

greenhouses during this period as well. If, during these inspections, any of the quarantine pests listed in the introductory text of this section is found inside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(b) *Trapping for Dacus spp. fruit flies.* Trapping for *Dacus bivitatus*, *Dacus ciliatus*, *Dacus frontalis*, *Dacus lounsburyi*, *Dacus punctatifrons*, and *Dacus vertebratus* (referred to in paragraph (b) of this section, collectively, as *Dacus spp. fruit flies*) is required both inside and outside the greenhouse. Trapping must be conducted beginning 2 months before harvest and continue for the duration of the harvest.

(1) *Inside the greenhouse.* Approved fruit fly traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of at least two traps per greenhouse. The traps must be serviced at least once every 7 days. If a *Dacus spp. fruit fly* is found in a trap inside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(2) *Outside the greenhouse.* (i) Approved fruit fly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the greenhouse at a density of 1 trap per 10 hectares, with a total of at least 10 traps. At least one of these traps must be placed near the greenhouse. These traps must be serviced at least once every 7 days.

(ii) No shade trees are permitted within 10 meters of the entry door of the greenhouse, and no fruit fly host plants are permitted within 50 meters of the entry door of the greenhouse. While trapping is being conducted, no fruit fly host material (such as fruit) may be brought into the greenhouse or be discarded within 50 meters of the entry door of the greenhouse. Ground applications of an approved protein bait spray for the *Dacus spp. fruit flies* must be used on all shade trees and host plants within 200 meters surrounding the greenhouse every 6 to 10 days starting at least 30 days before and during harvest.

(iii) *Dacus spp. fruit fly* prevalence levels lower than 0.7 flies per trap per week (F/T/W) must be maintained outside the greenhouse for the duration of the trapping. If the F/T/W is 0.7 or greater outside the greenhouse, the Zambian NPPO will immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition will remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

(3) *Records and monitoring.* The Zambian NPPO or its approved designee must maintain records of trap placement, trap servicing, and any *Dacus spp.* captures. The Zambian NPPO must maintain an APHIS-approved quality control program to audit the trapping program. APHIS must be given access to review 1 year's worth of trapping data for any approved greenhouse upon request.

(c) *Packinghouse procedures.* Baby squash and baby courgettes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. No shade trees are permitted within 10 meters of the entry door of the packinghouse, and no fruit fly host plants are permitted within 50 meters of the entry door of the packinghouse. In addition, during packing, no fruit fly host material other than the baby squash and baby courgettes may be brought into the packinghouse, and no fruit fly host material may be discarded within 50 meters of the entry door of the packinghouse. The baby squash or baby courgettes must be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The baby squash or baby courgettes must be packed in insect-proof cartons for shipment to the United States. These cartons must be labeled with the identity of the greenhouse. While packing the baby squash or baby courgettes for export to the United States, the packinghouse may only accept baby squash or baby courgettes from approved greenhouses. These safeguards must remain intact until the arrival of the baby squash or baby courgettes in the United States. If the safeguards do not remain intact, the consignment will not be allowed to enter the United States.

(d) *Commercial consignments.* Baby squash and baby courgettes from Zambia may be imported in commercial consignments only.

(e) *Phytosanitary certificate.* Each consignment of baby squash and baby courgettes must be accompanied by a phytosanitary certificate of inspection

issued by the Zambian NPPO with an additional declaration reading as follows: "These baby squash or baby courgettes were produced in accordance with 7 CFR 319.56–48."

Done in Washington, DC, this 7th day of May 2008.

Cindy J. Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–10920 Filed 5–15–08; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2008–0017]

RIN 0579–AC77

#### Importation of Tomatoes From Souss-Massa, Morocco

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to allow the importation of commercial consignments of tomatoes from the Souss-Massa region of Morocco subject to a systems approach similar to that which is already in place for tomatoes imported into the United States from other areas of Morocco. The tomatoes would have to be produced under conditions that would include requirements for pest exclusion at the production site, fruit fly trapping inside the production site, and pest-exclusionary packinghouse procedures. The tomatoes would also be required to be accompanied by a phytosanitary certificate issued by the Moroccan national plant protection organization with an additional declaration stating that the tomatoes have been grown in registered greenhouses in the Souss-Massa region and were 60 percent or less pink at the time of packing. This action would allow for the importation of commercial consignments of tomatoes from the Souss-Massa region of Morocco into the United States while continuing to provide protection against the introduction of quarantine pests.

