

# Proposed Rules

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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-2011-0028]

RIN 0579-AD61

### Importation of Fresh Bananas From the Philippines Into the Continental United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh bananas from the Philippines into the continental United States. As a condition of entry, the bananas would have to be produced in accordance with a systems approach that would include requirements for importation of commercial consignments, monitoring of fruit flies to establish low-prevalence places of production, harvesting only of hard green bananas, and inspection for quarantine pests by the national plant protection organization of the Philippines. The bananas would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that they were grown, packed, and inspected and found to be free of quarantine pests in accordance with the proposed requirements. This action would allow the importation of bananas from the Philippines while continuing to protect against the introduction of plant pests into the United States.

**DATES:** We will consider all comments that we receive on or before June 15, 2012.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/> `#!documentDetail;D=APHIS-2011-0028-0001`.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2011-0028, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/> `#!docketDetail;D=APHIS-2011-0028` or in our reading room, which 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) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Jones, Regulatory Coordination Specialist, PPQ, RPM, RCC, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 851-2289.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–54, 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.

The national plant protection organization (NPPO) of the Philippines has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow bananas from the Philippines to be imported into the continental United States. Currently, bananas may not be imported from the Philippines. Historically, bananas have been imported into the United States only from Central and South America and have been moved interstate from Hawaii to the continental United States.

As part of our evaluation of the Philippines’ request, we prepared a pest risk assessment (PRA), titled “Importation of Bananas, *Musa* spp., as Fresh, Hard Green Fruit from the Philippines to the Continental United States, A Qualitative Pathway-Initiated Risk Assessment” (July 21, 2009). The PRA evaluated the risks associated with

the importation of green bananas into the United States from the Philippines.

The PRA identified 16 pests of quarantine significance present in the Philippines that could be introduced into the United States through the importation of green bananas:

##### Fruit flies:

- *Bactrocera musae*
- *B. occipitalis*
- *B. philippinensis*

##### Scales:

- Red wax (*Ceroplastes rubens*)
- Green (*Coccus viridis*)

##### Beetle:

- Longhorned (*Sybra alternans*)

##### Mealybugs:

- Gray pineapple (*Dymicoccus neobrevipes*)
- Coffee root (*Geococcus coffeae*)
- Hibiscus (*Maconellicoccus hirsutus*)
- Coffee (*Planococcus lilacinus*)
- Pacific (*Planococcus minor*)
- Cryptic (*Pseudococcus cryptus*)
- Mango (*Rastrococcus invadens*)
- Philippine mango (*Rastrococcus spinosus*)

##### Fungi

- *Cercospora hayi* Calpouzos
- *Guignardia musae* Racib.

The PRA rated the fruit flies as high risk; the beetle, both scales, and all the mealybugs as medium risk; and the fungi as low risk. Pests with low risk ratings do not typically require specific mitigation measures. Based on the information contained in the PRA, APHIS has determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by the quarantine pests with high and medium pest risk potential. To recommend specific measures to mitigate those risks, we prepared a risk management document (RMD). Copies of the PRA and RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the recommendations of the RMD, we are proposing to allow the importation of bananas from the Philippines into the continental United States only if they are produced in accordance with a systems approach. The systems approach we are proposing would require:

- Registration, monitoring, and oversight of places of production;

- Trapping for the *Bactrocera* spp. fruit flies to establish low-prevalence places of production;

- Covering bananas with pesticide bags during the growing season;

- Harvesting only of hard green bananas;

- Requirements for culling, safeguarding, and identifying the fruit; and

- Inspection by the NPPO of the Philippines for quarantine pests.

Bananas from the Philippines would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the bananas were grown, packed, and inspected in accordance with the proposed requirements.

We are proposing to add the systems approach to the regulations in a new § 319.56–57 governing the importation of bananas from the Philippines into the United States. The mitigation measures in the proposed systems approach are discussed in greater detail below.

### Proposed Systems Approach

#### General Requirements

Paragraph (a) of § 319.56–57 would set out general requirements for the NPPO of the Philippines and for growers and packers producing bananas for export to the United States.

