

# 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 Parts 305 and 319

[Docket No. APHIS–2006–0121]

RIN 0579–AC19

#### Importation of Mangoes From India

**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 mangoes from India under certain conditions. As a condition of entry, the mangoes would have to undergo irradiation treatment and be accompanied by a phytosanitary certificate with additional declarations providing specific information regarding the treatment and inspection of the mangoes and the orchards in which they were grown. In addition, the mangoes would be subject to inspection at the port of first arrival. This action would allow for the importation of mangoes from India into the continental 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 January 16, 2007.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2006–0121 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is

available through the site’s “User Tips” link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0121, 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–2006–0121.

*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. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, 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 319.56–8, 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 India has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow mangoes from India to be imported into the continental United States (the lower 48 States and Alaska). As part of our evaluation of India’s request, we prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and 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 instruction for accessing Regulations.gov).

The PRA, titled “Importation of Fresh Mango Fruit (*Mangifera indica* L.) From India into the Continental United States: A Qualitative, Pathway-Initiated Pest Risk Assessment” (June 2006), evaluates the risks associated with the importation of mangoes into the continental United States from India. The PRA and supporting documents identified 20 pests of quarantine significance present in India that could be introduced into the continental United States via mangoes:

- The fruit flies *Bactrocera caryeae* (Kapoor), *Bactrocera correcta* (Bezzi), *Bactrocera cucurbitae* (Coquillett), *Bactrocera diversa* (Coquillett), *Bactrocera dorsalis* (Hendel), *Bactrocera tau* (Walker), and *Bactrocera zonata* (Saunders);
- The scale insects *Aulacaspis tubercularis* (Newstead), *Ceroplastes rubens* (Maskell), *Coccus viridis* (Green), *Parlatoria crypta* (Mckenzie), and *Pseudaonidia trilobitiformis* (Green);
- The mango flesh weevil *Sternochetus frigidus* (F.) and the mango seed weevil *Sternochetus mangiferae* (F.);
- The fungi *Actinodochium jenkinsii* Uppal, Patel & Kamat, *Cytosphaera mangiferae* Died., *Hendersonia creberrima* Syd., Syd. & Butler, *Macrophoma mangiferae* Hing. & Sharma, and *Phomopsis mangiferae* S. Ahmad; and

- The bacterium *Xanthomonas campestris* pv. *mangiferaeindicae* (Patel *et al.*) Robbs *et al.*

APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the risk posed by these plant pests. The proposed phytosanitary measures include a requirement that the mangoes be treated with a minimum absorbed irradiation dose of 400 gray in accordance with § 305.31 of the phytosanitary treatments regulations in 7 CFR part 305. This is the established generic dose for all insect pests except pupae and adults of the order Lepidoptera. There are no pests of the order Lepidoptera associated with mangoes from India, therefore this treatment would successfully mitigate the risk of all 14 insect pests associated with mangoes from India. Each shipment of fruit would have to be

accompanied by a phytosanitary certificate issued by the NPPO of India certifying that the fruit received the required irradiation treatment. In addition, this irradiation treatment would have to be administered outside of the United States in an APHIS-certified facility and would have to be monitored by APHIS inspectors. At this time India has an irradiation facility, but it is not APHIS-certified. However, the facility is such that it could be upgraded, retrofitted, and certified should India apply for certification.

In accordance with § 305.31, APHIS and the Indian NPPO would have to jointly develop a preclearance work plan that details the activities APHIS and the NPPO will carry out in connection with each irradiation facility to verify the facility's compliance with 7 CFR part 305. Typical activities to be described in the work plan may include frequency of visits to the facility by APHIS and Indian inspectors, methods for reviewing facility records, and methods for verifying that facilities are in compliance with the requirements for separation of articles, packaging, and labeling. This facility preclearance work plan would have to be reviewed and renewed by APHIS and the NPPO of India on an annual basis. In addition, the NPPO of India would have to enter into a trust fund agreement with APHIS to provide for all expenses incurred by APHIS while performing preclearance activities, such as inspections for pests not targeted by the irradiation treatment, and treatment monitoring services. Those costs include administrative expenses and all salaries, travel expenses, and other incidental expenses incurred by APHIS in performing these services. The trust fund agreement would also describe the general nature and scope of APHIS services provided at irradiation facilities covered by the agreement, such as whether APHIS inspectors will monitor operations continuously or intermittently, and would generally describe the extent of inspections APHIS will perform on articles prior to and after irradiation.

