packinghouse requirements for safeguarding and identification of the fruit;
- Inspection by the NPPO of Spain for *C. capitata;* and
- Cold treatment for avocado varieties other than Hass.

Additionally, we proposed that all avocados from Spain must be accompanied by a phytosanitary certificate issued by the NPPO of Spain. The phytosanitary certificate accompanying Hass variety avocados would have to contain an additional declaration stating that the avocados were grown in an approved place of production and the consignment has been inspected and found free of *C. capitata.* The phytosanitary certificate accompanying non-Hass avocados would have to contain an additional declaration stating that the avocados were grown in an approved place of production and the consignment has been inspected and found free of *C. capitata,* and, if treated prior to export, that the consignment has been treated for *C. capitata* in accordance with 7 CFR part 305. We proposed to add these requirements to the regulations in a new § 319.56–58 titled *Avocados from continental Spain.*[2]

We solicited comments concerning our proposal for 60 days ending April 1, 2013. We reopened and extended the deadline for comments until June 13, 2013, in a document published in the **Federal Register** on May 29, 2013 (78 FR 32183–32184, Docket No. APHIS–2012–0002). We received 20 comments by that date. They were from the European Union (EU), a State department of agriculture, an organization representing State plant regulatory agencies, domestic avocado growers, and private citizens. They are discussed below by topic.

One commenter stated that the proposed rule identifies the NPPO of Spain as the body responsible for conducting and supervising inspections, monitoring, trapping, surveying, etc., in the systems approach. However, there are other bodies and stakeholders involved, such as the Spanish Autonomous Communities (the first-level political and administrative divisions in Spain), auditing companies, integrated pest management associations, and field technicians and advisors, as defined by Directive 2009/128/EC of the European Parliament and of the Council of October 21, 2009, establishing a framework for EU action to achieve the sustainable use of pesticides. The commenter stated that responsibilities of each partner should be specified in future workplans under the rules.

Under APHIS programs, the NPPO certifies that it is taking responsibility to ensure that these other involved parties act under NPPO direction and perform the actions required by the regulations and workplan. Whether the NPPO achieves this through other parties whose roles are described in EC Directives or other means is an internal matter not subject to our regulations. If the NPPO desires, workplans for the avocado program can include information about which entities will perform which required actions, but in the event of failure to perform any required action APHIS will hold only the NPPO responsible for correcting the problems. We note that the cited EC Directive addresses only pesticide use and integrated pest management, rather than systems approaches for the growth

[1] To view the proposed rule, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0002.*

[2] In this final rule, the provisions of the systems approach are added as § 319.56–64. We discuss the comments in terms of provisions of proposed § 319.56–58 so that the reader can follow along with the proposal.

and certification of crops for export, and even within that scope the Directive emphasizes in many places the responsibility of competent authorities in the Member State to ensure required actions are taken.

One comment addressed the requirement proposed in § 319.56–58(b)(1) that ''[t]he NPPO of Spain must visit and inspect registered places of production monthly, starting at least 2 months before harvest and continuing until the end of the shipping season, to verify that the growers are complying'' with proposed requirements. The commenter stated that the harvest period is approximately February 1 through May 1, which would mean six inspections from December to May. The commenter stated that six inspection visits are unnecessary and not cost-effective, and suggested instead that the NPPO visit production sites once at the beginning of the export season, once during harvest, and at any other times the NPPO finds necessary to verify compliance. The commenter noted that throughout harvest the NPPO, the Autonomous Communities, and the auditing companies employed by them would control, evaluate, and validate field notebooks maintained by growers and inspection reports from field technicians or advisors.

