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–2014–0088]

RIN 0579–AE05

Mexican Hass Avocado Import Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: Commercial consignments of Hass avocado fruit are currently authorized entry into the continental United States, Hawaii, and Puerto Rico from the Mexican State of Michoacán under a systems approach to mitigate against quarantine pests of concern. We are proposing to amend the regulations to allow the importation of fresh Hass avocado fruit into the continental United States, Hawaii, and Puerto Rico from all of Mexico, provided individual Mexican States meet the requirements set out in the regulations and the operational workplan. Initially, this action would only apply to the Mexican State of Jalisco. With the exception of a clarification of the language concerning when sealed, insect-proof containers would be required to be used in shipping and the removal of mandatory fruit cutting at land and maritime borders, the current systems approach would not change. That systems approach, which includes requirements for orchard certification, limited production area, trace back labeling, pre-harvest orchard surveys, orchard sanitation, post-harvest safeguards, fruit cutting and inspection at the packinghouse, port-of-arrival inspection, and clearance activities, would then be required for importation of fresh Hass avocado fruit from all approved areas of Mexico. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico with an additional declaration stating that the consignment was produced in accordance with the systems approach described in the operational workplan. This action would allow for the importation of fresh Hass avocado fruit from Mexico while continuing to provide protection against the introduction of plant pests into the continental United States, Hawaii, and Puerto Rico.

DATES: We will consider all comments that we receive on or before April 20, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2014-0088.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0088, 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-2014-0088* 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: Mr. David B. Lamb, Senior Regulatory Policy Specialist, RPM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2103.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–71), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States. The requirements for importing fresh Hass avocado fruit into the United States from Michoacán, Mexico, are described in § 319.56–30. Those requirements include pest surveys and pest risk-reducing practices, treatment, packinghouse procedures, inspection, and shipping procedures.

The national plant protection organization (NPPO) of Mexico has requested that APHIS amend the regulations in order to allow Hass avocados to be imported from all of Mexico into the continental United States, Hawaii, and Puerto Rico. As part of our evaluation of Mexico's request, we prepared a pest risk assessment (PRA), ''Importation of Fresh Fruit of Avocado (*Persea americana* Mill. var. 'Hass') from Mexico into the Continental United States, Hawaii, and Puerto Rico, A Qualitative, Pathway-Initiated Pest Risk Assessment'' (January 2014), which evaluated the risk of permitting the importation of Mexican Hass avocados from all of Mexico into the continental United States, Hawaii, and Puerto Rico.

We also prepared a commodity import evaluation document (CIED) to determine what phytosanitary measures should be applied to mitigate the pest risk associated with the importation of Hass avocados from all of Mexico into the continental United States, Hawaii, and Puerto Rico. Copies of the PRA and 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 a link to Regulations.gov and information on the location and hours of the reading room).

In the CIED, entitled, ''Expansion of areas allowed to import Fresh Commercial Avocado Fruit (*Persea americana* Mill. Var. 'Hass') from Mexico into the Continental United States, Hawaii, and Puerto Rico,'' (June 2014), we determined that because the systems approach currently in place is successful in mitigating the risks of introducing quarantine pests associated with the importation of fresh Hass avocado fruit from Michoacán, Mexico, into the continental United States, Hawaii, and Puerto Rico, the current systems approach will also adequately mitigate the risks of introducing quarantine pests from the other Mexican States. We concluded that the phytosanitary risks for insect pests associated with the importation of Hass avocados from all of Mexico into the continental United States, Hawaii, and

Puerto Rico would be effectively mitigated using nearly the same systems approach as is currently used for the importation of Hass avocados from Michoacán, Mexico, as set forth in § 319.56–30. We are proposing to make some minor changes to the systems approach. Those proposed changes are discussed below.

Based on the findings of the CIED and the PRA, we are proposing to amend § 319.56–30 to allow commercial shipments of Hass avocados from all growing areas of Mexico to be imported into the continental United States, Hawaii, and Puerto Rico.