Paragraph (a)(1) would require the NPPO of the Philippines to provide a workplan to APHIS that details activities that the NPPO of the Philippines will, subject to APHIS' approval of the workplan, carry out to meet the requirements of proposed § 319.56–57. The implementation of a systems approach typically requires a bilateral workplan to be developed. A bilateral workplan is an agreement between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Bilateral workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific export programs. Bilateral workplans also establish how specific phytosanitary issues are dealt within the exporting country and make clear who is responsible for dealing with those issues.

Paragraph (a)(2) would require bananas to be grown at places of production that are registered with the NPPO of the Philippines and that meet the proposed requirements for places of

production that are discussed later in this document. We would also require that each registered place of production renew its registration annually.

Paragraph (a)(3) would require bananas to be packed for export to the United States in packinghouses that meet the packinghouse requirements that are described later in this document.

Paragraph (a)(4) would require bananas from the Philippines to be imported in commercial consignment only. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe and is often grown with little or no pest control.

#### Monitoring and Oversight

The systems approach we are proposing includes monitoring and oversight requirements in paragraph (b) of proposed § 319.56–57 to ensure that the required phytosanitary measures are properly implemented throughout the process of growing and packing of bananas for export to the United States.

Paragraph (b)(1) would require the NPPO of the Philippines to visit and inspect registered places of production monthly, starting at least 3 months before harvest and continuing until the end of the shipping season, to verify that the growers are complying with the requirements and follow pest control guidelines, when necessary, to reduce quarantine pest populations. If fruit fly trapping is conducted, the NPPO of the Philippines would also have to verify that the growers are complying with the fruit fly trapping requirements and would have to certify that each place of production has effective fruit fly trapping programs. Any personnel conducting trapping would have to be trained and supervised by the NPPO of the Philippines. APHIS would monitor the places of production by conducting random and scheduled inspections.

Under paragraph (b)(2), if the NPPO of the Philippines finds that a place of production or a packinghouse is not complying with the proposed regulations, no fruit from the place of

production or packinghouse would be eligible for export to the United States until APHIS and the NPPO of the Philippines conduct an investigation and appropriate remedial actions have been implemented.

Paragraph (b)(3) would require the NPPO of the Philippines to 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. Such forms and documents would include (but would not necessarily be limited to) fruit fly trapping and inspection records.

#### Fruit Fly Trapping To Establish Places of Production With Low Pest Prevalence

Paragraph (c) of proposed § 319.56–57 would provide for the use of trapping to demonstrate that registered places of production have a low prevalence of the *Bactrocera* spp. fruit flies. Although the PRA has determined that the three *Bactrocera* spp. are potential pests of bananas from the Philippines, bananas are known to be poor hosts to most species of fruit flies. However, *B. musae* is recorded as attacking green bananas. Trapping to demonstrate an area of low pest prevalence would therefore be an appropriate mitigation for fruit flies.

Beginning at least 3 months before harvest begins and continuing through the end of the harvest, trapping would have to be conducted in registered places of production with at least 1 trap per 0.2 square kilometers to demonstrate that the places of production have a low prevalence of the *Bactrocera* spp. fruit flies. APHIS-approved traps baited with APHIS-approved plugs would have to be used and serviced at least once every 2 weeks.

During the trapping, when traps are serviced, if the *Bactrocera* spp. fruit flies are trapped at a registered place of production at cumulative levels above 2 flies per trap per day, pesticide bait treatments would have to be applied in the affected place of production in order for the place of production to remain eligible to export bananas to the United States. The NPPO of the Philippines would have to keep records of fruit fly detections for each trap, update the records each time the traps are checked, and make the records available to APHIS inspectors upon request.

Although the *Bactrocera* spp. fruit flies have been identified as pests of banana in the Philippines, we do not want to impose trapping requirements if they are not justified by the presence of fruit fly larvae in Philippine bananas; as noted earlier, bananas are poor hosts of fruit flies in general, especially when harvested green. Under the heading

“NPPO of the Philippines Inspection” later in this document, we describe requirements for cutting bananas to inspect for internal feeders such as fruit fly larvae. We are proposing to provide that the fruit fly trapping requirements described in proposed paragraph (c) would no longer apply if, after 2 years from the effective date of a final rule following this proposed rule, such inspections do not find any larvae of the *Bactrocera* spp. fruit flies. In general, we consider 2 years’ worth of data on how fruit flies affect a commodity to be sufficient to make determinations on how to regulate for these pests.