APHIS is making two changes in response to this comment. It is essential that the NPPO effectively monitor compliance before and during harvest to identify and prevent pest risks. However, effective inspection does not necessarily require six visits each year, and depending on the personnel authorized by the NPPO to conduct various compliance monitoring activities, it may not be necessary that NPPO employees visit each production site each month. While it is important that the production site be inspected prior to harvest, both to look for early signs of pests that may not be as visible later and to familiarize the inspector with the production area, upon further consideration we believe a reasonable standard is that a pre-harvest inspection occur at least 1 month prior to harvest rather than the proposed 2 months. Therefore, we are changing the proposed standard to read ''starting at least 1 month before harvest.'' We also note that the term ''before harvest'' refers to the harvest as conducted at each production site, not to the harvest season in general. This could result in fewer inspections in some cases. For example, if a production site begins its harvest on February 15 and ends it April 15, its inspections could be scheduled on January, February, March, and April 10 (or various other dates), for a total of four inspections. We also note that, as discussed above, production site inspections are the responsibility of the NPPO and must be done under NPPO direction to verify the conditions and actions required by the regulations and workplan.

While the responsibility for inspections remains with the NPPO, the identity of the personnel authorized to conduct inspection-related activities may be determined by the NPPO and specified in the workplan. We understand that in some cases the NPPO may authorize personnel who are not NPPO employees, such as employees of an Autonomous Community or an auditing company, to perform duties related to inspection. If so, these personnel must be accountable to the NPPO. To make this clear, in this final rule we are changing the relevant sentence in proposed § 319.56–58(b)(1) to read ''The NPPO of Spain, or an authorized person designated in the workplan, must visit and inspect. . . .''

One commenter noted that proposed § 319.56–58(e)(1) would require a registered packinghouse to pack no fruit for other markets during a period when it packs avocados produced in accordance with the proposed rule's systems approach. The commenter suggested that packinghouses should be allowed to pack fruit for other markets during the same period under conditions to prevent commingling, i.e., that (1) the packing lines in packinghouses be cleared prior to packing avocados for the United States; and (2) fruit destined to the United States must always be identified and stored separately from fruit destined to other markets. The commenter stated that this is similar to measures for the program to export sweet oranges, clementines, and other mandarins from Spain to the United States.

After careful consideration, we have decided to change the rule in response to this comment, according to the following reasoning. Consider the following scenario for avocados produced in accordance with the proposed rule (regulated avocados). There are two areas of pest risk associated with the packinghouse. There is a very minor risk that *C. capitata* could enter the packinghouse associated with other articles destined for other markets, move to regulated avocados, and lay eggs in the regulated avocados. This is very unlikely because normal packinghouse operations make such movement of pests between lots exceedingly rare. There is a slightly larger risk that articles destined for other markets could become accidentally mixed with regulated avocados and shipped to the United States. If the other articles were better hosts than regulated avocados, e.g., untreated non-Hass avocado varieties or even fruits other than avocados, such admixture could result in *C. capitata* larvae being shipped to the United States. We believe both of these areas of risk can be controlled using the type of methods suggested by the commenter. Maintaining the identity of regulated avocados at the packinghouse and ensuring separation between them and other articles are the key concerns. The proposed rule, in § 319.56–58(d), states that regulated avocados must ''remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process.''

This identity requirement will aid achieving separation in the packinghouse. To fully achieve effective separation, we are changing proposed § 319.56–58(e)(1) to read as follows: ''During the time registered packinghouses are in use for packing avocados for export to the United States in accordance with the requirements of this section, packing lines must be cleared of all other articles and plant debris prior to packing such avocados, and such avocados must be stored in a room separate from any other fruits, plant articles, and other potential *C. capitata* hosts while the avocados are at the packinghouse.''

Another commenter stated that the proposal indicates ''Packinghouses should not pack avocados for other countries while packing for the United States.'' The commenter stated that this language needs to be more directive and inclusive, such as: ''During the time the packinghouse is in use for exporting avocados to the United States, the packinghouse may only receive fruit from registered, approved places of production.''