The required irradiation treatment would not mitigate the risks posed by the fungi *Actinodochium jenkinsii*, *Cytosphaera mangiferae*, *Hendersonia creberrima*, *Macrophoma mangiferae*, or *Phomopsis mangiferae* or the bacterium *Xanthomonas campestris* pv. *mangiferaeindicae*. However we consider *Actinodochium jenkinsii*, *Hendersonia creberrima*, and *Phomopsis mangiferae* to be of low risk of introduction and dissemination within the continental United States. This is because these fungi occur only in tropical areas that roughly

correspond to USDA Plant Hardiness Zone 11. In addition, the host range for these fungi appears to be limited to mango. Because the proposed distribution of mangoes from India would be limited to the continental United States, and the mango-producing areas of Florida and California correspond to USDA Plant Hardiness Zone 10b, survival of these pathogens is unlikely.

In order to mitigate the risks posed by *Cytosphaera mangiferae* and *Macrophoma mangiferae*, which we consider to be of medium risk of introduction and dissemination within the continental United States, we are proposing three options: (1) The mangoes be treated with a broad-spectrum post-harvest fungicidal dip, (2) the orchard of origin be inspected at a time prior to the beginning of harvest as determined by the mutual agreement between APHIS and the NPPO of India and be found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*, or (3) the orchard of origin be treated with a broad-spectrum fungicidal application during the growing season, be inspected at a time prior to the beginning of harvest as determined by the mutual agreement between APHIS and the NPPO of India, and the fruit found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*.

Symptoms of both fungal pathogens can be easily seen and detected in the field on mango leaves and fruit during pre-harvest inspection. Post-harvest diseases do not occur without the presence of fungal symptoms on leaves in the field. In addition, standard phytosanitary procedures in place in India already require the application of fungicidal sprays twice during the mango growing season, once at bloom and again between bloom and harvest. Orchard application of broad spectrum fungicide sprays protects fruit from infection by aerial spores produced on leaves or stems.

In order to mitigate the risks posed by *Xanthomonas campestris* pv. *mangiferaeindicae*, which we also consider to be of medium risk of introduction and dissemination within the continental United States, we are proposing that the shipment be inspected during preclearance activities and found free of *Xanthomonas campestris* pv. *mangiferaeindicae*.

Symptoms of *Xanthomonas campestris* pv. *mangiferaeindicae* are also easily discernible with the naked eye and would most likely be detected during visual inspection of the fruit at the packinghouse. The bacterium is not generally considered a post-harvest

disease. Infection occurs most often through wounds which would cause the fruit to be culled during harvest or processing.

We further propose that each shipment of fruit be inspected jointly by APHIS and NPPO of India inspectors and that the accompanying phytosanitary certificate issued by the NPPO of India certifying that the fruit received the required irradiation treatment include two additional declarations. The first additional declaration would depend on which of the three options described above was chosen, *i.e.*, "the fruit in this shipment was subjected to a post-harvest broad spectrum fungicidal dip," or "the orchard where the fruit in this shipment was grown was inspected prior to harvest and found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*," or "the orchard where the fruit in this shipment was grown was treated with a broad spectrum fungicide during the growing season, was inspected prior to harvest, and the fruit was found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*." The second additional declaration would have to state: "The fruit in this shipment was inspected during pre-clearance activities and found free of *Cytosphaera mangiferae*, *Macrophoma mangiferae*, and *Xanthomonas campestris* pv. *mangiferaeindicae*." Specifically listing the pests on the additional declaration would also serve to alert APHIS inspectors at the point of entry to the specific pests of concern.

The commodity imports would be restricted to commercial shipments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments 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 shipments, as defined in § 319.56–1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Identification of a particular shipment as commercial is based on a variety of indicators, including, but not limited to, the quantity of produce, the type of packaging, identification of a grower or packinghouse on the packaging, and documents consigning the shipment to a wholesaler or retailer. Commercially produced fruit in India are already subjected to standard commercial cultural and post-harvest practices that reduce the risk associated with plant

pests. While not specifically required by this proposal, standard cultural practices other than the twice yearly application of broad spectrum fungicides (e.g., the regular use of sanitation measures, irrigation, fertilization, and pest control) help to further ensure that the pests of concern do not follow the pathway. All export orchards are registered production sites with traceback capability. Harvested fruit is moved to the packinghouses in a manner that would preclude reinfestation by pests. Culling of blemished and damaged fruit occurs in the field and during the post-harvest commercial processing of the fruit.