**DATES:** We will consider all comments that we receive on or before July 15, 2008.

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

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/>

*main?main=DocketDetail&d=APHIS-2008-0017* to submit or view comments and to view supporting and related materials available electronically.

**Postal Mail/Commercial Delivery:** Please send two copies of your comment to Docket No. APHIS-2008-0017, 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-2008-0017.

**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. Sharon Porsche, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, 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 319.56–1 through 319.56–47, 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.

Currently, the regulations in § 319.56–28(c) authorize the importation of pink tomatoes from the provinces of El Jadida and Safi in Morocco and the province of Dahkla in Western Sahara into the United States subject to a systems approach. This systems approach requires tomato production in an area of low prevalence and production in a pest-free growing structure to mitigate Mediterranean fruit fly (Medfly, *Ceratitis capitata*).

The Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF), has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow tomatoes (*Lycopersicon*

*esculentum* L.) to be imported from the Souss-Massa region of Morocco into the United States. As part of our evaluation of Morocco's request, we prepared a commodity import evaluation document (CIED). Copies of the CIED may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instruction for accessing Regulations.gov).

We prepared a CIED for this action rather than a pest risk analysis because the pest risks associated with importing tomatoes from other regions of Morocco have been previously determined through the pest risk analysis prepared to support the rulemaking that led to the establishment of the existing systems approach referred to above under which tomatoes may be imported from elsewhere in Morocco and Western Sahara. We expect that a comparable systems approach can be used successfully for the proposed production area in Souss-Massa; however, because the Souss-Massa region is not a low prevalence area for Medfly, we have determined that additional measures would be necessary to mitigate the risks posed by the Medfly. Therefore, the systems approach we would use for tomatoes from the Souss-Massa region would include requirements regarding the absence or treatment of shade trees within a specified distance of greenhouses and packinghouses and an increased number of traps per hectare within the greenhouses.

As is currently in place for tomatoes from El Jadida or Safi in Morocco and for the province of Dahkla in Western Sahara, we would require that tomatoes from the Souss-Massa region of Morocco be grown in insect-proof greenhouses registered with, and inspected by, DPVCTRF, and approved by APHIS. The tomatoes would only be allowed to be shipped from the Souss-Massa region of Morocco between December 1 and April 30, inclusive.

Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF would be required to set and maintain Medfly traps baited with trimedlure, or other approved protein bait, inside the registered greenhouses at a rate of eight traps per hectare, with a minimum of four traps in each greenhouse. All traps would have to be checked every 7 days. We propose to require DPVCTRF to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request. The trapping records would

have to be maintained for 1 year for APHIS review.

Capture of a single Medfly in a registered greenhouse during the period beginning 2 months prior to export and continuing through the duration of the harvest, or detection of a Medfly in a consignment which is traced back to a registered greenhouse, would immediately result in cancellation of exports to the United States from that registered greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Exports would not be reinstated until APHIS and DPVCTRF mutually determine that the risk has been properly mitigated.

Packing would have to occur in a pest-exclusionary packinghouse. During the time the packinghouse is in use for exporting fruit to the United States, the packinghouse would only be able to accept fruit from registered production sites. The tomatoes would have to be pink at the time of packing,<sup>1</sup> be packed within 24 hours of harvest, and would have to be safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. In addition, the tomatoes would have to be packed in fruit fly-proof containers or covered by an insect-proof mesh or plastic tarpaulin for transit to the ship or airport and subsequent shipping to the United States. These safeguards would have to be intact upon arrival to the United States. For sea shipments, containers would have to be kept closed if stored within 20 meters of Medfly host materials prior to loading.

In order to reduce the pest pressure of Medfly outside the greenhouse and packinghouse, no shade trees would be permitted within 10 meters of the entry door of the greenhouse or packinghouse, and no fruit fly host material would be permitted within 50 meters of the entry door of the greenhouse. Ground applications of an approved protein bait spray pesticide for Medfly would have to be used on all shade trees and host plants within 200 meters of the greenhouses every 6 to 10 days starting at least 30 days before harvest and continuing through the end of the harvest.

DPVCTRF would be responsible for export certification inspection and issuance of phytosanitary certificates. We propose to require each shipment of pink tomatoes to be accompanied by a phytosanitary certificate issued by

<sup>1</sup> The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red.

DPVCTRF and bearing the declaration, "These tomatoes were grown in registered greenhouses in the Souss-Massa region and were pink at the time of packing."