The sentence containing the word ''should'' that was quoted by the commenter appears in the risk management document (RMD) that was prepared prior to the proposed rule and made available with it. The RMD was an evaluative and advisory document that was used during decisionmaking for the proposed rule. The corresponding language in § 319.56–58(e) of the proposed rule was mandatory, and read ''packinghouses may only accept avocados that are from registered places of production.'' However, as discussed with regard to the comment above, we have changed the standard in this final rule for the circumstances under which other articles may be allowed in a packinghouse at the same time as regulated avocados.

The same commenter stated that, while the proposed rule calls for registered orchards to practice field sanitation and pest control measures, there is no requirement for trapping to monitor for *C. capitata* in avocado production blocks.

That is correct, and we are not making any change in response to this comment. A specific trapping requirement is not necessary because the foundation of the proposal is not freedom of the grove areas from *C. capitata,* but rather the 2010 APHIS finding that intact Hass avocados with the stem attached are not a host to *C. capitata* and our requirement for treatment of other avocado varieties that are better hosts. We note that while trapping is not needed and therefore is not required by the proposed rule, it is necessary and required for export of articles that are better *C. capitata* hosts, e.g., citrus, and that to the best of our knowledge the regions that will be exporting Hass avocados also export citrus. In those regions, the autonomous communities conduct annual surveys for *C. capitata* and perform mass trapping and surveillance trapping under the Mediterranean fruit fly management program established by the Government of Spain (see, e.g., ''Real Decreto 461/2004, de 18 de marzo, por el que se establece el Programa nacional de control de la mosca mediterránea de la fruta'' at *http://www.lexureditorial.com/boe/0404/05823.htm*).

One commenter stated that allowing avocado imports instead of supporting the domestic avocado industry is short-sighted and counter-productive, and noted that domestic growers have recently been challenged by both natural factors (such as cold, wind, heat, fire, and lack of water) as well as market conditions. Several other commenters objected in general terms to the economic effects of importing avocados rather than relying on domestic production.

We are not making any change in response to this comment. The Plant Protection Act (7 U.S.C. 7701 *et seq.*), the authorizing statute for APHIS' plant-health-related activities, authorizes the Secretary of Agriculture to prohibit or restrict the importation of any plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States. We have determined that the measures in the systems approach we proposed, amended as described earlier, are sufficient to prevent the introduction of any plant pests. The factors cited by the commenters are not within our decisionmaking authority under the Act.

We have analyzed the economic effects of this rule as required by Executive Order 12866 and the Regulatory Flexibility Act, both in the proposed rule and in the section below. Part of this analysis concluded that it is likely that at least a portion of the projected avocado imports from Spain would displace imports from other foreign sources rather than domestic sources when fresh avocado supplies are low and demand is high. The analysis also concluded that the projected volume of avocado imports from Spain, a few hundred metric tons, is well under half of 1 percent of domestic production and would therefore have minor economic effects.

The Florida Department of Agriculture and Consumer Services commented on the requirement in proposed § 319.56–58(a)(5) that avocados other than Hass variety from continental Spain must be treated for *C. capitata.* We proposed to require cold treatment in accordance with the regulations in 7 CFR 305.6, which allows treatment to occur prior to export to the United States, or upon arrival prior to release. The commenter stated that allowing untreated product into Florida for treatment would greatly increase the possibility of introducing *C. capitata* and is a major departure from long-standing plant protection protocols. It also stated that the required treatments should not preclude an additional high level of inspection at the port of entry to ensure procedures are in place to confirm the treatments were applied properly.