The regulations in § 319.56–6 provide that all imported fruits and vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector. The pre-export inspection conducted by APHIS personnel as part of preclearance activities in the country of export typically serves to satisfy the inspection requirement. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated. We believe that the proposed conditions described above, as well as all other applicable requirements in § 319.56–6, would be adequate to prevent the introduction of plant pests into the continental United States with mangoes imported from India.

The proposed conditions described above for the importation of mangoes from India into the continental United States would be added to the fruits and vegetables regulations as a new § 319.56–2t. In addition, we would also amend the table in § 305.2(h)(2)(i) of the phytosanitary treatments regulations by amending the entry for India to include mangoes and designate irradiation (IR) as an approved treatment for the specific pests named in this document.

#### **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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small

entities. Therefore, we are inviting comments concerning potential effects.

Production of mangoes in the United States is limited to three States: Florida, California, and Hawaii. Due to climatic conditions and expanding urbanization in areas of production, mango-producing acreage is small and production minimal. We rely heavily on imports of fresh mangoes in order to meet consumer demand. The majority of mangoes produced in Florida, California, and Hawaii are destined for local markets, with very limited larger-scale commercial production. Below we examine recent production in the three mango-producing States, followed by a discussion of foreign supply.

#### *Florida*

Over 80 percent of mango acreage in Florida is located in Miami-Dade County, and the remaining acreage is located in surrounding areas. Mango cultivars commonly grown in Florida, which also make up the majority of varieties currently exported to the United States, are ‘Tommy Atkins,’ ‘Keitt,’ ‘Haden,’ and ‘Kent.’ The 2002 Census of Agriculture states that Florida had 400 mango-producing farms with 1,373 acres.<sup>1</sup> By 2003, the most recent year for which statistics are available, the number of acres had dropped to 1,300, a 24 percent decline in 3 years. Recent estimates indicate that the acreage has decreased still further, to a modest 1,000 acres in 2005.<sup>2</sup> Only two acres of mangoes have been planted in Florida since 2000. In a 1997 production report, the last year these statistics were gathered, a mango crop of 100,000 bushels (5.5 million pounds) was harvested, with a price of \$14.50 per bushel, yielding a total value of \$1.45 million.<sup>3</sup> Due to declining acreage, and consequently reduced harvest yield, production and value statistics are no longer maintained. The majority of mangoes produced in Florida are destined for local farmers’ and specialty markets, or sold as green fruit for processing. We are unaware of any larger-scale commercial shipments of fresh mangoes by Florida producers.

<sup>1</sup> USDA–NASS. 2002 Census of Agriculture, Table 31. Fruits and Nuts: 2002 and 1997. Washington, DC: National Agricultural Statistics Service, 2002.

<sup>2</sup> Richard J. Campbell, PhD, Senior Curator of Tropical Fruit, “International Mango Festival 2005 Curator’s Choice Cultivars.” Coral Gables, FL: Fairchild Tropical Botanic Garden, page updated May 31, 2005. (<http://www.fairchildgarden.org/horticulture/mangocurators.html>.)

<sup>3</sup> USDA–NASS–FL. Tropical Fruit Acres and Trees. Orlando, FL: Florida Agricultural Statistics Service, December 11, 2002 and May 12, 2003.

#### *California*

According to the 2002 Census of Agriculture, there were 11 mango-producing farms in California, with an unknown amount of acreage.<sup>4</sup> Until recently, mangoes produced in California were thought to be sold only in local markets. However, recent news reports indicate that there are two commercial mango operations in the Coachella Valley of California that sell their fruit through the Corona College Heights Orange & Lemon Association in Corona, CA.<sup>5</sup> According to the article, the two operations have a combined total of 210 bearing acres, yielding about 275,000 cartons of mangoes (approximately 3.8 million pounds), with a little less than half being certified organic.<sup>6</sup> In addition, one of the growers expects to have an additional 48 acres bearing fruit by 2007. Commercial mango production in California is a relatively new venture, and is expected to grow only gradually. As the article points out, the availability of suitable land for mangoes is limited due to the fruits’ susceptibility to frost. For those areas that are not prone to frost, producers are reluctant to switch to mango production from profitable crops such as grapes and citrus because of the heavy initial investments and the long period between first investment and return. The time period between first planting and first production is 5 years for mango trees, so it is not surprising that producers are reluctant to enter into this industry.

