

# 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–2008–0050]

RIN 0579–AC95

#### Importation of Papaya From Colombia and Ecuador

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

**DATES:** We will consider all comments that we receive on or before June 22, 2009.

**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-2008-0050> 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–2008–0050, 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–2008–0050.

*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:** Mr. Alex Belano, Branch Chief, Risk Management and Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart–Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–48, 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 organizations (NPPOs) of both Colombia and Ecuador have requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh papayas (*Carica papaya* L., cultivar Solo) to be imported from Colombia and Ecuador into the continental United States. In response to those requests, the Center for Phytosanitary Excellence in Bogotá, Colombia, an APHIS-funded organization, prepared pest risk assessments (PRAs) for each country. After review of the PRAs and consultation with Colombia and Ecuador, APHIS prepared a risk management document that covers both countries. Copies of each PRA and the risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** and may be viewed on the Internet on the Regulations.gov Web site or in our

reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room).

The PRA prepared in response to Colombia’s request, titled “Importation of Fresh Papaya (*Carica papaya* Linnaeus), cultivar Solo, into the Continental United States from Colombia” (July 2008), evaluates the risks associated with the importation of papayas into the continental United States from Colombia. The PRA identified two pests of quarantine significance present in Colombia that could be introduced into the United States via fresh papayas: The South American fruit fly (*Anastrepha fraterculus*) and the Mediterranean fruit fly or Medfly (*Ceratitidis capitata*).

The PRA prepared in response to Ecuador’s request, titled “Importation of Fresh Papaya Fruit, *Carica papaya* L., into the Continental United States from Ecuador” (July 2008), evaluates the risks associated with the importation of papayas into the continental United States from Ecuador. The PRA identified three pests of quarantine significance present in Ecuador that could be introduced into the United States via fresh papayas: The South American fruit fly, the Medfly, and the fungal pest *Phoma caricae-papayae*.

APHIS has determined that measures beyond standard port of arrival inspection are required to mitigate the risks posed by the plant pests associated with papayas from both countries. Therefore, we propose to require that the papayas be subjected to a systems approach to pest mitigation. This systems approach would require that the papayas be produced and packed in approved areas of Colombia and Ecuador, would require packing procedures designed to exclude quarantine pests, and would require fruit fly trapping, field sanitation, and hot water treatment to remove pests of concern from the pathway. Only commercial consignments of papayas would be allowed to be imported from Colombia and Ecuador. Consignments of papayas from Colombia and Ecuador would also be required to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the proposed requirements.

The proposed systems approach to pest mitigation for the importation of papayas from Colombia and Ecuador has been used successfully to mitigate the risk associated with the importation of papayas from Central America and Brazil (§ 319.56–25). The risk management document for papayas from Colombia and Ecuador evaluated the effectiveness of these measures against the quarantine pests of concern and concluded that the provisions in § 319.56–25, along with the general requirements for the importation of fruits and vegetables in the regulations, will be sufficient to prevent the introduction into the continental United States of injurious plant pests identified by the pest risk analyses. Therefore, we propose to amend § 319.56–25 to allow for the importation of papayas from Colombia and Ecuador. The mitigation measures for the proposed systems approach are outlined in greater detail below.

#### *Commercial Consignments*

The importation of fresh papayas from Colombia and Ecuador would be limited to commercial consignments only.

This condition would reduce the likelihood that papayas will introduce injurious plant pests into the continental United States. Commercial consignments are 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, may 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.

We would place the “commercial consignments only” limitation in the introductory text of § 319.56–25. Located there, that provision would apply to both the fresh papayas from Colombia and Ecuador that are the subject of this proposed rule and the currently authorized imports of fresh papayas from Central America and Brazil. The permit conditions applicable to papayas from Central America and Brazil already specify that they may be imported in commercial shipments only, so the addition of this provision to

the regulations would serve simply to make the restriction more transparent.

#### *Approved Production Areas*

The papayas would have to be grown and packed for shipment to the continental United States in an approved area by growers registered with the NPPO of the exporting country. In Colombia, these would be the Municipalities of La Unión, Roldanillo, Toro, and Zarzal in the Province of El Valle de Cauca. In Ecuador, these would be the Cantons of Balzar, El Triunfo, Gral. Antonio Elizalde, Milagro, Naranjal, and Santa Elena in the Province of Guayas, and the Canton of Santo Domingo in the Province of Pichincha.

