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Proposed Rule for the Importation of Tomatoes From Central America

Environmental Assessment, January 2006

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I. What is this document and why is it being prepared?

This environmental assessment¹ has been prepared, consistent with the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service's National Environmental Policy Act (NEPA) implementing procedures (Title 7 of the Code of Federal Regulations (CFR), Part 372). It examines potential effects on the quality of the human environment that may be associated with a proposal to amend the regulations to import pink and red tomatoes grown from approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama for importation into the United States without treatment. Comments are welcomed.

II. What is the purpose of and need for the proposed action?

The Animal and Plant Health Inspection Service (APHIS) is proposing to amend its regulations to permit the importation of pink and red tomatoes from Central America which are currently prohibited from entering the United States because of concerns that pests harmful to agriculture and the environment could enter and become established.

The need for the proposed action stems from a formal request by the prospective exporting country of El Salvador to allow for the importation of pink and red tomatoes into the United States. APHIS has determined that since Costa Rica, Guatemala, Honduras, Nicaragua, and Panama have similar pest risks, the same regulations can apply to these countries as well.

III. What alternatives are considered?

APHIS considered two alternatives, a no action alternative, which is to continue to prohibit the importation of pink and red tomatoes from the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama into the United States. Under this alternative, the regulations would still allow the importation of commercially grown green tomatoes into the United States, from Central American Countries, under specific condition of entry. The preferred alternative, which consists of a proposed change to the fruits and vegetables regulation that would allow for the importation of pink and red tomatoes² grown in approved

¹ Regulations implementing the National Environmental Policy Act of 1969 (42 United States Code 4321 *et seq.*) provide that an environmental assessment "[shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted." 40 CFR § 1508.9.

² The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red.

registered production sites from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, in Central America. The conditions to which the proposed importation of tomatoes would be subject to are designed to prevent the introduction of quarantine pests into the United States and would include trapping, pre-harvest inspection, and shipping procedures. Each alternative is described briefly in the next section and each of these alternatives has the potential for adverse environmental consequences.

A. No Action

Under the no action alternative, pink and red tomatoes from Central America would continue to be prohibited from entry into the United States. There would be no change to amend the fruits and vegetables regulation allowing pink and red tomatoes to be imported into the United States. Currently, only commercial shipments of green tomatoes are allowed importation. Green tomatoes are not considered to be a host fruit for injurious pests and are allowed entry if they are green and inspected at the port of entry, in accordance with phytosanitary procedures.

B. Proposed Rule to Allow for the Importation of Tomatoes From Central America (Preferred Alternative)

Implementation of the proposed rule will change 7 CFR 319.56 to allow for the importation of pink and red tomatoes from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama into the United States. It would amend the regulation to allow for the importation of pink and red tomatoes without treatment from Central America into the United States. The importation of these tomatoes would be subject to specific phytosanitary measures such as trapping, pre-harvest inspection, and shipping procedures as requirements of entry into the United States.

Initial approval of the production sites for tomatoes will be completed jointly by the exporting country's National Plant Protection Organization (NPPO) and APHIS. Written agreements between APHIS, the foreign country's NPPO, and the growers, will be developed and maintained. The phytosanitary measures for the importation of tomatoes follows.

1. Requirements for Tomatoes Grown in areas where Mediterranean Fruit Fly (Medfly) is Present

a. Production Site

- A pre-harvest inspection of the growing site must be conducted by the NPPO for listed pests of concern, such as the Mediterranean fruit fly (*Ceratitis capitata*), Pea leafminer (*Liriomyza huidobrensis*), Tomato fruit borer (*Neoleucinodes elegantalis*) and a pathogen, Potato spindle tuber viroid. If these pests or any other quarantine pests are found, the NPPO will not allow exportation from that production site until APHIS and the NPPO determines that the risk has been mitigated.

- Tomatoes must be grown in approved, registered production sites. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The foreign country's NPPO will visit and inspect the production sites monthly, starting 2 months before harvesting begins and continuing until the end of the shipping season. APHIS can monitor the production site from 2 months before harvest and continuing through until the end of the harvest.
- Tomato production sites must consist of a pest exclusionary greenhouse having self-closing double doors and all additional openings and vents covered with 1.6 (or less) mm screening.

b. Trapping

- Trapping for the detection of fruit flies inside a production site must be conducted at a density of four traps per hectare with a minimum of at least two traps per greenhouse.
- Traps used for detection of fruit flies must contain an approved protein bait and be serviced on a weekly basis.
- Trapping with an approved bait for the detection of Medfly surrounding the production site must be conducted within a buffer area 500-meters wide around the site at a density of 1 trap per 10 hectare and a minimum of 10 traps. At least one of the traps needs to be near the greenhouse and must be checked a minimum of every 7 days. Traps must be set at least 2 months before exportation begins and trapping must continue until the end of the harvest.
- Trapping of 0.7 Medflies per trap per week or greater within the buffer zone surrounding the production site will delay the harvest, if not begun, or if already underway, suspend the harvest until APHIS and the foreign country's NPPO mutually determine that risk mitigation has been achieved.