#### *Hawaii*

In 2002, the Census of Agriculture recorded 212 mango-producing farms in Hawaii, but withheld production acreage to avoid disclosing information for individual operations. In 2004, the Hawaiian field office of the National Agricultural Statistics Service (NASS) reported there were 140 farms, with a total of 275 acres of crops, of which 200 acres yielded utilized production of 380,000 pounds, with a sales value of \$350,000. Preliminary reports for 2005 indicate a decrease of 28.5 percent in the number of mango farms to 100, but an increase in total crop acreage to 295. The amount of harvested acres in 2005

<sup>4</sup> The production acreage was withheld to avoid disclosing confidential business information for individual farms.

<sup>5</sup> “Organic Mangos Now Coming Out of California” by Tim Linden. Web site: <http://theproducenews.com/storydetail.cfm?ID=6216>, August 18, 2006.

<sup>6</sup> Note: According to a source describing the harvesting and packing of Florida mangoes, a carton can hold 8 to 20 mangoes depending on the size of the fruit, and have a capacity of 14 lbs (6.35 kg) of fruit ([http://www.hort.purdue.edu/newcrop/morton/mango\\_ars.html](http://www.hort.purdue.edu/newcrop/morton/mango_ars.html)).

was 190, which represents a slight decrease. However, there was a 39.4 percent increase in utilized production, which, combined with a higher farm price per pound, yielded a 40.2 percent increase in total sales value to \$586,000.<sup>7</sup> The amount of commercial production of mangoes in Hawaii is unknown at this time; however, we

believe the majority of production is funneled into local markets. We welcome public comment regarding the amount of commercial production of mangoes in Hawaii other than for local markets.

As is evident, U.S. mango production is limited, with most of the fruit sold locally. In fact, official supply and

utilization data maintained by USDA's Economic Research Service (ERS) have not recorded domestic production figures since 1998. U.S. consumers are almost entirely dependent on imports to meet domestic demand. Table 1 presents ERS data on the supply and utilization of fresh mangoes, 2002–2004.<sup>8</sup>

TABLE 1.—FRESH MANGOES SUPPLY AND UTILIZATION

Year	Utilization				
	Imports	Total supply	Exports	Consumption	
				Total	Per capita
Million pounds					Pounds
2002	580.6	580.6	11.8	568.8	1.97
2003	613.8	613.8	14.5	599.4	2.06
2004	609.2	609.2	17.1	592.1	2.01

Preliminary estimates for 2005 indicate annual consumption was 1.9 pounds per person, down slightly from a historic high of a little over 2 pounds per person reached in 2003. Industry experts correlate this decline with lower

imports, and believe the downward trend in consumption will be reversed should imports continue higher throughout the rest of 2006.<sup>9</sup> In 2005, 575.1 million pounds of fresh mangoes were imported into the United States,

which was a decline from the previous year when imports totaled 609.2 million pounds. Table 2 highlights the volume of fresh mango imports for the calendar year 2005 from the top five countries.

TABLE 2.—FRESH MANGO IMPORTS, VOLUME AND VALUE, JANUARY–DECEMBER 2005

Country	Imports 9/1–5/31	Imports 6/1–8/31	Total yearly imports	Value 9/1–5/31	Value 6/1–8/31	Total yearly value
	Million pounds			1,000 dollars		
Mexico	169.7	180.7	350.4	\$51,707	\$51,603	\$103,310
Peru	65.8		65.8	21,522		21,522
Brazil	56.0	1.6	57.6	17,638	585	18,223
Ecuador	53.1		53.1	13,476		13,476
Haiti	11.4	9.2	20.7	3,886	3,457	7,343
World total	382.9	192.1	575.0	113,309	55,808	169,117

Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics.  
 Note: HS Codes used were 0804504040 (mangoes fresh, entered 9/1–5/31) and 0804506040 (mangoes fresh, entered 6/1–8/31).