The date on which trapping would no longer be required would be included in the regulations. If no fruit fly larvae are found, we would publish a notice in the **Federal Register** to confirm that fruit fly trapping would no longer be required. If fruit fly larvae are found, we would amend the regulations to address the demonstrated risk.

#### *Bagging Requirements*

Paragraph (d) would provide that plastic bags impregnated with pesticides must cover the bananas during the growing period. If a pesticide bag falls off or is torn, that fruit would no longer be eligible for export to the United States. This growing requirement would prevent quarantine pests from attacking bananas.

#### *Harvesting Requirements*

Paragraph (e) of § 319.56–57 sets out requirements for harvesting bananas. Under paragraph (e)(1), bananas would have to be harvested at a hard green stage. Harvesting bananas at a hard green stage (i.e., bananas with no yellow or green color break) is a standard industry practice for banana production in Central and South America, Hawaii, and most of the world because ripe bananas are more likely to be infested by fruit flies. Inspectors at the port of entry would determine that:

- Bananas shipped by air are still green upon arrival in the United States;
- Bananas shipped by sea are either green upon arrival in the United States or yellow but firm.

Under paragraph (e)(2), harvested bananas would have to be placed in field cartons or containers that are marked with the official registration number of the place of production. The fruit would have to be safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and other injurious insect pests. These requirements would ensure that APHIS and the NPPO of the Philippines could identify the place of production where

the bananas were produced if inspectors find quarantine pests in the fruit either before export or at the port of entry. Places of production with quarantine pests would be removed from the program.

#### *Post-Harvesting Processing*

Paragraph (f) of proposed § 319.56–57 would provide that all damaged fruit would have to be culled at the packinghouse. Fruit with broken or bruised skin is more susceptible to infestation by pests than undamaged fruit. In addition, the fruit would have to be washed with a high pressure water spray and with soap and water. This requirement would remove mealy bugs and other quarantine pests from the fruit prior to export.

#### *Packinghouse Requirements*

We are proposing several requirements for packinghouse activities, which would be contained in paragraph (g) of proposed § 319.56–57. Paragraph (g)(1) would provide that the packinghouse would have to have double doors at the entrance to the facility and at the interior entrance to the area where the bananas are packed. This proposed requirement is designed to exclude fruit flies from the packinghouse.

Paragraph (g)(2) would require that bananas for export be packed into new, clean boxes, crates, or other packing material. We would also require bananas intended for export to the United States to be labeled with the name and location of the packinghouse marked on the boxes, and segregated from bananas intended for other markets. These requirements would ensure that APHIS and the NPPO of the Philippines could identify the packinghouse at which the fruit was packed if inspectors find quarantine pests in the fruit either before export or at the port of entry.

Paragraph (g)(3) would require that shipping documents accompanying consignments of bananas from the Philippines that are exported to the United States include the official registration number of the place of production at which the bananas were grown and must identify the packinghouse in which the fruit was processed and packed. This identification must be maintained until the fruit is released for entry into the United States.

Paragraph (g)(4) would require that the packinghouse operations for export of bananas be monitored by the NPPO of the Philippines. This requirement would ensure that the packinghouses remain compliant with the regulations.

#### *NPPO of the Philippines Inspection*

To ensure that the mitigations required in the systems approach are effective at producing fruit free of the targeted quarantine pests, we would require the NPPO of the Philippines to inspect the fruit after harvest. Paragraph (h)(1) of proposed § 319.56–57 would require inspectors from the NPPO of the Philippines to certify that bananas were harvested at the hard green stage.

Under paragraph (h)(2), the NPPO of the Philippines would be required to inspect a biometric sample of the fruit from each place of production at a rate to be determined by APHIS. The inspectors would have to visually inspect fruit from each place of production for all the quarantine pests. The inspectors would also have to cut fruit to inspect for quarantine pests that are internal feeders, which include larvae of the three *Bactrocera* fruit fly species (*B. musae*, *B. occipitalis*, *B. philippinensis*) and the beetle *Sybra alternans*. We have determined that inspection can serve as an effective mitigation for the risk associated with these pests in bananas exported from the Philippines.