c. Detection

- Detection of a single Medfly inside a registered production site or in a consignment, the registered production site would lose its approval to export tomatoes to the United States until APHIS and the foreign country's NPPO determine that risk mitigation has been achieved.

d. Documentation

- The foreign country's NPPO must maintain records of trap placement, monthly inspections, and any fruit fly captures to document the area is free of Medfly.
- The foreign country's NPPO must also maintain an APHIS-approved quality control program to monitor or audit the Medfly-trapping program.

- Trapping records must be maintained for APHIS' review.

e. Packing

- Tomatoes must be packed within 24 hours of harvest in an approved and registered pest exclusionary packing house.
- The tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing.
- Tomatoes must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin for transit to the United States. These safeguards must remain intact until arrival in the United States.
- The packing house must be registered and approved by the country's NPPO. During the time the packing house is in use for exporting fruit to the United States, the packing house may not accept fruit except from registered and approved production sites.

f. Certification

- The foreign country's NPPO is responsible for export certification inspection and issuance of phytosanitary certificates.
- Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the country's NPPO and must bear the declaration, "These tomatoes were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirement." The shipping box must also be labeled with the identity of the production site.

2. Requirements for Tomatoes Grown in a Mediterranean Fruit Fly (Medfly) Free Area

a. Production Site

- A pre-harvest inspection of the growing site must be conducted by the NPPO for listed pests of concern, such as the Mediterranean fruit fly (*Ceratitis capitata*), Pea leafminer (*Liriomyza huidobrensis*), Tomato fruit borer (*Neoleucinodes elegantalis*), and a pathogen, Potato spindle tuber viroid. If these pests or any other quarantine pest are found, the NPPO will not allow exportation from that production site until it determines that the risk has been mitigated.
- Tomatoes must be grown and packed in an area considered by APHIS to be free of Medfly.

b. Packing

- The tomatoes must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or tarpaulin, for transit to the United States.

c. Certification

- The foreign country's NPPO is responsible for issuance of phytosanitary certificates and export certification inspection of tomatoes. Each shipment of tomatoes must be accompanied by a phytosanitary certificate and bear the declaration, "These tomatoes were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box also must be labeled with the identity of the production site.

IV. What are the environmental impacts of no action and the proposed action?

Environmental impacts associated with implementation of the rule, as proposed, could result from inadvertent release and establishment of pests associated with the importation of pink and red tomatoes from Central America. Establishment of these pests would present a potential threat to U.S. agriculture. In response to this request from the government of El Salvador to remove certain restrictions on the importation of pink and red tomatoes, USDA looked at three recently prepared pest risk documents on related importations of pepper fruits from Central America (USDA, 2004a), peppers from Korea (USDA, 2005), and tomatoes from Chile (USDA, 2004b), for supporting information regarding pest biology and the efficacy of risk management. In addition, an information memo for the record was prepared to identify the pest risks of the proposed importation of pink and red tomatoes from Central America and evaluated the phytosanitary measures to mitigate those pest risks.

A. No Action

Continuing the current restrictions on the importation of these products from Central America is unlikely to contribute to any increased pest risk or increased environmental risks from program pesticide usage or other action.

B. Proposed Action

The systems approach supporting current tomato importation from other countries has proven to be effective over time. The proposed systems approach with its phytosanitary measures for the importation of pink and red tomatoes from Central America is designed to reduce the risk of importing pests. The measures employed constitute a mitigation standard for addressing risks from known quarantine pests that could reasonably be expected to follow the introduction

pathway. While not specifically required, standard industry practices will help to further ensure that other pests of concern are mitigated by pre- and post-harvest sanitation, cultural practices, and chemical treatments designed to eliminate or reduce pests.

These phytosanitary measures are safeguards or conditions employed to reduce the pest risk associated with importing pink and red tomatoes from Central America. These barriers are intended to exclude, contain, or eradicate pests. Under the proposed rule, if the foreign country's NPPO detects any quarantine pests inside a registered production site or any fruit fly larva in a consignment, the NPPO must immediately notify APHIS and must not allow export from the production site until both APHIS and the NPPO determine that risk mitigation has been achieved.