We are not making any change to the rule in response to this comment. The rule will not authorize treatment of any avocados in Florida. We expect post-arrival cold treatment will be infrequent since the industry norm is cold treatment prior to departure or in transit. Further, the regulations will continue to prohibit cold treatment after arrival in Florida. The current regulations on cold treatment, 7 CFR 305.6, allow the establishment of cold treatment facilities for imported articles in certain specific areas of the United States as follows. Facilities may be located on the mainland United States either in the area that is north of 39° latitude and east of 104° longitude, or under special conditions at one of the following ports: The maritime ports of Wilmington, NC; Seattle, WA; Corpus Christi, TX; and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; and Hartsfield-Atlanta International Airport, Atlanta, GA. In a recent proposed rule (78 FR 27864–27866; Docket No. APHIS–2012–0089, published May 13, 2013), we proposed adding MidAmerica St. Louis Airport, Mascoutah, IL, to this list.

The ability of these facilities to conduct cold treatments without spreading and establishing fruit fly populations has been documented several times, most recently in a treatment evaluation document prepared for the proposed rule mentioned above, and in an earlier APHIS study ''Characterizing and mitigating relative risk associated with the movement of tropical fruit fly host material into the United States for cold treatment at certain ports.'' Both of these documents have been added to the administrative record for this rule, available at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0002.*

With regard to the commenter's second point about inspection levels at the port of entry, APHIS inspection will serve as a check on the effectiveness of the systems approach. We do not plan to inspect at a higher level than our usual level, unless evidence indicates that there may be a problem with the implementation of the systems approach. We have found the NPPO of Spain to have the necessary resources and capacity to implement the systems approach, but will continually monitor the program's effectiveness through activities both in Spain and through inspections upon arrival.

This commenter also asked what corrective measures will be taken to prevent a reoccurrence if inspectors find live larvae during inspection, and what penalties will apply in such cases.

Proposed § 319.56–58(f) stated that if any *C. capitata* are detected in the required postharvest inspection in Spain, the place of production where the infested avocados were grown will immediately be suspended from the export program until an investigation has been conducted by APHIS and the NPPO of Spain and appropriate mitigations have been implemented. If any *C. capitata* are detected through inspection at arrival, APHIS will refuse entry to the shipment unless an inspector finds it can be treated to destroy the pests, and APHIS may also order the place of production where the infested avocados were grown to be immediately suspended from the export program pending an investigation.

Another commenter stated that we should not apply the proposed § 319.56–58(f) requirement to non-Hass variety avocados. Under that requirement, if any *C. capitata* are detected in the required postharvest inspection in Spain of non-Hass avocados, the place of production where

the infested avocados were grown will immediately be suspended from the export program until an investigation has been conducted by APHIS and the NPPO of Spain and appropriate mitigations have been implemented. The commenter noted that this means that if a single larva of *C. capitata* is found, the entire consignment of non-Hass avocados would be rejected. However, a certain percentage of infestation should be accepted for non-Hass varieties because they will be subjected to a cold treatment. The commenter stated that this is the case in other bilateral workplans between the United States and Spain, e.g., the preclearance operational workplan for the export of sweet oranges, clementines, and other mandarins from Spain.

We are not making any change based on this comment. Given the serious threat *C. capitata* poses, we believe that it is reasonable to have no tolerance level for *C. capitata* infestation, and to stop accepting shipments from a production site pending investigation when a single larvae is found during inspection. Furthermore, neither the operational plan nor the regulations for shipment of sweet oranges, clementines, and mandarins has such a tolerance. The regulations in this area are even stricter, in consideration of the better host status of such citrus. The relevant section for clementines, § 319.56–34(f), states ''If inspectors find a single live Mediterranean fruit fly in any stage of development during an inspection, the entire consignment of clementines will be rejected. If a live Mediterranean fruit fly in any stage of development is found in any two lots of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.''

One commenter suggested a biometric sample size of 200 fruits for the post-harvest inspection of *C. capitata.* The commenter calculated that sample size using the standard in International Standards for Phytosanitary Measures (ISPM) No. 31, ''Methodologies for sampling of consignments'' (IPPC, 2009 [3]). The commenter stated that calculating sample size for 95 percent confidence level, at a 2 percent level of detection, according to a 75 percent efficacy value where the lot size is large and sufficiently mixed, yields 199 or 200 fruits by the binomial or Poisson distribution, respectively.