This condition would ensure that papayas intended for the continental United States are grown and packed in papaya production and packing areas of Colombia and Ecuador where fruit fly traps are maintained and where the other elements of the systems approach described below are in place. In addition, grower registration allows for traceback and removal from the export program of production sites with confirmed pest problems, and the papaya orchards would be monitored by the NPPO to ensure that pest and disease-excluding sanitary procedures are employed.

#### *Harvesting Procedures*

Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the area where the papayas are grown would have to be kept free of papayas that are one-half or more ripe (more than one-quarter of shell surface yellow), and all culled and fallen fruit would have to be buried, destroyed, or removed from the farm at least twice a week.

Although papayas are a potential host for Medfly and South American fruit fly, these fruit flies typically prefer ripe fruits as well as culled or fallen papayas. Therefore, requiring that only green papayas (less than half ripe) be present on the trees and that culled and fallen fruit be buried, destroyed, or removed from the farm would reduce the populations of Medfly and South American fruit fly in the fields where papayas intended for importation into the continental United States are grown.

#### *Treatment*

The papayas would have to be held for 20 minutes in hot water at 48 °C (118.4 °F). This treatment is currently used to treat papayas imported from Central America and Brazil for fruit flies under the existing regulations in

§ 319.56–25. Hot water treatment mitigates the pest risk that could result if fruit flies lay eggs in papayas immediately before harvest. In addition, hot water treatment reduces populations of fungal pathogens such as *P. caricae-papayae* on fruit. This treatment, in conjunction with other safeguards that would be required by the regulations for papayas from Colombia and Ecuador, would reduce the likelihood that papayas will introduce injurious plant pests into the continental United States.

#### *Packaging Procedures*

When packed, the papayas would have to be less than one-half ripe (shell surface no more than one-quarter yellow, surrounded by light green) and appear to be free of all injurious insect pests.

This condition would reduce the risk of introduction of Medfly and South American fruit fly, as well as other injurious insect pests, into the continental United States. Papayas that are less than one-half ripe (green) are not preferred hosts for fruit flies. Requiring papayas to be less than one-half ripe when packed thus reduces the risk of their infestation with Medfly or South American fruit fly. In addition, requiring that the papayas appear to be free of all injurious plant pests would help ensure that fruits that are visibly infected with *P. caricae-papayae* are culled before packing.

The papayas would have to be safeguarded from exposure to fruit flies from harvest to export, including being packaged to prevent access by fruit flies or other injurious insect pests during transit. The package containing the papayas would not be allowed to contain any other fruit, including papayas not qualified for importation into the continental United States. These conditions would ensure that papayas that have already been inspected and packaged for shipment to the continental United States are not at risk for fruit fly infestation.

#### *Distribution Limitations*

Because the scope of the PRAs that were prepared for this proposed rule was limited to the continental United States, papayas from Colombia and Ecuador would not be authorized for importation or movement into Hawaii or any U.S. territories or possessions. We would implement this distribution limitation by denying permit applications for shipments to destinations outside the continental United States and, for consignments imported into the continental United States, by including as a condition of the permit a prohibition on moving the

papayas to Hawaii or any U.S. territory or possession.

We note that the regulations in § 319.56–25(f) state that papayas from Central America and Brazil must be shipped in individual cartons or boxes stamped or marked with the statement: “Not for importation into or distribution within Hawaii.” That distribution limitation was put in place because the papaya fruit fly (*Toxotrypana curvicauda*), which occurs in Central America and Brazil, does not occur in Hawaii, where the majority of U.S. commercial papaya production takes place.

In developing this proposed rule, we considered using similar box marking requirements to communicate the distribution limitations for papayas from Colombia and Ecuador. However, as noted above, we concluded that the permitting process would allow us to effectively implement the distribution limitations. The same factors that led us to conclude that box marking would not be necessary for papayas from Colombia and Ecuador also led us to consider whether it was necessary to continue requiring box marking for papayas from Central America and Brazil. As a result of that consideration, we have concluded that the permitting process would also allow us to effectively implement the distribution limitations on papayas from Central America and Brazil. Therefore, we are proposing to remove the requirement in § 319.56–25(f) that papayas from Central America and Brazil be shipped in individual cartons or boxes stamped or marked with the statement: “Not for importation into or distribution within Hawaii.”

#### *Fruit Fly Trapping*

Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps would have to be maintained in the field where the papayas were grown. Fifty percent of the traps would have to be of the McPhail type, and 50 percent of the traps of the Jackson type. The traps would have to be placed at the rate of 1 trap per hectare and checked for fruit flies at least once a week by plant health officials of the NPPO. The NPPO would have to keep records of the fruit fly finds for each trap, updating the records each time the traps are checked, and make the records available to APHIS upon request. The records would have to be maintained for at least 1 year. This condition would ensure the earliest possible detection of increasing populations of fruit flies in and around fields where papayas are grown.