We are proposing to add these requirements to § 319.56–28 as a new paragraph (g). We would also amend the introductory text of paragraph (c) of that section in order to make it more clear that the provisions in that paragraph apply only to the El Jadida and Safi provinces in Morocco and the province of Dahkla in Western Sahara rather than to all of Morocco and Western Sahara.

#### Executive Order 12866 and Regulatory Flexibility Act

This 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.

We are proposing to allow the importation of commercial shipments of tomatoes from the Souss-Massa region of Morocco subject to a systems approach similar to that which is already in place for tomatoes imported into the United States from other areas of Morocco. The systems approach would include requirements for pest exclusion at the production site, fruit fly trapping inside the production site, and pest-exclusionary packinghouse procedures. The tomatoes would also be

required to be accompanied by a phytosanitary certificate issued by the Moroccan national plant protection organization with an additional declaration stating that the tomatoes have been grown in registered greenhouses in the Souss-Massa region and were 60 percent or less pink at the time of packing. This action would allow for the importation of commercial consignments of tomatoes from the Souss-Massa region of Morocco into the United States while continuing to provide protection against the introduction of quarantine pests.

#### U.S. Tomato Production and Trade

The United States is a major tomato producer and importer. The United States produced 1,858,886 metric tons (MT) of fresh tomatoes valued at \$1.6 billion in 2006, while imports that year totaled 992,334 MT. Tomato production occurs in many States. The top 10 States (Florida, California, Virginia, Georgia, Ohio, Tennessee, North Carolina, Pennsylvania, New Jersey, and Michigan) accounted for 95 percent of total cash receipts in 2006.<sup>2</sup> According to the 2002 Census of Agriculture (most recent data on farm sizes), there were 19,539 farms producing tomatoes in the United States. About 59 percent of these farms had less than 1 acre in tomatoes. Overall, 19,067 farms (or 97.6 percent) had a total of 95,145 acres planted in

tomatoes (about 21.2 percent of the total planted area). They are considered small, averaging about 5 acres and with an average annual income of about \$21,500 in 2002. The remaining 2.4 percent of the farms planted a total of 353,355 acres in tomatoes. They averaged 749 acres, with an average annual income of about \$3,227,700.<sup>3</sup>

As shown in table 1, U.S. tomato production has fluctuated over recent years, while there has been an upward trend in consumption. The most recent data show production was 1,945,614 MT in 2002, and declined to 1,858,886 MT in 2006, an annual rate of decline of about 1 percent. On the other hand, consumption increased over this same period, from 2,654,359 MT to 2,707,022 MT, and U.S. imports increased from 859,521 MT to 992,334 MT. Mexico is the source of the largest share of imports (85 percent in 2006), followed distantly by Canada (13.6 percent). Other minor suppliers include the Netherlands, Spain, Dominican Republic, Belgium, Israel, Italy, Costa Rica, Poland, and Guatemala. The United States was a net importer throughout the period 2002 to 2006 with average annual imports (over 934,950 MT) dwarfing exports (less than 150,620 MT). Imports represent 35 percent of consumption. Imports from Morocco are expected to be small compared to an already large import base.

TABLE 1.—U.S. TOMATO PRODUCTION, CONSUMPTION, PRICE, EXPORTS AND IMPORTS, 2002–2006

Year	Production in metric tons	Consumption in metric tons	Price per metric ton	Exports in metric tons	Imports in metric tons
2002 .....	1,945,614	2,654,359	\$925	150,730	859,521
2003 .....	1,773,474	2,570,398	1,144	142,520	939,444
2004 .....	1,896,670	2,660,936	1,131	167,513	931,779
2005 .....	1,914,360	2,717,953	1,129	148,099	951,692
2006 .....	1,858,886	2,707,022	1,243	144,198	992,334
5-year average (2002–2006) .....	1,877,800	2,662,134	1,114	150,612	934,954

Source: USDA/ERS, Vegetables and Melons Situation and Outlook Yearbook/VGS–2007/July 26, 2007.

#### Morocco Tomato Production and Trade

Production of tomatoes in Morocco increased from 991,020 MT in 2002 to 1,245,000 MT in 2006. Of this total, greenhouse tomatoes, which are candidates for export to the United States, represented about 47.6 percent. Of the greenhouse total, 74 percent are produced in the Souss-Massa region.<sup>4</sup> Over this same period, exports fluctuated widely, ranging between

200,460 MT in 2002 and 248,740 MT in 2006, with a significantly lower level of 107,370 MT exported in 2004. The average quantity of tomatoes exported by Morocco during the period was 161,190 MT.