The 2005 trade statistics indicate fresh mangoes were imported from 13 countries, with the overwhelming majority originating from countries in Central and South America. Although the United States imports mangoes from many countries, Mexico is the major

supplier, with a market share of more than 60 percent of the annual import volume, and therefore, essentially 60 percent of the U.S. supply of mangoes. Interestingly, though, Mexico is only the fourth leading producer of mangoes, trailing behind India, China, and

Thailand. Its proximity to the United States and participation in the North American Free Trade Agreement (NAFTA) provide advantages over other exporting countries of lower transport costs and reduced or no tariffs.<sup>10</sup>

<sup>7</sup> USDA–NASS–HI. Hawaii Tropical Specialty Fruits. Honolulu, HI: National Agricultural Statistics Service USDA, Hawaii Field Office, 2004 and 2005 edition. Note: Utilized production may include fresh and processed utilization.

<sup>8</sup> USDA–ERS. Table F–6, Fresh Mangoes: Supply and Utilization, 1980 to date. Washington, DC: Economic Research Service, December 21, 2005.

<sup>9</sup> USDA–ERS. Fruit and Tree Nuts Outlook. May 25, 2006.

<sup>10</sup> USDA–ERS. Fruit and Tree Nuts Briefing Room. Updated: October 8, 2004.

Although the proposed rule would allow imports of all mango varieties, India is currently interested in exporting three varieties of mangoes to the United States—'Kesar,' 'Alfonse,'<sup>11</sup> and 'Banganpalli'—from four States: Andhra Pradesh, Gujarat, Maharashtra, and Uttar Pradesh. Based on a site visit conducted by APHIS officials, we believe the majority of exports would originate from Gujarat and Maharashtra, where there are two and six production areas, respectively, producing 'Kesar' and 'Alfonse' varieties. The harvest season in India starts in late spring, usually April or May, and lasts about 2 months. According to the request from the Government of India, the quantity of mangoes exported to the United States would be about 100 sea containers per year.<sup>12</sup> With India being the world leader in mango production, and a typical export packinghouse having a shipping capacity of 40–50 metric tons (over 88,000 lbs.) per day for 45–50 days of the harvest season, the amount imported into the United States would likely only be limited by U.S. market forces. Entry of Indian mangoes into the domestic market would provide increased variety and greater selection for consumers in the continental United States.

The overwhelming majority of mangoes produced domestically are sold in local markets. Even though the proposed rule could result in an overall increase in fresh mango imports, and thus, an increase in domestic supply, we do not anticipate the price impacts on domestic mango producers to be large. Indian mangoes would primarily compete for market share against other imported mangoes. Based on the higher transportation costs alone, we would expect the price of Indian mangoes to be higher than mangoes coming from countries currently exporting to the United States. Statistics show that in 2004, the export price of Indian mangoes (\$595.95/metric tonne) was 16 percent higher than the export price of

mangoes from Mexico (\$511.96/metric tonne), our primary supplier.<sup>13</sup>

In order to compete with other countries importing mangoes into the United States, India expects to first target niche and gourmet markets by promoting the mangoes as premium quality fruit. Producers indicated to the APHIS site visit team that initially, the mangoes are expected to be sold through premium catalog sales and/or in specialty and ethnic grocers, after which the mangoes would then be sold in the regular retail sector. Additionally, we expect that India would initially target those geographic areas and markets with high concentrations of Asian and South-Asian persons. According to the United States Census in 2000, 11.9 million people, or 4.2 percent of the population, identified themselves as Asian. The 10 states with the largest Asian demographic in 2000 were California, New York, Hawaii, Texas, New Jersey, Illinois, Washington, Florida, Virginia, and Massachusetts, which combined represent 75 percent of the Asian population in the United States. Regionally, the West and the Northeast have the largest concentrations of Asians. Asian Indians represented the third largest specified Asian group, with a total of 1.9 million people who reported Asian Indian alone or in combination with at least one other race or Asian group.<sup>14</sup> Usually, economic theory dictates that an overall increase in supply of a particular commodity would trigger downward pressure on price and result in reduced market share for domestic producers of that commodity. However, we believe the effects on domestic producers of the proposed rule would be minimal, in light of the predominance of imports and the specialty markets that India is expected to target. Based on the information we have at this time, we expect the benefits of opening the market to Indian mangoes would outweigh any expected costs to domestic producers. However, we welcome public comment on possible impacts on domestic entities as a result of the proposed regulation.

