

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–2007–0144]

RIN 0579–AC76

Importation of Baby Squash and Baby Courgettes From Zambia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of baby squash and baby courgettes from Zambia. As a condition of entry, both commodities would have to be produced in accordance with a systems approach that would include requirements for pest exclusion at the production site, fruit fly trapping inside and outside the production site, and pest-excluding packinghouse procedures. Both commodities would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the baby squash or baby courgettes have been produced in accordance with the proposed requirements. This action would allow for the importation of baby squash and baby courgettes from Zambia 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-2007-0144> 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–2007–0144, 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–2007–0144.

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 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.

The national plant protection organization (NPPO) of Zambia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow baby squash and baby courgettes from Zambia to be imported into the United States. As part of our evaluation of Zambia’s request, we prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and the risk management document 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).

The PRA, titled “Importation of Baby Squash, *Cucurbita maxima* Duchesne, and Baby Courgettes, *C. pepo* L., from Zambia into the Continental United States” (November 2007), evaluates the risks associated with the importation of baby squash and baby courgettes into the continental United States (the lower 48 States and Alaska) from Zambia. The terms baby squash and baby courgettes refer to immature squash and courgettes for consumption that are 20 to 25 millimeters (0.79 to 0.98 inches) in diameter and 90 to 100 millimeters (3.54 to 3.94 inches) long.

The PRA and supporting documents identified 10 pests of quarantine significance present in Zambia that could be introduced into the United States through the importation of baby squash or baby courgettes. These include three moths, *Diaphania indica*, *Helicoverpa armigera*, and *Spodoptera littoralis*, and a scale, *Aulacaspis tubercularis*. The remaining six quarantine pests are fruit flies: *Dacus bivitatus*, *D. ciliatus*, *D. frontalis*, *D. lounsburyii*, *D. punctatifrons*, and *D. vertebratus*.

APHIS has determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests. Therefore, we are proposing to allow the importation of baby squash and baby courgettes from Zambia into the continental United States only if they are produced in accordance with a systems approach. The systems approach would require the baby squash and baby courgettes to be grown in approved greenhouses designed to exclude all 10 quarantine pests, would require trapping inside and outside the greenhouse for the 6 *Dacus* spp. fruit flies, and would require packinghouse procedures designed to exclude all 10 quarantine pests. Only commercial consignments of baby squash and baby courgettes would be allowed to be imported from Zambia. Consignments of baby squash or baby courgettes from Zambia would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the baby squash or baby courgettes had been produced in accordance with the proposed requirements.

The mitigation measures in the proposed systems approach are discussed in greater detail below.

Approved Greenhouses

Baby squash and baby courgettes would have to be grown in Zambia in insect-proof, pest-free greenhouses approved jointly by the Zambian NPPO and APHIS. The greenhouses would have to be equipped with double self-closing doors, to prevent inadvertent introduction of pests into the greenhouses. In addition, any vents or openings in the greenhouses (other than the double self-closing doors) would have to be covered with 1.6 mm screening in order to prevent the entry of pests into the greenhouse. The 1.6 mm screening size is adequate to exclude all 10 quarantine pests of concern, as all of these pests are relatively large.

We would require the greenhouses to be inspected periodically by the Zambian NPPO or its approved designee to ensure that sanitary procedures are employed to exclude plant pests and diseases and to verify that the screening is intact. (An approved designee is an entity with which the NPPO creates a formal agreement that allows that entity to certify that the appropriate procedures have been followed. The approved designee can be a contracted entity, a coalition of growers, or the growers themselves.)

The greenhouses would also have to be inspected monthly for the 10 quarantine pests of concern by the Zambian NPPO or its approved designee, beginning 2 months before harvest and continuing for the duration of the harvest. APHIS would have to be allowed to monitor or inspect the greenhouses during this period as well. If, during these inspections, any of the quarantine pests was found inside the greenhouse, the Zambian NPPO would immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition would remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

Trapping for Dacus spp. Fruit Flies

Trapping for *Dacus bivittatus*, *D. ciliatus*, *D. frontalis*, *D. lounsburyi*, *D. punctatifrons*, and *D. vertebratus* (referred to below, collectively, as *Dacus* spp. fruit flies) would be required both inside and outside the greenhouse. Trapping would have to be conducted beginning 2 months before harvest and continue for the duration of the harvest.

Inside the greenhouses, approved fruit fly traps with an approved protein bait

would have to 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 would have to be serviced at least once every 7 days. If a *Dacus* spp. fruit fly was found in a trap inside the greenhouse, the Zambian NPPO would immediately prohibit that greenhouse from exporting baby squash or baby courgettes to the United States and notify APHIS of the action. The prohibition would remain in effect until the Zambian NPPO and APHIS agree that the risk has been mitigated.