If any *Bactrocera* spp. fruit flies are detected in this inspection, the place of production where the infested bananas were grown would immediately be suspended from the export program until an investigation has been conducted by APHIS and the NPPO of the Philippines and appropriate mitigations have been implemented. If other quarantine pests are detected in this inspection, the consignment will be rejected from the export program.

#### *Phytosanitary Certificate*

To certify that the bananas from the Philippines have been grown and packed in accordance with the requirements of proposed § 319.56–57, proposed paragraph (i) would require each consignment of bananas imported from the Philippines into the United States to be accompanied by a phytosanitary certificate issued by the NPPO of the Philippines with an additional declaration stating that the bananas in the consignment were grown, packed, and inspected in accordance with the systems approach in proposed § 319.56–57.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the

potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The United States is a minor producer but a major importer of bananas. Banana imports from the Philippines would compete against existing U.S. banana imports from other countries. The volume of bananas expected to be imported from the Philippines is not more than 100 containers per year at most, or approximately 1,814 metric tons annually. This quantity is equivalent to about 0.05 percent of U.S. imports. Compared to the volume of current imports, the quantity of bananas expected to be imported from the Philippines is negligible. Moreover, bananas from the Philippines will be allowed only into the continental United States, not into Hawaii. For these reasons, any impact of the rule for U.S. banana producers in Hawaii would be small.

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 bananas to be imported into the United States from the Philippines. If this proposed rule is adopted, State and local laws and regulations regarding bananas 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–2011–0028. Please send a copy of your comments to: (1) Docket No. APHIS–2011–0028, 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.

Allowing the importation of fresh bananas from the Philippines into the continental United States will require the completion of the following information: A bilateral workplan, registration of production sites, monitoring and oversight of production sites, maintenance of records, forms, and documents, marking of production sites with registration numbers, and a phytosanitary certificate.

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 0.76892 hours per response.

*Respondents:* Foreign government, importers and growers of bananas from the Philippines.

*Estimated Annual Number of Respondents:* 46.

*Estimated Annual Number of Responses per Respondent:* 5,456.

*Estimated Annual Number of Responses:* 251.

*Estimated total annual burden on respondents:* 193 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. A new § 319.56–57 is added to read as follows:

#### § 319.56–57 Bananas from the Philippines.

Bananas (*Musa* spp., which include *M. acuminata* cultivars and *M. acuminata* x *M. balbisiana* hybrids) may be imported into the continental United States from the Philippines only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Bactrocera musae* (Tryon), *Bactrocera occipitalis* (Bezzi), and *Bactrocera philippinensis* (Drew and Hancock) fruit flies; *Ceroplastes rubens* (Maskell), the red wax scale; *Coccus viridis* (Green), the green scale; *Sybra alternans* (Wiedemann), a longhorned beetle; *Dymicoccus neobrevipes* (Beardsley), the gray pineapple mealybug; *Geococcus coffeae* (Green), the coffee root mealybug; *Maconellicoccus hirsutus* (Green), the hibiscus mealybug; *Planococcus lilacinus* (Cockerell), the coffee mealybug; *Planococcus minor*

(Maskell), the pacific mealybug; *Pseudococcus cryptus* (Hempel), the cryptic mealybug; *Rastrococcus invadens* (Williams), the mango mealybug; and *Rastrococcus spinosus* (Robinson), the Philippine mango mealybug.

(a) *General requirements.* (1) The national plant protection organization (NPPO) of the Philippines must provide an operational workplan to APHIS that details the activities that the NPPO of the Philippines will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section.

(2) Bananas must be grown at places of production that are registered with the NPPO of the Philippines and that meet the requirements of this section. Registration must be renewed annually.

(3) Bananas must be packed for export to the United States in packinghouses that meet the requirements of this section.

(4) Bananas from the Philippines may be imported in commercial consignments only.