The first additional Mexican State that would be expected to become eligible to export Hass avocados under this proposed expansion would be the State of Jalisco. Currently, only Jalisco is prepared to meet the requirements set out in the regulations for eligibility to ship fresh Hass avocado fruit into the continental United States, Hawaii, and Puerto Rico. Specifically, these requirements are found in § 319.56–30(c) and include orchard certification, traceback labeling, pre-harvest orchard surveys, orchard sanitation, post-harvest safeguards, and fruit cutting and inspection at the packinghouse. This proposed rule would allow for future importation of fresh Hass avocados from other Mexican States provided those States meet the APHIS requirements contained in the regulations. Prior to shipments beginning from any future States, APHIS would work with the NPPO of Mexico to ensure that they meet the requirements of § 319.56–30(c). Any additions to the review process for approving new States will be added to the operational workplan as mutually negotiated and agreed on between APHIS and the NPPO of Mexico.

Pests of Concern

Specific pests of concern associated with fresh avocado fruit for which mitigations are required are listed in paragraphs (c)(1)(ii), (c)(2)(i), and (e) of § 319.56–30. They are:

- *Conotrachelus aguacatae,* a small avocado seed weevil;
- *Conotrachelus perseae,* a small avocado seed weevil;
- *Copturus aguacatae,* avocado stem weevil;
- *Heilipus lauri,* large avocado seed weevil; and
- *Stenoma catenifer,* avocado seed moth.

We are proposing to remove references to these specific pests from the regulations. The pest list would instead be maintained in the operational workplan provided to APHIS for approval by the NPPO of Mexico. An operational 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. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Operational workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The existing systems approach for importing fresh Hass avocado fruit into the United States from Michoacán, Mexico, currently requires that an annual workplan be developed. This change would allow APHIS flexibility and responsiveness in adding or removing pests of concern from the list of actionable pests. (The current regulations refer to a ''bilateral work plan.'' For the sake of consistency with our other regulations, we would change the term to ''operational workplan'' in this rulemaking.)

Additionally, based on the findings of the PRA, we would add eight pests to the list of pests of concern to be maintained in the operational workplan. Of those, we would require field and packinghouse surveys for *Cryptaspasma perseana,* a tortricid moth, and *Conotrachelus serpentinus,* a weevil, but not for the other six pests listed below, which were determined to pose a medium or low chance of following the importation pathway of fresh Hass avocado fruit from Mexico. These pests, which would be addressed through port of entry inspection, are:

- Avocado sunblotch viroid;
- *Maconellicoccus hirsutus* (Green), pink hibiscus mealybug;
- *Pseudophilothrips perseae* (Watson), a thrips;
- *Scirtothrips aceri* (Moulton), a thrips;
- *Scirtothrips perseae* Nakahara, a thrips; and
- *Sphaceloma perseae* Jenkins, avocado scab.

We have determined that the existing mitigations would be sufficient to prevent these six pests from following the pathway of importation, in particular, packinghouse culling, restriction of shipments to commercial consignments only, and NPPO inspection. The six pests listed above produce symptoms on infested fruit that are macroscopic in nature and thus easily detectable upon surface inspection. Further, commercially produced fruit are grown and packed to meet quality standards that are much higher than non-commercially produced fruit and are therefore less likely to serve as hosts to pests of phytosanitary concern. Interceptions of pests in commercial shipments of fruit versus passenger baggage indicate commercially produced fruit represents a much lower risk of carrying pests.