If the average Jackson fruit fly trap catch is greater than seven Medflies per

trap per week, measures would have to be taken to control the Medfly population in the production area. If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

If the average McPhail trap catch is greater than seven South American fruit flies per trap per week, measures would have to be taken to control the South American fruit flies population in the production area. If the average McPhail trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

These thresholds for Medfly and South American fruit fly trapping would help detect increasing populations of these fruit flies in growing areas; as such, this condition would help ensure that these fruit flies are not associated with imports of papayas into the continental United States.

All activities would have to be conducted under the supervision and direction of plant health officials of the NPPO of the exporting country to help ensure that all activities required by the regulations are properly carried out. Currently, fruit fly trapping is not listed as an activity to which this requirement applies. Therefore, we are proposing to amend § 319.56–25 to make it clear that this requirement applies to all activities, including fruit fly trapping.

#### *Phytosanitary Certificate*

All shipments of papayas would have to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the proposed requirements. This condition would help ensure that the provisions of the regulations have been met. In addition, as part of issuing the phytosanitary certificate, the NPPO would inspect the commodities and certify that they are free of quarantine pests.

The existing regulations in § 319.56–25(k), which we are proposing to redesignate as paragraph (j), provide that all consignments of papayas must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture. However, throughout the regulations we identify the official service responsible for discharging functions specified by the International Plant Protection

Convention, including the issuance of phytosanitary certificates, as the NPPO of the exporting country, rather than the national Ministry of Agriculture. For clarity and consistency, we propose to amend § 319.56–25(k) to refer to the NPPO.

#### *Miscellaneous*

We would amend the regulations in § 319.56–25 in order to clarify that the continental United States includes Alaska, rather than referring to Alaska as a separate entity.

#### **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.

We are proposing to allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Section 605 of the Act relieves an agency of the requirement to prepare and make available for public comment an initial regulatory flexibility analysis describing the expected impact of a proposed rule on small entities if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Businesses most likely to be affected by this rule would be U.S. papaya producers. Papaya production is classified under North American Industry Classification System (NAICS) 111339, other non-citrus fruit farming. The Small Business Administration (SBA) classifies papaya producers as small entities if they have annual sales of not more than \$750,000. In the United States in 2002, the U.S. Department of Agriculture's (USDA)

National Agricultural Statistics Service (NASS) reported that 95 percent of enterprises engaged in fruit and tree nut farming (NAICS 1113) made less than \$500,000. Most, if not all, papaya producers in the United States are presumably small entities.

Importers and wholesalers of papaya could be affected by the proposed rule as well. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424480, 100 or fewer employees), wholesalers and other grocery stores (NAICS 445110, \$23 million or less in annual receipts), warehouse clubs and superstores (NAICS 452910, \$23 million or less in annual receipts), and fruit and vegetable markets (NAICS 445230, \$6 million or less in annual receipts). Many of the entities that comprise these industries are small.

There are three papaya-producing States, Florida, Hawaii, and Texas, with Hawaii having by far the largest number of producers (including bearing and nonbearing farms). In 2007, 178 Hawaiian farms with 2,135 acres, 1,395 of which were bearing acres, are reported to have grown papaya.<sup>1</sup> Hawaii is the only State for which fresh utilized papaya production is reported by USDA's Economic Research Service (ERS). The latest update (October 2007) by ERS indicates that fresh utilized production was 13,000 short tons.<sup>2</sup> Over the last 5 years, the amount of Hawaiian fresh papaya production has decreased 50 percent.

Florida has a small commercial papaya industry,<sup>3</sup> and the lower Rio Grande Valley in Texas also has only limited commercial plantings due to occasional freezing temperatures.<sup>4</sup> The 2002 Census of Agriculture reported that Florida had 53 papaya-producing farms with a total of 156 acres and that Texas had 5 farms with a total of 6 acres.<sup>5</sup>

In contrast to the decline in domestic production, the quantity of fresh papayas imported since 1999 has almost

doubled, as U.S. demand for papayas continues to increase. Imports as a percent of domestic fresh papaya consumption have risen from 80 percent in 2000 to over 94 percent in 2006. U.S. fresh papaya imports for 2006 totaled around 146,000 short tons, while U.S. papaya exports, excluding re-exports, totaled only 3,900 short tons.<sup>6</sup> In other words, the United States imports almost 11 times the quantity of fresh papayas produced domestically.