Most of the 248,740 MT exported by Morocco in 2006 went to European Union (EU) countries (218,892 MT), especially France, which received about 86 percent of the EU share. France and Morocco have a long history of bilateral

trade that is likely to continue to be strong. Exports to other EU countries accounted for about 14 percent of Morocco's total tomato trade. Non-EU countries accounted for 12 percent of the total, with Russia (20,759 MT) and Switzerland (8,989 MT) major importers.

Trade records show that an average of 91 MT of tomatoes, valued at \$209,000, was imported annually by the United States from Morocco between 1998 and

<sup>2</sup> USDA/ERS, Vegetables and Melons Situation and Outlook Yearbook/VGS–2007/July 26, 2007.

<sup>3</sup> USDA/NASS, 2002 Census of Agriculture, United States Data, p. 35.

<sup>4</sup> Christine Chemnitz and Harald Grethe, "EU Trade Preference for Moroccan Tomato Exports—Who Benefits?" Paper prepared for presentation at the 99th seminar of the European Association of

Agricultural Economics (EAAE), "The Future of Rural Europe in the Global Agri-Food system," 23–27 August 2005, Copenhagen.

2001. The United States has not imported tomatoes from Morocco since 2001. Although the Souss-Massa region is a major tomato-producing area of Morocco, the record of U.S. imports suggests that only a small amount may be expected to be imported from this region.

#### *Impact of Potential Fresh Tomato Imports*

We estimate the impact of tomato imports from Morocco on U.S. production, consumption, and prices using a net trade welfare model. The

data used were obtained from the Food Agricultural Organization (FAO) and the Global Trade Atlas.<sup>5</sup> The demand and supply elasticities used are  $-0.62$  and  $0.37$ , respectively.<sup>6</sup>

We model three levels of tomato exports to the United States from Morocco of increasing magnitude: (i) 100 MT, roughly equivalent to average annual U.S. imports of tomato from Morocco, 1998–2001; (ii) 10 times this amount (1,000 MT); and (iii) 100 times historic imports (10,000 MT).

Table 2 presents the changes we estimate could result from the assumed

levels of U.S. tomato imports from Morocco. These include annual changes in U.S. consumption, production, wholesale price, consumer welfare, producer welfare, and net welfare. The medium level of assumed tomato exports to the United States of 1,000 MT could result in a decline of 49 cents per MT in the wholesale price of tomatoes and a fall in U.S. production of 279 MT. Consumption could increase by 721 MT. Producer welfare could decline by \$840,000 and consumer welfare could increase by \$1.3 million, yielding an annual net benefit of about \$455,000.

TABLE 2.—ESTIMATED IMPACT ON THE U.S. ECONOMY OF TOMATO IMPORTS FROM MOROCCO FOR THREE IMPORT SCENARIOS

Assumed annual tomato imports from Morocco, MT .....	<sup>1</sup> 100	<sup>2</sup> 1,000	<sup>3</sup> 10,000
Change in U.S. consumption, MT .....	72	721	7,209
Change in U.S. production, MT .....	–28	–279	–2,791
Change in wholesale price of tomatoes, dollars per MT .....	–\$0.05	–\$0.49	–\$4.87
Change in consumer welfare .....	\$129,530	\$1,295,440	\$12,970,190
Change in producer welfare .....	–\$84,040	–\$840,300	–\$8,396,870
Annual net benefit .....	\$45,490	\$455,140	\$4,573,320

**Note:** The baseline data used are 5-year annual averages for production, consumption, prices, exports and imports, as reported in the last row of table 1. The demand and supply elasticities used are  $-0.62$  and  $0.37$ , respectively (see footnote 5 above).

<sup>1</sup> Four-year (1998 to 2001) average annual tomato exports by Morocco to the United States. Morocco has not exported tomatoes to the United States since 2001.

<sup>2</sup> Ten times the average fresh tomato exports to the United States from Morocco, 1998–2001.

<sup>3</sup> One hundred times the average fresh tomato exports to the United States from Morocco, 1998–2001.

In all three scenarios, consumer welfare gains outweigh producer welfare losses. Even in the third scenario in which we assume imports would be 100 times the level of past imports from Morocco, the decline in producer welfare would represent less than six-tenths of 1 percent of cash receipts received from the sale of domestically produced fresh tomatoes. The price decline in this third scenario also would be only about five-tenths of 1 percent. We welcome public comment that may help us to better understand possible effects of the rule on U.S. fresh tomato producers.