The proposed rule would only allow the importation of commercial shipments of fresh mangoes from India provided they have undergone specific

phytosanitary requirements. The requirements outlined in the proposed rule include treatment in India of mango fruit with irradiation using a minimum absorbed dose of 400 gray, and preclearance inspection for those pests not targeted by the irradiation treatment. The NPPO of India would enter into a trust fund agreement with APHIS to provide for all expenses incurred by APHIS while performing preclearance activities, including salaries and administrative, travel, and other incidental expenses. Costs, if any, not covered by the trust fund would be minimal. In addition to irradiation and other preclearance activities, current regulations set out a course of action if, on inspection at the port of arrival, any actionable pest or pathogen is identified. We believe these risk-mitigating phytosanitary measures are sufficient to protect against the introduction of quarantine plant pests into the continental United States associated with the importation of mangoes from India.

The proposed rule may affect domestic producers of mangoes, as well as firms that import mangoes, which are likely to be classified as small entities according to U.S. Small Business Administration's (SBA) guidelines.

As described above, there is very little larger-scale commercial production of mangoes within the United States. The overwhelming majority of domestically produced mangoes are sold in local markets. In fact, official supply and utilization data maintained by USDA's Economic Research Service (ERS) have not recorded domestic production figures since 1998. The SBA's size standard for mango farming is \$750,000 or less in annual receipts.<sup>15</sup> According to the 2002 Census of Agriculture, there were a total of 623 farms (400 in Florida, 11 in California, and 212 in Hawaii) engaged in mango production. Census data did not include annual sale valuation statistics for mango-producing farms. The exact number of mango farms that would be considered small by SBA standards is unknown. However, based on the small bearing acreage, production principally for local markets, and our dependence on imports to meet domestic demand for mangoes, we would expect the majority of these operations to be classified as small.

<sup>11</sup> This mango variety is also known as 'Alfonso'.

<sup>12</sup> Source: A Qualitative, Pathway-Initiated Pest Risk Assessment, prepared June 2006 (APHIS). Note: The average container used to ship mangoes from South America is a 44-foot container, having an average capacity of 22 pallets. Each pallet holds an average of 200 boxes. The average weight of each box is 5.0 kilograms (kg). Thus, the total weight of each container is 200 boxes × 5.0 kg × 22 pallet = 22,000 kg (48,501.70 lbs.). Source: Adly Ibrahim (APHIS).

<sup>13</sup> FAOSTAT—TradeSTAT. Food and Agriculture Organization of the United Nations Trade Databases. (<http://faostat.fao.org>).

<sup>14</sup> The Asian Population: 2000, Census 2000 Brief. Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, Issued February 2002.

<sup>15</sup> Table of Size Standards based on NAICS 2002 [Other Noncitrus Fruit Farming: NAICS code 111339]. Washington, D.C.: U.S. Small Business Administration, effective July 31, 2006.

Other industries that may be affected by the proposed rule, as categorized in the North American Industry Classification System (NAICS), are Fresh Fruit and Vegetable Merchant Wholesalers (NAICS 424480), Fruit and Vegetable Markets (NAICS 445230), and Mail-Order Houses (NAICS 454113).<sup>16</sup> All of these industries are primarily comprised of small entities. There were 4,644 fruit and vegetable merchant establishments that operated for the entire year, with 4,436 of them, or 95.5 percent, operating with fewer than 100 employees. Of the 2,257 fruit and vegetable market establishments that operated for the entire year, only 84 of them had sales of over \$5 million, leaving over 96 percent of these establishments with sales less than \$5 million. Lastly, there were 8,224 establishments classified under the NAICS code for mail-order houses, of which 7,319 of them, or about 89 percent, had annual sales of less than \$10 million.<sup>17</sup> All of the above industries may benefit from the proposed rule by having access to Indian mangoes, which could bolster sales volume and annual revenue.

There are no significant alternatives to the proposed rule that would accomplish the stated objectives. The only alternative to the proposed rule would be to continue to prohibit imports from this region, thereby ignoring evidence that the pest risks associated with mango importation are minimal if we follow specified phytosanitary protocols. This alternative is not a viable option, as it would be inconsistent with international agreements to which the United States is a party that state that regulatory restrictions should be based on scientific evidence and applied only to the extent necessary to protect plant, human, and animal health.

This proposed rule contains various recordkeeping and reporting requirements. These requirements are described in this document under the heading "Paperwork Reduction Act."

### Executive Order 12988

This proposed rule would allow mangoes to be imported into the United States from India. If this proposed rule

<sup>16</sup> SBA size standards are as follows: NAICS code 424480: 100 employees or less; NAICS code 445230: \$6.5 million or less in annual receipts; NAICS code 454113 (note: includes those operations that engage in direct catalog sales): \$23 million or less in annual receipts.