(b) *Monitoring and oversight.* (1) The NPPO of the Philippines must visit and inspect registered places of production monthly, starting at least 3 months before harvest begins and continuing through the end of the shipping season, to verify that the growers are complying with the requirements of this section and follow pest control guidelines, when necessary, to reduce quarantine pest populations. When trapping is required under paragraph (c) of this section, the NPPO of the Philippines must also verify that the growers are complying with the requirements in that paragraph and must certify that each place of production has an effective fruit fly trapping program. Any personnel conducting trapping under paragraph (c) of this section must be trained and supervised by the NPPO of the Philippines. APHIS may monitor the places of production as necessary to ensure compliance.

(2) If the NPPO of the Philippines 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 the Philippines conduct an investigation and appropriate remedial actions have been implemented.

(3) The NPPO of the Philippines must retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS for review.

(c) *Fruit fly trapping to establish places of production with low pest*

*prevalence.* Beginning at least 3 months before harvest begins and continuing through the end of the harvest, trapping must be conducted in registered places of production with at least 1 trap per 0.2 square kilometers to demonstrate that the places of production have a low prevalence of *Bactrocera* spp. fruit flies. APHIS-approved traps baited with APHIS-approved plugs must be used and serviced at least once every 2 weeks. During the trapping, when traps are serviced, if fruit flies are trapped at a particular place of production at cumulative levels above 2 flies per trap per day, pesticide bait treatments must be applied in the affected place of production in order for the place of production to remain eligible to export bananas to the United States. The NPPO of the Philippines must keep records of fruit fly detections for each trap, update the records each time the traps are checked, and make the records available to APHIS inspectors upon request. If no *Bactrocera* spp. larvae have been found in the inspections required in paragraph (h) of this section by [Insert date 2 years after the effective date of final rule], the activities described in this paragraph are no longer required.

(d) *Bagging requirements.* Plastic bags impregnated with pesticides must cover the bananas. During the growing period, if a pesticide bag falls off or is torn, the fruit in that bag may not be exported to the United States.

(e) *Harvesting requirements.* (1) Bananas must be harvested at a hard green stage and inspected at the port of entry to determine that:

(i) Bananas shipped by air are still green upon arrival in the United States;

(ii) Bananas shipped by sea are either green upon arrival in the United States or yellow but firm.

(2) Harvested bananas must be placed in field cartons or containers that are marked to show the official registration number of the production site. The identification of the place of production must be maintained from the time when the fruit leaves the place of production until the fruit is released for entry into the United States.

(f) *Post-harvest processing.* After harvest, all damaged or diseased fruit must be culled at the packinghouse. Fruit must be washed with a high pressure water spray, and washed with soap and water.

(g) *Packinghouse requirements.* (1) Packinghouses must prevent the entry of pests with a double-door entry system designed to exclude quarantine pests of concern.

(2) Bananas for export must be packed into new, clean boxes, crates or other packing materials. Bananas intended for

export to the United States must be labeled with the name and location for the packinghouse, and segregated from bananas intended for other markets.

(3) The shipping documents accompanying the consignment of bananas from the Philippines that are exported to the United States must include the official registration number of the place of production at which the bananas were grown and must identify the packinghouse in which the fruit was processed and packed. This identification must be maintained until the fruit is release for entry into the United States.

(4) The packinghouse operations for export of bananas must be monitored by the NPPO of the Philippines.

(h) *NPPO of the Philippines inspection.* (1) Following any post-harvest processing, inspectors from the NPPO of the Philippines must certify that bananas were harvested at the hard green stage.

(2) Inspectors from the NPPO of the Philippines must inspect a biometric sample of the fruit from each place of production at a rate to be determined by APHIS. The inspectors must visually inspect for quarantine pests listed in the introductory text of this section and must cut fruit to inspect for quarantine pests that are internal feeders. If *Bactrocera* spp. fruit flies are found upon inspection, the export program will be suspended until an investigation has been conducted by APHIS and the NPPO of the Philippines and appropriate mitigations have been implemented. If other quarantine pests are detected in this inspection, the consignment will be destroyed and the registered place of production will be rejected from the export program.

(i) *Phytosanitary certificate.* Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of the Philippines that contains an additional declaration stating that the bananas in the consignment were grown, packed, and inspected in accordance with the systems approach in 7 CFR 319.56–55.

Done in Washington, DC, this 9th day of April 2012.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2012–9063 Filed 4–13–12; 8:45 am]

**BILLING CODE 3410–34–P**