Outside the greenhouse, approved fruit fly traps with an approved protein bait would have to 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 would have to be placed near the greenhouse. These traps would have to be serviced at least once every 7 days.

In order to reduce the pest pressure of *Dacus* spp. fruit flies outside the greenhouse, no shade trees would be permitted within 10 meters of the entry door of the greenhouse, and no fruit fly host plants would be permitted within 50 meters of the entry door of the greenhouse. In addition, while trapping is being conducted, no fruit fly host material (such as fruit) would be allowed to be brought into the greenhouse or to 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 would have to 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.

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

To ensure that the trapping is being properly conducted, the Zambian NPPO or its approved designee would have to maintain records of trap placement, trap servicing, and any *Dacus* spp. captures. The Zambian NPPO would also have to maintain an APHIS-approved quality control program to audit the trapping program. APHIS would have to be given

access to review 1 year's worth of trapping data for any approved greenhouse upon request.

Packinghouse Procedures

Baby squash and baby courgettes would have to be packed within 24 hours of harvest in a pest-exclusionary packinghouse. No shade trees would be permitted within 10 meters of the entry door of the packinghouse, and no fruit fly host plants would be 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 would be allowed to be brought into the packinghouse, and no fruit fly host material would be allowed to be discarded within 50 meters of the entry door of the packinghouse. The baby squash or baby courgettes would have to 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 would have to be packed in insect-proof cartons for shipment to the United States. These cartons would also have to be labeled with the identity of the greenhouse, to facilitate traceback if necessary. While packing the baby squash or baby courgettes for export to the United States, the packinghouse would only be allowed to accept baby squash and baby courgettes from approved greenhouses. These safeguards would have to 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 would not be allowed to enter the United States. These safeguards would prevent baby squash and baby courgettes from being infested with plant pests in the interval between their departure from the approved greenhouses and their arrival in the United States.

Commercial Consignments

Only commercial consignments of baby squash and baby courgettes from Zambia would be allowed to be imported into the United States. 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, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. 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.

Phytosanitary Certificate and Labeling

To reflect our proposed addition to the fruits and vegetables regulations of baby squash and baby courgettes from Zambia, we are proposing to add a new § 319.56–48 governing the conditions of entry of baby squash and baby courgettes from Zambia into the continental United States. To certify that the baby squash and baby courgettes have been produced in accordance with the requirements we are proposing, we would require that each consignment of baby squash or baby courgettes be accompanied by a phytosanitary certificate of inspection issued by the Zambian NPPO with an additional declaration stating that the baby squash or baby courgettes were produced in accordance with § 319.56–48.

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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This analysis examines potential impacts for U.S. small entities from the proposed importation of baby squash and baby courgettes (zucchini) from Zambia into the United States. The analysis is set forth in terms of squash generally. As background, we provide a brief overview of squash production and trade by the United States. This is followed with an estimate of price and welfare effects of the rule based on assumed levels of squash imports from Zambia. Finally, we describe the expected impact on small entities.

U.S. Squash Production and Trade

The United States is a major squash producer and importer.¹ The United States produced 430,100 metric tons (MT) of squash valued at \$229 million in 2006, while imports that year totaled

240,590 MT. Squash production occurs in many States. However, the top ten States (Georgia, Florida, California, New York, Michigan, Ohio, Texas, North Carolina, Oregon, and New Jersey) accounted for 98 percent of total cash receipts in 2006.²

As shown in table 1, U.S. squash production increased from 398,800 MT in 2002 to 430,100 MT in 2006, an annual growth rate of about 1.6 percent. Similarly, consumption increased from 605,970 MT to 665,730 MT. During the same period, U.S. squash imports increased from 210,930 MT in 2002 to 240,590 MT in 2006. Mexico accounted by far for the largest share of U.S. imports (95.6 percent), followed distantly by Costa Rica (1.6 percent), and Canada (1.1 percent). Other minor suppliers include Honduras, Panama, New Zealand, Guatemala, and Nicaragua. The United States was a net importer throughout this period, with average annual imports (over 234,000 MT) dwarfing exports (less than 4,300 MT). Imports from Zambia would be small compared to an already large import base.³

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

Year	Production (MT)	Consumption (MT)	Price per MT	Exports in MT	Imports in MT
2002	398,800	605,970	\$882	3,770	210,930
2003	365,650	602,880	1,047	3,810	241,040
2004	401,330	637,650	992	4,090	240,410
2005	378,030	611,090	1,047	4,820	237,880
2006	430,100	665,730	1,157	4,960	240,590
5-year average (2002–2006)	394,780	624,670	1,025	4,290	234,170

Sources: USDA/NASS, Vegetables 2006 Summary, January 2007; wholesale prices are from USDA/NASS, Fresh market vegetables prices and yield data, 2002–2006; trade data are from USDA/Foreign Agricultural Service, The Global Trade Atlas: Global Trade Information Services, Inc., Country Edition, August 2007.