<sup>17</sup> Establishment and Firm Size based on 2002 Economic Census. Washington, D.C.: U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, Issued December 2005 (wholesale trade) and November 2005 (retail trade).

is adopted, State and local laws and regulations regarding mangoes 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.

### National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the proposed importation of mangoes from India into the continental United States, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

### 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–2006–0121. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0121, 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.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of mangoes from India under certain conditions. As a condition of entry, the mangoes would have to undergo irradiation treatment and be accompanied by a phytosanitary certificate with additional declaration providing specific information regarding the treatment and inspection of the mangoes and the orchards in which they are grown. In addition, the mangoes would be subject to inspection at the port of first arrival. This action would allow for the importation of mangoes from India, into the continental United States while continuing to provide protection against the introduction of quarantine pests.

This proposed rule will require the use of phytosanitary certificates (foreign), additional declarations, compliance agreements (foreign), preclearance workplans, trust fund agreements, and recordkeeping.

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 0.5260 hours per response.

*Respondents:* NPPOs and importers of mangoes.

*Estimated annual number of respondents:* 154.

Estimated annual number of responses per respondent: 33,1428.

Estimated annual number of responses: 5,104.

Estimated total annual burden on respondents: 2,685 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) 734-7477.

**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) 734-7477.

**List of Subjects**

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

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 parts 305 and 319 as follows:

**PART 305—PHYTOSANITARY TREATMENTS**

1. The authority citation for part 305 would continue to read as follows:

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 305.2, the table in paragraph (h)(2)(i) would be amended by adding, under India, an entry for mango to read as follows:

**§ 305.2 Approved treatments.**

*	*	*	*	*
(h)	*	*	*	
(2)	*	*	*	
(i)	*	*	*	

Location	Commodity	Pest	Treatment schedule
India			
	Mango .....	Plant pests of the class Insecta except pupae and adults of the order Lepidoptera.	IR

\* \* \* \* \*

**PART 319—FOREIGN QUARANTINE NOTICES**

3. The authority citation for part 319 would continue 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.

4. A new § 319.56-2tt would be added to read as follows:

**§ 319.56-2tt Conditions governing the entry of mangoes from India.**

Mangoes (*Mangifera indica*) may be imported into the continental United States from India only under the following conditions:

(a) The mangoes must be treated in India with irradiation by receiving a minimum absorbed dose of 400 Gy in accordance with § 305.31 of this chapter.

(b) The risks presented by *Cytosphaera mangiferae* and *Macrophoma mangiferae* must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum post-harvest fungicidal dip; or

(2) The orchard of origin is inspected prior to the beginning of harvest as

determined by the mutual agreement between APHIS and the national plant protection organization (NPPO) of India and the orchard is found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*; or

(3) The orchard of origin is treated with a broad-spectrum fungicide during the growing season and is inspected prior to the beginning of harvest as determined by the mutual agreement between APHIS and the NPPO of India and the fruit found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*.

(c) Each shipment of mangoes must be inspected jointly by APHIS and the NPPO of India as part of the required preclearance inspection activities at a time and in a manner determined by mutual agreement between APHIS and the NPPO of India.

(d) The risks presented by *Cytosphaera mangiferae*, *Macrophoma mangiferae*, and *Xanthomonas campestris* pv. *mangiferaeindicae* must be addressed by inspection during preclearance activities.

(e) Each shipment of fruit must be inspected jointly by APHIS and the NPPO of India and accompanied by a phytosanitary certificate issued by the

NPPO of India certifying that the fruit received the required irradiation treatment. The phytosanitary certificate must also bear the following two additional declarations:

(1) A declaration identifying which of the mitigations provided under paragraph (b) of this section was used, *i.e.:*

(i) "The fruit in this shipment was subjected to a post-harvest broad spectrum fungicidal dip," or

(ii) "The orchard where the fruit in this shipment was grown was inspected prior to harvest and the orchard was found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*," or

(iii) "The orchard where the fruit in this shipment was grown was treated with a broad spectrum fungicide during the growing season, was inspected prior to harvest, and the fruit was found free of *Cytosphaera mangiferae* and *Macrophoma mangiferae*."