We do not disagree with the commenter's methodology, but as stated in the proposed rule, the actual sampling rate with be worked out by technical experts in APHIS in consultation with their counterparts in the NPPO of Spain. The sample size will then be specified in the workplan required by proposed § 319.56–58(a). Specifying the sample size in the workplan rather than the regulations will give us the flexibility to raise or lower the fruit sampling rate when conditions indicate a higher or lower risk of *C. capitata* infestation.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is set forth below.

In response to a request by the NPPO of Spain that APHIS authorize market access for commercial shipments of fresh avocados into the United States, APHIS is allowing the importation of such shipments if Spain produces the avocados in accordance with a systems approach intended to prevent the introduction of quarantine pests.

In 2009, the United States was the world's third largest avocado producer, after Mexico and Chile; the United States accounted for about 7 percent of global production, while Mexico and Chile accounted for 32 percent and 9 percent, respectively. Commercial production of avocado occurs in three States. California accounts for about 90 percent of U.S. production, followed by Florida with about 9 percent, and Hawaii with less than 1 percent. In 2010, U.S. utilized production of avocado totaled about 135,500 metric tons (MT), only one-half of the 271,000 MT produced in 2009, and indicative of the significant variability in yield from year to year.

In the last decade, U.S. per capita consumption of avocado has risen significantly, from 1 kilogram in 2000 to 1.86 kilograms in 2010, representing an annual growth rate of about 6.4 percent. Although the United States is a major producer of avocado, it is also the largest import market (since 2002) and has been a net importer since the late 1980s. During this time, the gap between U.S. imports and U.S. exports has widened substantially. The average annual value of U.S. avocado imports, 2008–2010, was nearly $622 million, compared to average annual exports valued at less than $16 million.

Spanish avocado producers expect to export to the United States about 260 MT of fresh avocado annually, an amount equivalent to 0.15 percent of U.S. production, 0.07 percent of U.S. net imports (imports minus exports), and 0.05 percent of U.S. supply (production plus net imports), based on 2008–2010 average annual U.S. production and trade quantities.

Entities that may be directly affected by the rule are U.S. importers and producers of avocado. Avocado importers are classified in the North American Industry Classification System (NAICS) under Fresh Fruit and Vegetable Merchant Wholesalers (NAICS 424480). Avocado producers are classified under Other Noncitrus Fruit Farming (NAICS 111339). The Small Business Administration (SBA) has established guidelines for determining which establishments are to be considered small. A firm primarily engaged in fresh fruit and vegetable wholesaling is considered small if it employs not more than 100 persons. A firm primarily engaged in noncitrus fruit farming is considered small if it has annual sales of not more than $750,000.

In 2007, nearly 95 percent of fruit and vegetable wholesale establishments (4,207 of 4,437 businesses) that operated the entire year were small by the SBA's small-entity threshold of not more than 100 employees. That same year, nearly 93 percent of farms that sold fruits, tree nuts, or berries (104,424 of 112,690 operations) had annual sales of less than $500,000, well below the SBA's small-entity threshold of $750,000. The subset of these farms that comprise the industry Other Noncitrus Fruit Farming numbered 23,641, and can be assumed to be also primarily composed of small entities. Of these Other Noncitrus Fruit Farming establishments, there were 8,245 avocado farms in 2007, also presumed to be principally small operations.

While most entities that may be affected by the rule are small, any effects should be insignificant because of the small quantity of avocado expected to be imported from continental Spain.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

[3] To view this and other ISPMs on the Internet, go to *http://www.ippc.int/IPP/En/default.jsp* and click on the ''Adopted ISPMs'' link under the ''Standards (ISPMs)'' heading.

determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule allows avocados to be imported into the United States from continental Spain. State and local laws and regulations regarding avocados imported under this rule will be preempted while the fruit is in foreign commerce. Fresh avocados 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. 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.