Impact of Potential Fresh Squash Imports

We estimate the impact of baby squash and baby courgettes imports from Zambia on U.S. production, consumption, and prices using a net trade welfare model. The data used were obtained from the Foreign Agricultural Service (FAS); The Global Trade Atlas: Global Trade Information Services, Inc., Country Edition, August 2007; and United Nations' Food and Agriculture

Organization FAOstat data (<http://faostat.fao.org>). The demand and supply elasticities used are –0.66 and 0.12, respectively.⁴

Our analysis is in terms of the overall squash industry of the United States. If data were available that would allow us to estimate the impact of the proposed rule only in terms of the markets for baby squash and baby courgettes, we would expect the effects to be somewhat

larger than those reported here, but still insignificant.

We model three levels of squash exports to the United States from Zambia: (1) 260 MT, average annual global exports of squash by Zambia (2004–2006); (2) 400 MT, the amount of squash that the Government of Zambia has projected would be exported to the United States; and (3) 1,000 MT, a quantity that is two-and-a-half times

¹ Squash can be classified depending on whether it is harvested as immature fruit (summer squash) or mature fruit (winter squash). Summer squash, such as zucchini (also known as courgette), pattypan, and yellow crookneck are harvested and consumed during the growing season, while the skin is still tender and the fruit relatively small. Winter squash such as butternut, hubbard, buttercup, amercup, acorn, spaghetti squash, and pumpkin are harvested at maturity, generally the

end of summer, cured to further harden the skin, and stored in a cool place for eating later. They generally require longer cooking time than summer squash.

² USDA/National Agricultural Statistics Service (NASS), Vegetables 2006 Summary, January 2007.

³ Reliable production data are not available for Zambia. Squash exported to the United States are to be grown in insect-proof, pest-free greenhouses at approved production sites. These sites are in the

process of being constructed. The Zambian Government expects to export around 400 MT of fresh squash to the United States annually. It is not clear whether some additional amount would be produced for export to other countries.

⁴ Jaime E. Malaga, Gary W. Williams, and Stephen W. Fuller, "U.S.-Mexico fresh vegetable trade: The effects of trade liberalization and economic growth," *Agricultural Economics*, Vol. 26 (October 2001): 45–55.

Zambia's projected exports to the United States.

Table 2 presents the changes that we estimate would result from the proposed rule. These include annual changes in U.S. consumption, production, wholesale price, consumer welfare,

producer welfare, and net welfare. The medium level of assumed squash exports to the United States of 400 MT (as projected by the Government of Zambia) would result in a decline of \$0.89 per MT in the wholesale price of squash and a fall in U.S. production of

41 MT. Consumption would increase by 359 MT. Producer welfare would decline by \$347,180 and consumer welfare would increase by \$558,240, yielding an annual net benefit of about \$211,060. Other results are as shown in table 2 below.

TABLE 2.—ESTIMATED IMPACT OF SQUASH IMPORTS FROM ZAMBIA ON THE UNITED STATES ECONOMY FOR THREE IMPORT SCENARIOS

Assumed annual squash imports, MT	1 260	2 400	3 1,000
Change in U.S. consumption, MT	234	359	898
Change in U.S. production, MT	-26	-41	-102
Change in wholesale price of squash, dollars per MT	-\$0.58	-\$0.89	-\$2.22
Change in consumer welfare	\$362,820	\$558,240	\$1,396,210
Change in producer welfare	-\$225,670	-\$347,180	-\$867,890
Annual net benefit	\$137,150	\$211,060	\$528,330

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 -0.66 and 0.12, respectively (Jaime E. Malaga, Gary W. Williams, and Stephen W. Fuller, "U.S.-Mexico fresh vegetable trade: the effects of trade liberalization and economic growth," *Agricultural Economics*, Vol. 26 (October 2001): 45-55).

¹ Three-year (2004 to 2006) average total squash exports by Zambia.

² Annual exports of fresh baby squash and baby courgettes to the United States, as projected by the Government of Zambia.

³ Two-and-a-half times the projected level of exports of baby squash and baby courgettes by Zambia to the United States.

In all three scenarios, consumer welfare gains would outweigh producer welfare losses. Even in the third scenario, in which we assume imports would total two-and-a-half times the level projected by the Government of Zambia, the decline in producer welfare would represent only about two-tenths of 1 percent of cash receipts received from the sale of domestic squash products. The price decline in this third scenario also would be only about two-tenths of 1 percent. Thus, our analysis indicates that U.S. entities would be unlikely to be significantly affected by this proposed rule.