The Small Business Administration (SBA) has established guidelines for determining which firms are to be considered small under the Regulatory Flexibility Act. This rule could affect U.S. producers of fresh tomatoes (classified under Other Vegetable except Potato) and Melon Farming, North American Industry Classification System 111219) and some importers of fresh tomatoes. Vegetable-producing establishments are classified as small if their annual receipts are not more than \$750,000.<sup>7</sup> According to the 2002

Census of Agriculture (most recent data on farm sizes), there were 19,539 farms producing tomatoes in the United States. About 59 percent of these farms had less than 1 acre in tomatoes. Overall, 19,067 farms (or 97.6 percent) had a total of 95,145 acres in tomatoes (about 21.2 percent of the total planted area) and are considered small, with an average of about 5 acres and an average annual income of about \$21,500 in 2002. The remaining 2.4 percent farms planted a total of 353,355 acres in tomatoes (78.8 percent of the planted area). They averaged 749 acres, with an average annual income of about \$3,227,700.

As shown in table 3, the impact of potential tomato imports on U.S. small-entity producers as a result of this rule would be small. The annual decrease in producer welfare per small entity is less than \$94, or about 0.43 percent of average annual sales by small entities, when we assume that 10,000 MT of tomatoes would be exported to the United States from Morocco because of this rule, that is, 100 times the level of past imports from Morocco. The dollar decrease in welfare for most small

tomato producers would be even smaller, given that the majority planted less than one acre in tomatoes, based on the 2002 Census of Agriculture.

TABLE 3.—THE ECONOMIC IMPACT OF POTENTIAL TOMATO IMPORTS FROM MOROCCO ON U.S. SMALL ENTITIES, ASSUMING ANNUAL EXPORTS OF 10,000 METRIC TONS TO THE UNITED STATES, 2006 DOLLARS

Total decline in producer welfare <sup>1</sup> .....	–\$8,396,870
Decrease in welfare incurred by small entities <sup>2</sup> .....	–\$1,780,140
Average decrease per acre, small entities <sup>3</sup> .....	–\$18.70
Average decrease per small entity <sup>4</sup> .....	–\$93.60
Average decrease as percentage of average sales, small entities <sup>5</sup> .....	–0.43%

<sup>1</sup> From table 2.

<sup>2</sup> Change in producer welfare multiplied by 21.2 percent, the percentage of total acreage planted by producers with annual revenues of not more than \$750,000, that is, small entities. We assume that the change in producer welfare would be proportional to acreage share.

<sup>5</sup> UN/FAO, FAO statistical data (<http://faostat.fao.org>) and Global Trade Information Services, Inc., country edition, August 2007.

<sup>6</sup> The demand elasticity is from K. Huang, “A complete system of U.S. demand for food,”

Technical Bulletin No. 182, 1993, USDA/ERS, Washington, DC, and the supply elasticity is from S.R. Hammig and R.C. Mettelhammer, “An evaluation of import tariffs in the Canada-U.S. fresh tomato market,” Canadian Journal of Agricultural Economics, Vol. 30 (1982): 133–152.

<sup>7</sup> SBA, small business size standards matched to the North American Industry Classification System 2002, Effective October, 2007 (<http://www.sba.gov/size/sizetable2002.html>).

<sup>3</sup> Decrease in producer welfare for small entities divided by 95,145, the number of acres planted by small entities.

<sup>4</sup> Average decrease per acre multiplied by 5, the average number of acres per small entity.

<sup>5</sup> Average decrease per small entity divided by \$21,500, the average annual revenue per small entity.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule would allow tomatoes to be imported into the United States from the Souss-Massa region of Morocco. 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 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.

#### 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-2008-0017. Please send a copy of your comments to: (1) Docket No. APHIS-2008-0017, 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.

APHIS is proposing to allow the importation of commercial consignments of tomatoes from the Souss-Massa region of Morocco subject to a systems approach similar to that which is already in place for tomatoes

imported into the United States from other areas of Morocco. The tomatoes would have to be produced under conditions that would include requirements for pest exclusion at the production site, fruit fly trapping inside the production site, and pest-exclusionary packinghouse procedures.

Allowing tomatoes to be imported from Souss-Massa, Morocco into the United States will require information collection activities such as recordkeeping, trapping data, and the completion of phytosanitary certificates.

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 1.0051546 hours per response.

*Respondents:* Foreign officials, exporters, importers, growers of tomatoes.

*Estimated annual number of respondents:* 18.

*Estimated annual number of responses per respondent:* 21.5555.

*Estimated annual number of responses:* 388.