(2) A declaration stating: "The fruit in this shipment was inspected during preclearance activities and found free of *Cytosphaera mangiferae*, *Macrophoma mangiferae*, and *Xanthomonas campestris* pv. *mangiferaeindicae*."

(f) The mangoes may be imported in commercial shipments only.

Done in Washington, DC, this 14th day of November 2006.

**Kevin Shea,**

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

[FR Doc. E6-19452 Filed 11-16-06; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 33

[Docket No. NE127; Notice No. 33-06-01-SC]

#### Special Conditions: General Electric Company GEnx Model Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for General Electric Company (GE) GEnx turbofan engine models. These engines will have a novel or unusual design feature associated with the fan blades. The Administrator has determined that the applicable part 33 airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the added safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness regulations.

**EFFECTIVE DATES:** We must receive your comments by December 18, 2006.

**ADDRESSES:** You may mail two copies of your comments to: Federal Aviation Administration, Engine and Propeller Directorate, Attn: Robert McCabe, Rules Docket (ANE-111), Docket No. NE127, 12 New England Executive Park, Burlington, Massachusetts 01803-5299. You may deliver two copies to the Engine and Propeller Directorate at the above address. You must mark your comments: Docket No. NE127. You may send comments via email to [robert.mccabe@faa.gov](mailto:robert.mccabe@faa.gov). You must use the subject "Docket No. NE127". You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Robert McCabe, ANE-111, Rulemaking and Policy Branch, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (781) 237-7138;

facsimile (781) 238-7199; email [robert.mccabe@faa.gov](mailto:robert.mccabe@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on this proposal, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

##### Background

On December 13, 2004, the General Electric Company (GE) applied to the FAA for a new type certificate for the GEnx series engine models. On May 24, 2005, GE submitted a revised application for a type certificate that added models and changed the model designation nomenclature. The turbofan engine models to be certified are GEnx-1B54, GEnx-1B58, GEnx-1B64, GEnx-1B67, GEnx-1B70, GEnx-1B70/72, GEnx-1B70/75, GEnx-1B72, and GEnx-1B75. For these GEnx engine models, GE plans to use carbon graphite composite fan blades incorporating metal leading and trailing edges that use geometry, composite structural materials, and manufacturing methods very similar to those used for the previously certified GE90-series engine fan blades designs.

In lieu of direct compliance to § 33.94(a)(1) for the GEnx fan blades, the FAA has proposed that GE comply with new special conditions that retain the requirements of the original SC-33-ANE-08 created for the GE90-76B,

-77B, -85B, -90B, -94B model certification program, and then successfully applied to the GE90-110B1, -113B, and -115B model certification program.

These GE90 series engine model fan blades are manufactured using carbon graphite composite material that also incorporates metal leading and trailing edges. These unusual and novel design features result in the fan blades having significant differences in material property characteristics when compared to conventionally designed fan blades using non-composite metallic materials. GE submitted data and analysis during the GE90-76B, -77B, -85B, -90B, -94B model certification program showing the likelihood that a composite fan blade with fail below the inner annulus flow path line is highly improbable. GE, therefore, questioned the appropriateness of the requirement contained in § 33.94(a)(1) to show blade containment after a failure of the blade at the outermost retention feature.

The FAA determined that the requirements of § 33.94(a)(1) are based on metallic blade characteristics and service history, and were not appropriate for the unusual design features of the composite fan blade design planned for the GE90-76B, -77B, -85B, -90B, -94B model turbofan engines. The FAA determined that a more realistic blade retention test would be achieved with a fan blade failure at the inner annulus flow path line (the complete airfoil only) instead of the outermost blade retention feature as currently required by § 33.94(a)(1).

The FAA, therefore, issued special conditions SC-33-ANE-88 on February 1, 1995 for the GE90-76B, -77B, -85B, -90B, -94B engine models. These special conditions defined additional safety standards for the carbon graphite composite fan blades that were appropriate for the unusual design features of those fan blades and that were determined to be necessary to establish a level of safety equivalent to that established by the airworthiness standards of § 33.94(a)(1). The FAA later determined that these special conditions continued to be appropriate for the amended type certificate applied to the GE90-110B1, -113B, and -115B engine models.

The FAA also determined that the composite fan blade design and construction presents factors other than the expected location of a blade failure that must be considered. Tests and analyses must account for the effects of in-service deterioration of, manufacturing and materials variations in, and environmental effects on, the composite material. Tests and analyses