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 final rule, which were filed under 0579–0400, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

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 are amending 7 CFR part 319 as follows:

PART 319–FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues 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. A new § 319.56–64 is added to read as follows:

§ 319.56–64 Avocados from continental Spain.

Fresh avocados (*Persea americana* P. Mill.) may be imported into the United States from continental Spain (excluding the Balearic Islands and Canary Islands) only under the conditions described in this section. These conditions are designed to prevent the introduction of the quarantine pest *Ceratitis capitata* (Wiedemann), the Mediterranean fruit fly.

(a) *General requirements.* (1) The national plant protection organization (NPPO) of Spain must provide a workplan to APHIS that details the activities that the NPPO of Spain will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The NPPO of Spain must also establish a trust fund in accordance with § 319.56–6.

(2) The avocados must be grown at places of production in continental Spain that are registered with the NPPO of Spain and that meet the requirements of this section.

(3) The avocados must be packed for export to the United States in packinghouses that are registered with the NPPO of Spain and that meet the requirements of this section.

(4) Avocados from Spain may be imported in commercial consignments only.

(5) Avocados other than Hass variety from continental Spain must be treated for *C. capitata* in accordance with part 305 of this chapter.

(b) *Monitoring and oversight.* (1) The NPPO of Spain, or an authorized person designated in the workplan, must visit and inspect registered places of production monthly, starting at least 1 month before harvest and continuing until the end of the shipping season, to verify that the growers are complying with the requirements of paragraph (c) of this section and follow pest control guidelines, when necessary, to reduce quarantine pest populations.

(2) In addition to conducting fruit inspections at the packinghouses, the NPPO of Spain must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of paragraph (e) of this section.

(3) If the NPPO of Spain finds that a place of production or packinghouse is not complying with the requirements of this section, no fruit from the place of production or packinghouse will be eligible for export to the United States until APHIS and the NPPO of Spain conduct an investigation and appropriate remedial actions have been implemented.

(4) The NPPO of Spain must retain all forms and documents related to export program activities in groves and packinghouses for at least 1 year and, as requested, provide them to APHIS for review.

(c) *Grove sanitation.* Avocado fruit that has fallen from the trees must be removed from each place of production at least once every 7 days, starting 2 months before harvest and continuing to the end of harvest. Fallen avocado fruit may not be included in field containers of fruit brought to the packinghouse to be packed for export.

(d) *Harvesting requirements.* Harvested avocados must be placed in field cartons or containers that are marked with the official registration number of the place of production. The place of production where the avocados were grown must remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process. The fruit must be moved to a registered packinghouse within 3 hours of harvest or must be protected from fruit fly infestation until moved. The fruit must be safeguarded by an insect-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing.

(e) *Packinghouse requirements.* (1) During the time registered packinghouses are in use for packing avocados for export to the United States in accordance with the requirements of this section, packing lines must be cleared of all other articles and plant debris prior to packing such avocados, and such avocados must be stored in a room separate from any other fruits, plant articles, and other potential *C. capitata* hosts while the avocados are at the packinghouse.

(2) Avocados must be packed within 24 hours of harvest in an insect-exclusionary packinghouse. All openings to the outside of the packinghouse must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents pests from entering. The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(3) Before packing, all avocados must be cleaned of all plant debris.

(4) Boxes or cartons in which avocados are packed must be labeled with a lot number that provides information to identify the orchard

where grown and the packinghouse where packed. The labeling must be large enough to clearly display the required information and must be located on the outside of the boxes to facilitate inspection.

(5) Avocados must be packed in insect-proof packaging, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the United States. These safeguards must remain intact until arrival in the United States.

(6) Shipping documents accompanying consignments of avocados from continental Spain that are exported to the United States must include the official registration number of the place of production at which the avocados were grown and must identify the packing shed or sheds in which the fruit was processed and packed. This identification must be maintained until the fruit is released for entry into the United States.