Impact on Small Entities

The Small Business Administration (SBA) has established guidelines for

determining which types of firms are considered to be small entities under the Regulatory Flexibility Act. This proposal could affect U.S. producers of fresh vegetables (North American Industry Classification System 111219) and some importers of fresh squash. Vegetable-producing establishments are classified as small if their annual receipts are not more than \$750,000.⁵ According to the 2002 Census of Agriculture, there were 11,035 squash operations with production valued at \$288 million. These facilities are considered to be small if their annual receipts are not more than \$750,000. Over 98.6 percent of these operations (10,883) are considered to be small while the rest (152) are considered large.

Based on share of acreage (nearly 60 percent of the total), the small operations had combined annual cash receipts of about \$168 million and an average income of about \$15,500, while the large operations had combined sales of about \$120 million with an average income of about \$787,900. As shown in table 3, the impact of potential squash imports on U.S. producers as a result of this rule would be small. The decrease in producer welfare per small entity is less than \$47 or about 0.30 percent of average annual sales of small entities, when we assume 1,000 MT of squash are exported to the United States from Zambia (two-and-a-half times Zambia's projected annual exports).

TABLE 3.—ECONOMIC IMPACT OF POTENTIAL SQUASH IMPORTS FROM ZAMBIA ON U.S. SMALL ENTITIES, ASSUMING ANNUAL EXPORTS OF 1,000 MT TO THE UNITED STATES, 2006 DOLLARS

Total decline in producer welfare ¹	-\$867,890.
Decrease in welfare incurred by small entities ²	-\$506,850.
Average decrease per acre, small entities ³	-\$12.18.
Average decrease per small entity ⁴	-\$46.50.
Average decrease as percentage of average sales, small entities ⁵	-0.30 percent.

¹ From table 2.

² Change in producer welfare multiplied by 58.4 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.

³ Decrease in producer welfare for small entities divided by 41,619, the number of acres planted by small entities.

⁴ Average decrease per acre multiplied by 3.82, the average number of acres per small entity.

⁵ Average decrease per small entity divided by \$15,500, the average annual revenue per small entity.

Again, table 3 considers a level of importation that is 2½ times the projected imports of baby squash and baby courgettes; at expected levels of

importation, the expected economic impacts would be even smaller. In addition, this analysis assumes that gains to Zambian exporters do not come

at the expense of any exporting countries; if any displacement occurs, the impact of the proposed rule would be reduced further.

⁵ SBA, Small business size standards matched to the North American Industry Classification System

2002, effective October, 2007 (<http://www.sba.gov/size/sizetable2002.html>).

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 baby squash and baby courgettes to be imported into the United States from Zambia. If this proposed rule is adopted, State and local laws and regulations regarding baby squash and baby courgettes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh baby squash and baby courgettes 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-2007-0144. Please send a copy of your comments to: (1) Docket No. APHIS-2007-0144, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OClO, 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.

In this document, we are proposing to allow the importation from Zambia of baby squash and baby courgettes that have been produced subject to a systems approach. Baby squash and baby courgettes imported subject to this systems approach would be required to be accompanied by a phytosanitary certificate stating that they were produced in accordance with the proposed regulations. Under the systems approach, records of fruit fly

trapping would have to be maintained, and boxes of fruit would have to be labeled with the greenhouse from which they originated.

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 0.2244 hours per response.

Respondents: Importers.

Estimated annual number of respondents: 17.

Estimated annual number of responses per respondent: 14.4118.

Estimated annual number of responses: 245.

Estimated total annual burden on respondents: 55 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 § 319.56-48 is added to read as follows:

§ 319.56-48 Conditions governing the entry of baby squash and baby courgettes from Zambia.

Baby squash (*Curcubita maxima* Duchesne) and baby courgettes (*C. pepo* L.) measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Aulacaspis tubercularis*, *Dacus bivittatus*, *Dacus ciliatus*, *Dacus frontalis*, *Dacus lounsburyi*, *Dacus punctatifrons*, *Dacus vertebratus*, *Diaphania indica*, *Helicoverpa armigera*, and *Spodoptera littoralis*.

(a) *Approved greenhouses.* The baby squash and baby courgettes must be grown in Zambia in insect-proof, pest-free greenhouses approved jointly by the Zambian national plant protection organization (NPPO) and APHIS.

(1) The greenhouses must be equipped with double self-closing doors.

(2) Any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 1.6 mm screening in order to prevent the entry of pests into the greenhouse.

(3) The greenhouses must be inspected periodically by the Zambian NPPO or its approved designee to ensure that sanitary procedures are employed to exclude plant pests and diseases and to verify that the screening is intact.

(4) The greenhouses also must be inspected monthly for the quarantine pests listed in the introductory text of this section by the Zambian NPPO or its approved designee, beginning 2 months before harvest and continuing for the duration of the harvest. APHIS must be allowed to inspect or monitor the

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 bivitattus*, *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.

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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/>