Fruit Covering Requirements

In § 319.56–30, paragraph (c)(3)(vii) currently references the lid, insect-proof mesh, or other material required to be placed over the avocados prior to leaving the packinghouse to protect against fruit fly infestation. Paragraph (c)(3)(viii) describes refrigerated transit requirements for the avocado fruit within Mexico. Recently, a maritime shipment of fresh avocado fruit from Mexico arrived in Port Manatee, FL, for the first time. The avocados were in uncovered trays inside sealed refrigerated containers, and the shipment was delayed because the avocados were not covered with a lid, insect-proof mesh, or other material. As a result of this incident, we have examined the requirements in paragraphs (c)(3)(vii) and (c)(3)(viii) and determined that we should clarify our intentions regarding whether those lids, insect-proof mesh, or other material need to remain in place throughout the entire shipping process.

Since the lids, insect-proof mesh, or other material are intended to provide phytosanitary protection against fruit flies, and transport in refrigerated trucks or containers provides the same protection, we are proposing to amend the regulations in order to stipulate that those coverings would not be required when the avocado fruit is inside a refrigerated container or truck. Such coverings would therefore not be required to be applied at the packinghouse, as the avocados are transferred directly from inside the packinghouse into refrigerated containers or trucks, and all transit within Mexico is required to be completed in these containers or trucks. If the avocado fruit is transferred to a non-refrigerated container at an air or maritime port in Mexico for shipment to the United States, a covering would have to be applied.

Port of Entry Fruit Cutting

Currently, Hass avocado fruit are required to be biometrically sampled and cut in the field, at the packinghouse, and by an inspector at the port of first entry into the United

States. We received a request from U.S. Customs and Border Protection to amend the port of entry requirement, which is found in § 319.56–30(f), in order to allow the fruit to be cut at the discretion of the inspector. Given the lack of quarantine pest interceptions in shipments of avocado fruit from Mexico at the ports of first entry for the period from 1997 to 2014, we propose to amend the requirement. This will allow for operational flexibility. The other cutting and sampling requirements would remain unchanged.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The 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 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. 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).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Mexican officials have requested that additional States in Mexico be allowed to export Hass avocados to the United States under the same systems approach that was implemented for Michoacán, Mexico, and has successfully kept pest infestations associated with imported avocados out of the United States. U.S. imports of avocado from Mexico have increased significantly over the years, from 311 million pounds in 2003 to over 1.1 billion pounds in 2013. U.S. avocado production over the 10 years from the 2002/03 season through the 2011/12 season averaged 423 million pounds per year, of which California accounted for 87.5 percent or over 375 million pounds. Nearly all of California's production is of the Hass variety.

While APHIS does not have information on the size distribution of U.S. avocado producers, according to the Census of Agriculture, there were a total of 93,020 fruit and tree nut farms in the United States in 2012. The average value of agricultural products sold by these farms was less than $274,000, which is well below the SBA's small-entity standard of $750,000. It is reasonable to assume that most avocado farms qualify as small entities. Between 2002 and 2012, the number of avocado operations in California grew by approximately 17 percent, from 4,801 to 5,602 operations.

Avocados produced in the State of Jalisco, north of Michoacán, are expected to be the first that would be exported to the United States under this rule. These imports would help meet the increasing year-round U.S. demand for avocados. Per capita avocado consumption in the United States grew from 1.1 pounds in 1989 to 4.5 pounds in 2011. A growing Hispanic population and greater awareness of the avocado's health benefits have helped to spur demand.

In 2012, Jalisco produced about 90 million pounds of Hass avocados. Given required phytosanitary safeguards, only a fraction of this quantity is expected to qualify for importation by the United States. But even if all of Jalisco's avocado production were to meet the requirements for U.S. entry, the total quantity would be equivalent to less than 8 percent of U.S. Hass avocado imports in 2013 of over 1.2 billion pounds. The proposed rule is therefore not expected to have a large impact on the U.S. avocado market or California producers because of potential imports solely from the Mexican State of Jalisco. Any market effects are as likely to be borne by other foreign suppliers, such as Chile and Peru, as by U.S. producers.

