Trapping Program

Comment: In the proposed rule, APHIS has not provided specifics on the Mediterranean fruit fly (Medfly) trapping program conducted within the designated Medfly-free districts. APHIS may want to provide additional discussion in the final rule substantiating the establishment of the pest free zone.

Response: The Medfly trapping techniques, including the type of trap, type of lures, placement of trap, monitoring of trap, etc., used to establish the Medfly-free area in Belize are in accordance with written guidelines patterned after recommendations of the California Department of Food and Agriculture (CDFA) Pest Detection Guide. (To obtain a copy of the CDFA Pest Detection Guide, write to Dr. Isi A. Siddiqui, California Department of Food and Agriculture, 1220 N Street, Sacramento, CA 95814.) Compliance is routinely verified by APHIS personnel.

Treatment Required

Comment: It is essential, given the possible economic impact of fruit fly introduction, that any required treatment be conducted at the point of origin, as opposed to the point of arrival, to ensure that none of the fruit flies are imported into the United States. Also, APHIS should cite its basis for the conclusion that climatic conditions at the port of Wilmington, NC, are unsuitable for the establishment of fruit flies.

Response: APHIS encourages cold treatments in the country of origin or en route to the United States aboard vessels with approved cold treatment facilities. However, our experience shows that cold treatments can be successfully carried out at U.S. ports of arrival without significant risk of fruit fly escape. Therefore, three options are usually available for cold treated fruit: treatment in the country of origin, treatment en route to the United States, and treatment upon arrival in the United States.

When we approved cold treatment at Wilmington, NC, in a final rule published in the Federal Register on August 10, 1994 (59 FR 40794–40797, Docket No. 93–121–3), we imposed additional safeguards not required for cold treatment at more northern locations. A detailed explanation of the additional conditions appears in the preamble of the proposed rule published in the Federal Register on May 13, 1994 (59 FR 24968–24971, Docket No. 93–121–2). The additional conditions are: 1. Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit arriving for cold treatment must be packaged in fruit flyproof packaging that prevents the escape of adult, larval, or pupal fruit flies.

2. Bulk and containerized shipments of fruit arriving at the port of Wilmington, NC, for cold treatment must be cold treated within the port, that is, the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

3. Advance reservations for cold treatment space at the port of Wilmington, NC, must be made prior to the departure of a shipment from its port of origin.

We believe that the conditions established for cold treatment at Wilmington, NC, including these additional conditions, are adequate to prevent the introduction of certain plant pests into the United States.

Pest Risk Assessments

Comment: The pest risk assessments supporting this proposal appear to consist only of a cursory look at the interception histories and a brief review of the available literature. Approval of a number of the commodities proposed for entry should be postponed until additional review can take place.

Response: We believe that the pest risk assessments performed and the safeguards proposed are adequate to prevent the introduction of pests by the commodities proposed for entry. In addition, APHIS is developing a more transparent pest risk assessment process to offer outside reviewers a clearer and more detailed explanation of how we determine pest risk, thereby enhancing public understanding of the pest risk involved with each commodity proposed for entry. This new pest risk assessment process follows the guidelines provided by the international plant protection organizations (e.g. North American Plant Protection Organization and United Nations' Food and Agricultural Organization) and will provide written documentation on the pest risk potential for organisms that rank high for the likelihood of introduction and establishment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes noted above.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the

provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the Federal Register.

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 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. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could have introduced injurious plant pests into the United States. This final rule revises the status of certain commodities from certain countries and localities, allowing their importation into the United States for the first time.

These changes are based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk assessments indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables will be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables. Papayas from Belize