Michoacan as a pest-free zone prior to importing Hass avocados.

Several comments maintain that prior to allowing the importation of Hass avocados from Mexico, APHIS should develop treatments able to eliminate all exotic pests from avocado fruit at a ''probit 9'' mortality level. (A treatment yielding a probit 9 mortality effects a 99.9968 percent mortality in a population of live organisms, that is, a population of pests in fruit.)

Currently, there is no effective treatment for eliminating *Anastrepha* fruit flies or any of the avocado pests of concern from Hass avocado fruit. We believe the multiple safeguards that we are proposing for the importation of Hass avocados from Michoacan, Mexico, into the northeastern United States would mitigate pest risk at a level equivalent to that provided by a treatment yielding a probit 9 mortality. If a treatment for Hass avocado fruit from Michoacan were developed, APHIS would consider its use.

One comment criticized the conclusion drawn by Sanidad Vegetal that a 1993–1994 orchard and packinghouse fruit sampling research study indicated that there was zero risk of live immature stages of fruit flies entering the United States in Hass avocados. We agree that such a conclusion is unsupported by statistical analysis, since it is statistically impossible to prove zero risk for any commodity. Accordingly, this proposed rule contains no provisions that are based on an assumption of zero risk regarding the possibility of live immature stages of fruit flies entering the United States in Hass avocados.

One comment concluded that APHIS must prove Hass avocados to be non-hosts to *Anastrepha* fruit flies before we allow their importation from Michoacan.

As stated above, we believe Hass avocados to be a non-preferred host to *Anastrepha* fruit flies while on the tree and better hosts following harvest. The phytosanitary requirements we are proposing, especially in light of the Hass avocado's poor host status, would prevent *Anastrepha* flies from being introduced into the United States through the importation of Hass avocados.

One comment states that Sanidad Vegetal's conclusions regarding a correlation between maturity of Hass avocado fruit (measured by the percent of dry matter) and fruit immunity to *Anastrepha* fruit fly infestation are invalid.

We agree that Sanidad Vegetal research did not prove that there is a correlation between dry matter content of Hass avocados and immunity to *Anastrepha* infestation. The APHIS avocado interception records and past research mentioned above do indicate, however, that the Hass avocado may have some natural physiological resistance to infestation by *Anastrepha* fruit flies. Further research must be conducted before any such conclusions can be applied to the quarantine status of Hass avocados from Michoacan.

One comment expresses concerns that pests known to attack Hass avocados in Mexico could be introduced into the northeastern United States through importation from Michoacan, colonize the area, and damage fruit crops grown there.

We are proposing to allow Hass avocados to be imported into the Northeastern United States only during the winter, from November through February. The cold temperatures during these months would preclude colonization by these tropical and subtropical pests, because they could not survive under the climatic conditions and/or because there would be no host material.

Several comments state that avocado growers in Michoacan use pesticides not approved for use on avocados in the United States, such as methyl parathion, and that avocados imported from Michoacan containing residues of these pesticides would, therefore, be prohibited from importation.

The United States Food and Drug Administration samples and tests imported fruits and vegetables for pesticide residues. If residue of a pesticide unapproved in the United States is found in a shipment of imported fruit or vegetables, the shipment is denied entry into the United States.

Many of the comments argue that APHIS lacks the resources to enforce phytosanitary restrictions on Hass avocado imports from Michoacan, particularly restrictions on the distribution of Mexican Hass avocados within the United States.

We agree that adequate resources and personnel, especially inspectors, would have to be devoted to prevent the introduction of avocado and other plant pests into the United States. Adjustments in the level of personnel and resources devoted to APHIS programs are a normal part of management in the agency. Duties and staffing levels would be adjusted, in Michoacan, at ports, and elsewhere, to satisfy the needs of a new avocado import program. While APHIS would assign some additional personnel to monitor trapping and surveys and compliance with phytosanitary requirements in Michoacan orchards and packinghouses, we believe much of the resources needed for this program are already in place, in the form of existing APHIS overseas and port personnel. Funding levels and agency personnel may vary from year to year. Import authorizations would not be provided if the level of resources decreases below the level needed to ensure that all imported regulated articles are subject to the level of inspection and monitoring necessary to prevent the introduction of plant pests into the United States. In terms of enforcing the restrictions on the distribution of Mexican Hass avocados within the United States, APHIS would be assisted by the Fruit and Vegetable Division of the Agricultural Marketing Service, which has agreed to notify us if Mexican avocado fruit, which they would grade, showed up at terminal markets in prohibited States.

One comment criticizes the Sanidad Vegetal proposal to have growers hire the technical personnel involved in surveys and trapping, citing a conflict of interests.

As explained above, we would not allow growers to hire or supervise the technical personnel involved in trapping or pest surveys, but they would be allowed to pay expenses.

Several comments question Sanidad Vegetal's claim that *Anastrepha* fruit flies have never infested Hass avocados in Mexico and that *Anastrepha* fruit flies have never been intercepted in Hass avocados intended for export.

According to APHIS and Agricultural Research Service records, *Anastrepha* fruit flies have never been found in Hass avocados outside of laboratory tests, in which infestation was artificially induced.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may