(f) *NPPO of Spain inspection.* Following any post-harvest processing, inspectors from the NPPO of Spain must inspect a biometric sample of fruit at a rate determined by APHIS. Inspectors must visually inspect the fruit and cut a portion of the fruit to inspect for *C. capitata.* If any *C. capitata* are detected in this inspection, the place of production where the infested avocados were grown will immediately be suspended from the export program until an investigation has been conducted by APHIS and the NPPO of Spain and appropriate mitigations have been implemented.

(g) *Phytosanitary certificate.* Each consignment of avocados imported from Spain into the United States must be accompanied by a phytosanitary certificate issued by the NPPO of Spain.

(1) The phytosanitary certificate accompanying Hass variety avocados must contain an additional declaration stating that the avocados are Hass variety and were grown in an approved place of production and the consignment has been inspected and found free of *C. capitata.*

(2) The phytosanitary certificate accompanying non-Hass avocados must contain an additional declaration stating that the avocados were grown in an approved place of production and the consignment has been inspected and found free of *C. capitata.* If the consignment has been subjected to treatment for *C. capitata* prior to export in accordance with 7 CFR part 305, the additional declaration must also state this.

(Approved by the Office of Management and Budget under control number 0579–0400)

Done in Washington, DC, this 23rd day of December 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–31190 Filed 12–30–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2011–0132]

RIN 0579–AD62

Importation of Fresh Apricots From Continental Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation into the United States of fresh apricots from continental Spain (excluding the Balearic Islands and Canary Islands). As a condition of entry, fresh apricots from continental Spain will have to be produced in accordance with a systems approach that includes registration of production locations and packinghouses, pest monitoring, sanitary practices, chemical and biological controls, and phytosanitary treatment. The fruit will have to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to port of entry in the United States. Consignments will have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Spain certifying that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. This action will allow for the importation of fresh apricots from continental Spain while continuing to protect against the introduction of plant pests into the United States.

DATES: *Effective Date:* January 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith C. Jones, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737–1231; (301) 851–2018.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–62, 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 within the United States.

On January 30, 2013, we published in the **Federal Register** (78 FR 6227–6232, Docket No. APHIS–2011–0132) a proposal [1] to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh apricots (*Prunus armeniaca* L.) [2] from continental Spain (excluding the Balearic Islands and Canary Islands) into the United States. We proposed to allow the importation of fresh apricots from continental Spain only if they were produced in accordance with a systems approach jointly agreed upon in a bilateral workplan between the Animal and Plant Health Inspection Service (APHIS) and the national plant protection organization (NPPO) of Spain. The systems approach addresses four quarantine pests that the pest risk analysis (PRA) determined could follow the pathway of consignments of fresh apricots imported from continental Spain into the United States:

- The Mediterranean fruit fly (Medfly), *Ceratitis capitata* Wiedemann,
- The plum fruit moth, *Cydia funebrana* (Treitschke),
- Leaf scorch, *Apiognomonia erythrostoma* (Pers.), a fungus, and
- Brown rot, *Monilinia fructigena* Honey, a fungus.

The proposed systems approach included the following requirements: Registration of production locations and packinghouses; pest monitoring and control, including trapping for *C. funebrana* and *C. capitata* to demonstrate areas of low prevalence; grove sanitation; chemical controls; inspection by the NPPO of Spain for quarantine pests; and phytosanitary treatment in accordance with 7 CFR part 305 and the Plant Protection and Quarantine (PPQ) Treatment Manual.[3] We also proposed that fruit would have to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to port of entry in the United States, and that consignments would have to be

[1] To view the proposed rule, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0132.*

[2] Although we included *Prunus armeniaca* Marshall as the scientific name for apricot in the proposed rule and risk assessment, both that name and *Prunus armeniaca* L. refer to the same species.

[3] *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.*