Hawaiian papayas are available year round, but the peak season starts in early summer and continues into fall. Annual NASS reports show that the percentage of fresh papaya that stayed within the State increased from 50 percent in 2002 to 63 percent in 2006. Shipments of fresh papaya from Hawaii decreased from 10,600 short tons in 2002 to 4,900 short tons in 2006 (37 percent).<sup>7</sup> Preliminary estimates for 2007 indicate a reversal in this pattern, with outshipment of 5,800 short tons and 51 percent of the fresh papaya crop consumed within the State. The Hawaiian NASS Field Office does not report whether Hawaii's out-of-State sales remained within the United States or were exported. The proposed rule would only allow the importation of papaya from Colombia and Ecuador into the continental United States.

Mexico is the principal source of fresh papaya imports by the United States, while additional imports arrive from such countries as Belize, Brazil, Jamaica, and the Dominican Republic. ERS attributes the growing U.S. demand to increasing ethnic populations that are already familiar with papayas and are the main consumers of the fruit, as well as a growing appetite among other consumers for a new, health-promoting, and convenient food.<sup>8</sup>

U.S. producers of papayas must compete against less expensive imports. In 2006, for example, the price of papaya imports from Mexico was about 28 cents per pound, whereas the market price received for fresh papaya in Hawaii averaged over 41 cents per pound. As of April 2008, the fresh papaya farm price in Hawaii was estimated at 51 cents per pound, while Mexico's price was 27 cents.<sup>9</sup> We expect

that papaya supplied by Colombia and Ecuador would largely compete against imports from Mexico and elsewhere. With the proposed rule, U.S. papaya producers could expect to face additional competition of less expensive fruit from foreign sources. Given that the U.S. market for fresh papaya is already dominated by imports, the addition of Colombia and Ecuador is unlikely to significantly affect sales by U.S. producers. Estimated papaya production in 2006 for Colombia was 151,000 short tons and for Ecuador, 47,000 short tons.<sup>10</sup>

At least some U.S. firms that import papaya could be expected to benefit from the additional sources of supply, although any such gains overall would be limited by the extent to which fresh papaya cultivar Solo imports from Colombia and Ecuador substitute for imports from other countries. Given the rapidly expanding demand for fresh papaya in the United States, substitution among foreign sources may be limited, depending upon price sensitivities.

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 commercial shipments of fresh papayas from Colombia and Ecuador into the continental United States. If this proposed rule is adopted, State and local laws and regulations regarding papaya 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.

#### 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

Papaya Harmonized System code 080720. Retrieved 7/22/08. <http://www.gtis.com/gta>.

<sup>10</sup> Food and Agriculture Organization. FAOStat. Commodity "papayas" converted from tonnes.

<sup>1</sup> USDA NASS, Hawaii Field Office. "Papaya Acreage Survey Results." Sept. 18, 2007. <http://www.nass.usda.gov/hi/fruit/annpap.pdf>

<sup>2</sup> USDA ERS, Fruit and Tree Nuts Situation and Outlook Yearbook. Susan Pollack and Agnes Perez. Tables A-4, B-23. Oct. 2007. <http://www.ers.usda.gov/publications/FTS/2007/Yearbook/FTS2007.pdf>

<sup>3</sup> University of Florida. IFAS Extension. J.H. Crane, Processor and Tropical Fruit Specialist. 2005. <http://ucce.ucdavis.edu/files/datastore/391-412.pdf>

<sup>4</sup> Sauls, Julian W. Extension Horticulturist. Texas A & M, AgriLIFE Extension. Department of Horticultural Sciences. Retrieved 6/9/08. <http://aggie-horticulture.tamu.edu/extension/homefruit/papaya/papaya.html>

<sup>5</sup> USDA NASS, 2002 Census of Agriculture, Table 36.

<sup>6</sup> Global Trade Atlas. Harmonized System code 080720, Papayas, Fresh.

<sup>7</sup> NASS. Hawaii Field Office. Statistics of Hawaii Agriculture 2006. "Papayas." [http://www.nass.usda.gov/hi/stats/t\\_of\\_c.htm](http://www.nass.usda.gov/hi/stats/t_of_c.htm)

<sup>8</sup> USDA ERS Fruit and Tree Nut Outlook. Agnes Perez and Susan Pollack. "California to Produce More Strawberries in 2008, Peach, Nectarine, and Plum Production Adequate." May 29, 2008. p. 12 <http://www.ers.usda.gov/Publications/fts/2008/05MAY/FTS332.pdf>

<sup>9</sup> Global Trade Atlas Navigator. United States Import Statistics, monthly data. Commodity Fresh

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-2008-0050. Please send a copy of your comments to: (1) Docket No. APHIS-2008-0050, 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 allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

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 0.5 hours per response.