*Estimated total annual burden on respondents:* 390 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) 851-2908.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government 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 proposed 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 propose to amend 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. In § 319.56-34, paragraph (j) footnote 8 is redesignated as footnote 9.

3. In § 319.56-28, the introductory text of paragraph (c) is revised and a new paragraph (g) is added to read as follows:

#### § 319.56-28 Tomatoes from certain countries.

\* \* \* \* \*

(c) *Tomatoes (fruit) (*Lycopersicon esculentum*) from the provinces of El Jadida or Safi in Morocco and the province of Dahkla in Western Sahara.* Pink tomatoes may be imported into the United States from the provinces of El Jadida or Safi in Morocco and the province of Dahkla in Western Sahara only in accordance with this section and other applicable provisions of this subpart.<sup>7</sup>

\* \* \* \* \*

(g) *Tomatoes (fruit) (*Lycopersicon esculentum*) from the Souss-Massa region of Morocco.* Pink tomatoes may be imported into the United States from the Souss-Massa region of Morocco only in accordance with this section and other applicable provisions of this subpart.<sup>8</sup>

(1) The tomatoes must be grown in the Souss-Massa region of Morocco in insect-proof greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF);

<sup>7</sup> See footnote 5 to paragraph (a) of this section.

<sup>8</sup> See footnote 5 to paragraph (a) of this section.

(2) The tomatoes may be shipped from the Souss-Massa region of Morocco only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure, or other approved protein bait, inside the greenhouses at a rate of 8 traps per hectare, with a minimum of 4 traps in each greenhouse. All traps must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request. DPVCTRF must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for 1 year for APHIS review;

(5) Capture of a single Medfly in a registered greenhouse during the 2 months prior to export and continuing through the duration of the harvest, or detection of a Medfly in a consignment which is traced back to a registered greenhouse, will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Exports will not be reinstated until APHIS and DPVCTRF mutually determine that risk mitigation has been achieved;

(6) No shade trees are permitted within 10 meters of the entry door of the greenhouse or packinghouse, and no Medfly host material is permitted within 50 meters of the entry door of the greenhouse or packinghouse. Ground applications of an approved protein bait spray pesticide for Medfly must be used on all shade trees and host plants within 200 meters surrounding the greenhouses as required by APHIS. Application must occur every 6 to 10 days starting at least 30 days before and during harvest;

(7) The tomatoes must be packed within 24 hours of harvest and must be pink at the time of packing. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh or plastic tarpaulin for transit to the airport or ship and export to the United States. These safeguards must be intact upon arrival in the United States. Sea containers must be kept closed if stored

within 20 meters of Medfly host materials prior to loading; and

(8) DPVCTRF is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by DPVCTRF and bearing the declaration, "These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing" or "These tomatoes were grown in registered greenhouses in the Souss-Massa region and were pink at the time of packing."

Done in Washington, DC, this 7th day of May 2008.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8-10923 Filed 5-15-08; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. APHIS-2007-0141]

### Importation of Horses, Ruminants, Swine, and Dogs; Remove Panama From Lists of Regions Where Screwworm Is Considered To Exist

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations regarding the importation of live horses, ruminants, swine, and dogs by removing Panama from the lists of regions where screwworm is considered to exist. We are taking this action because the eradication of screwworm from Panama has been confirmed. This action would relieve certain screwworm-related certification and inspection requirements for live animals imported into the United States from Panama.

**DATES:** We will consider all comments that we receive on or before July 15, 2008.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0141> to submit or view comments and to view supporting and related materials available electronically.

- **Postal Mail/Commercial Delivery:** Please send two copies of your comment to Docket No. APHIS-2007-0141, 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-2007-0141.

**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:** Dr. Julia Punderson, Regionalization Evaluation Services—Import, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-0757.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of pests and diseases of livestock and poultry, including New World screwworm (*Cochliomyia hominivorax*). Screwworm, a pest native to tropical areas and currently found in South America and the Caribbean, causes extensive damage to livestock and other warm-blooded animals. Subparts C, D, E, and F of the regulations govern the importation of horses, ruminants, swine, and dogs, respectively, and include provisions for the inspection and treatment of these animals if imported from any region of the world where screwworm is considered to exist. Sections 93.301, 93.405, 93.505, and 93.600 list all the regions of the world where screwworm is considered to exist.

The regulations include provisions that the animals be inspected, quarantined, and, if necessary, treated for screwworms, and require that the animals be accompanied to the United States by a certificate signed by a full-time salaried veterinary official of the exporting region attesting that the above conditions have been met. Additionally,