Executive Order 12988

This proposed rule would allow fresh Hass avocado fruit to be imported into the United States from all of Mexico. If this proposed rule is adopted, State and local laws and regulations regarding fresh Hass avocado fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables 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

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 319.56–30 is amended as follows:

■ a. By revising the section heading.

■ b. In the introductory paragraph, by removing the words ''Michoacan, Mexico,'' and adding the word ''Mexico'' in their place.

■ c. By revising paragraph (c) introductory text.

■ d. In paragraph (c)(1)(i), by removing the words ''bilateral work plan'' and adding the words ''operational workplan'' in their place.

■ e. In paragraph (c)(1)(ii), by removing the words ''the large avocado seed weevil *Heilipus lauri,* the avocado seed moth *Stenoma catenifer,* and the small avocado seed weevils *Conotrachelus aguacatae* and *C. perseae*'' and adding the words ''avocado pests listed in the operational workplan'' in their place.

■ f. In paragraph (c)(2) introductory text, by removing the words ''annual work plan'' and adding the words ''operational workplan'' in their place.

■ g. In paragraph (c)(2)(i), by removing the words ''the avocado stem weevil *Copturus aguacatae''* and adding the words ''avocado pests listed in the operational workplan'' in their place.

■ h. In paragraph (c)(3) introductory text, by removing the words ''annual work plan'' and adding the words ''operational workplan'' in their place.

■ i. By revising paragraph (c)(3)(vii).

■ j. In paragraph (c)(3)(viii), by adding two sentences at the end of the paragraph.

■ k. In paragraph (e), by removing the words ''*Heilipus lauri, Conotrachelus*

aguacatae, C. perseae, Copturus aguacatae, or *Stenoma catenifer*'' and adding the words ''listed in the operational workplan'' in their place.

■ l. In paragraph (f), by removing the word ''will'' and adding the word ''may'' in its place.

The revisions and additions read as follows:

§ 319.56–30 Hass avocados from Mexico.

* * * * *

(c) *Safeguards in Mexico.* The avocados must have been grown in an orchard located in a municipality that meets the requirements of paragraph (c)(1) of this section. The orchard in which the avocados are grown must meet the requirements of paragraph (c)(2) of this section. The avocados must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (c)(3) of this section. The Mexican national plant protection organization (NPPO) must provide an annual operational workplan to APHIS that details the activities that the Mexican NPPO will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section; APHIS will be directly involved with the Mexican NPPO in the monitoring and supervision of those activities. The personnel conducting the trapping and pest surveys must be hired, trained, and supervised by the Mexican NPPO or by the State delegate of the Mexican NPPO.

* * * * *

(3) * * *

(vii) The avocados must be packed in clean, new boxes or bulk shipping bins, or in clean plastic reusable crates. The boxes, bins, or crates must be clearly marked with the identity of the grower, packinghouse, and exporter.

(viii) * * * If, at the port of export for consignments shipped by air or sea, the packed avocados are transferred into a non-refrigerated container, the boxes, bins, or crates must be covered with a lid, insect-proof mesh, or other material to protect the avocados from fruit-fly infestation prior to leaving the packinghouse. Those safeguards must be intact at the time the consignment arrives in the United States.

* * * * *

Done in Washington, DC, this 11th day of February 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–03289 Filed 2–17–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0088; Directorate Identifier 2014–NM–179–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. This proposed AD was prompted by testing of the spoiler electronic control unit (SECU) software for an upgrade, which revealed a timing error between the command and monitor channels. This proposed AD would require revising the maintenance or inspection program to incorporate repetitive operational tests of the aileron disconnect system, and corrective action if necessary. This proposed AD would also require modification and reidentification of the SECU, which would terminate the repetitive operational tests. We are proposing this AD to prevent a timing error in the SECU software, which, in combination with failure of the roll disconnect switch, could result in complete loss of spoiler functionality and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 6, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0088; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Service Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7301; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0088; Directorate Identifier 2014–NM–179–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–24, dated August 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model BD–