*Respondents:* National Plant Protection Organizations of Colombia and Ecuador and importers of papaya.

*Estimated annual number of respondents:* 3.

*Estimated annual number of responses per respondent:* 100,666.

*Estimated annual number of responses:* 302.

*Estimated total annual burden on respondents:* 151 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:

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 319.56-25 is revised to read as follows:

#### **§ 319.56-25 Papayas from Central America and South America.**

Commercial consignments of the Solo type of papaya may be imported into the United States only in accordance with this section and all other applicable provisions of this subpart.

(a) The papayas were grown and packed for shipment to the continental United States (including Alaska), Puerto Rico, and the U.S. Virgin Islands in one of the following locations:

(1) *Brazil:* State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito

Santo and all areas in the State of Rio Grande del Norte that contain the following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

(2) *Costa Rica:* Provinces of Guanacaste, Puntarenas, San Jose.

(3) *El Salvador:* Departments of La Libertad, La Paz, and San Vicente.

(4) *Guatemala:* Departments of Escuintla, Retalhuleu, Santa Rosa, and Suchitepéquez.

(5) *Honduras:* Departments of Comayagua, Cortés, and Santa Bárbara.

(6) *Nicaragua:* Departments of Carazo, Granada, Leon, Managua, Masaya, and Rivas.

(7) *Panama:* Provinces of Cocle, Herrera, and Los Santos; Districts of Aleanje, David, and Dolega in the Province of Chiriqui; and all areas in the Province of Panama that are west of the Panama Canal; or

(b) The papayas were grown by a grower registered with the national plant protection organization (NPPO) of the exporting country and packed for shipment to the continental United States (including Alaska) in one of the following locations:

(1) *Colombia:* Municipalities of La Unión, Roldanillo, Toro, and Zarzal in the Province of El Valle de Cauca.

(2) *Ecuador:* Cantons of Balzar, El Triunfo, Gral. Antonio Elizalde, Milagro, Naranjal, and Santa Elena in the Province of Guayas, and the Canton of Santo Domingo in the Province of Pichincha.

(c) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were one-half or more ripe (more than one-fourth of the shell surface yellow), and all culled and fallen fruits were buried, destroyed, or removed from the farm at least twice a week.

(d) The papayas were held for 20 minutes in hot water at 48 °C (118.4 °F).

(e) When packed, the papayas were less than one-half ripe (the shell surface was no more than one-fourth yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(f) The papayas were safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and

other injurious insect pests. The package containing the papayas does not contain any other fruit, including papayas not qualified for importation into the United States.

(g) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the NPPO. Fifty percent of the traps were of the McPhail type and 50 percent of the traps were of the Jackson type. The NPPO kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(1) If the average Jackson fruit fly trap catch was greater than seven Mediterranean fruit flies (*Ceratitis capitata*) (Medfly) per trap per week, measures were taken to control the Medfly population in the production area. If the average Jackson fruit fly trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(2) In Colombia, Ecuador, or the State of Espirito Santo, Brazil, if the average McPhail trap catch was greater than seven South American fruit flies (*Anastrepha fraterculus*) per trap per week, measures were taken to control the South American fruit fly population in the production area. If the average McPhail fruit fly trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

(h) All activities described in paragraphs (a) through (h) of this section were carried out under the supervision and direction of plant health officials of the NPPO.

(i) All consignments must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

(Approved by the Office of Management and Budget under control number 0579-0128)

Done in Washington, DC, this 15th day of April 2009.

**Kevin Shea,**

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

[FR Doc. E9-9100 Filed 4-20-09; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2009-0188; Airspace Docket No. 09-AGL-5]

#### Proposed Amendment of Class E Airspace; Port Clinton, OH

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend Class E airspace at Port Clinton, OH. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Carl R. Keller Field Airport, Port Clinton, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Carl R. Keller Field Airport.

**DATES:** 0901 UTC. Comments must be received on or before June 5, 2009.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. You must identify the docket number FAA-2009-0188/Airspace Docket No. 09-AGL-5, at the beginning of your comments. You may also submit comments on the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527), is on the ground floor of the building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193-0530; *telephone:* (817) 321-7716.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2009-0188/Airspace Docket No. 09-AGL-5." The postcard will be date/time stamped and returned to the commenter.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace for SIAPs operations at Carl R. Keller Field Airport, Port Clinton, OH. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is