Currently, APHIS has similar regulations supporting the importation of tomatoes from Spain and France. Since the adoption of the systems approach for these countries, pest interceptions have been very low. This characterization of systems approach performance has been maintained, including with permitting importation of tomatoes of increased ripeness, as is contemplated under the proposed rule for the Central American countries.

Under the current rule, commercially grown green tomatoes from Central America may already be imported to the United States, just not at the stage of ripeness being proposed. The effectiveness of the phytosanitary measures in the systems approach support the current rule and further suggest the low likelihood of significant impacts under the proposed action.

The proposed rule would incorporate the mitigation measures identified in section III. B.1. and 2. The approach and components are identical to those incorporated into similar importation regulations. In regulations supporting unrelated produce, effectiveness has been demonstrated in achieving the phytosanitary goals of pest exclusion, containment, and/or eradication. Based on the success of existing importation regulations for tomatoes from Spain and France, APHIS anticipates a similar, acceptable outcome as a result of adopting this approach in support of the importation of these crops from Central America.

The systems approach described above is designed to be a fail-safe system that includes tiered safeguards. Thus, if one of the above mitigation measures were to fail, other safeguards built into the system ensure that the risks are progressively reduced and managed. Any potential environmental impacts associated with the proposed action should be further minimized by incorporating this systems approach.

In the unlikely event that a plant pest should be introduced into the United States and threaten to become established, appropriate eradication actions would likely be initiated. Such actions would likely involve the use of pesticides in a localized area. The area affected would likely be small because it is anticipated that any pests would be detected before they became widespread. In the event that a pest threatens to become established somewhere in the United States as a result of the importation of pink and red tomatoes from Central America and actions are required of APHIS, an environmental assessment would be prepared to look at the site-specific details necessary to

eradicate the pest. Any eradication plan or program would not be undertaken before a separate environmental process was completed.

V. Are there special considerations that need to be addressed?

A. Environmental Justice

Consistent with Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 Federal Register (FR) 7629–7633), and the Departmental Regulation 5600–2, Environmental Justice, dated December 15, 1997, APHIS considered the potential for disproportionately high and adverse human health or environmental effects on any minority populations. The proposed action for the importation of pink and red tomatoes from Central America into the United States will not result in any disproportionately high and adverse human health or environmental effects on any minority and low-income populations.

B. Protection of Children

Consistent with Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885–19888), APHIS considered the potential for disproportionately high and adverse environmental health and safety risks to children. It was determined that no disproportionate effects on children are anticipated as a consequence of implementing the preferred alternative.

C. Endangered and Threatened Species

The Endangered Species Act of 1973 (16 U.S.C. 4332 *et seq.*) requires that Federal agencies review their actions to ensure that they do not jeopardize the continued existence of a federally-listed endangered or threatened species (listed species). Further, agencies are required to consult with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service if their actions may adversely affect federally-listed species. A review of the proposed action indicates that it is not likely to adversely affect threatened and endangered species or their habitats.

VI. Who has been consulted for information and review of this document?

Individuals within APHIS staffs were contacted for information or to review documents during the preparation of this environmental assessment. The staff addresses follow.

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VII. References

USDA, APHIS—See U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

USDA, APHIS, 2005. Information Memo for the Record. From Edward V. Podleckis, Central American Tomatoes Memo. September 13, 2005, Riverdale, MD.

U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 2004a. Importation of Fresh Pepper Fruit with Stems (*Capsicum annuum* L., *C. frutescens* L., *C. baccatum* L., *C. pubescens* Ruiz & Pav., and *C. chinense* Jacq.) from Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua into the United States. A Qualitative, Pathway-Initiated Risk Assessment. October, 2004, USDA, APHIS, PPQ, CHPST, Raleigh, NC.

U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 2004b. Importation of Fresh Tomato Fruit (*Lycopersicon esculentum* Mill.) from Chile into the United States, A Pathway-Initiated Plant Pest Risk Analysis. Departamento Proteccion Agricola Servicio Agricola y Ganadero, Santiago, Chile and United States Department of Agriculture, Animal and Plant Health Inspection Agency, Plant Protection and Quarantine, Riverdale, MD.

U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 2005. *Ralstonia solanacearum* Race 3 Biovar 2 Likelihood of Entry, Introduction, and Establishment, and Mitigation Recommendations: Supplement to the USDA-APHIS Pest Risk Assessment Importation of fresh paprika pepper fruit (*Capsicum annuum* L. var. *annuum*), from the Republic of South Korea into the continental United States. USDA, APHIS, PPQ, Center for Plant Health Science and Technology, Raleigh, NC. 5pp.

U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 1999. Evaluating APHIS Programs and Activities for Ensuring Protection of Children From Environmental Health Risks and Safety Risks. APHIS Directive 5600.3, dated September 9, 1999. USDA, APHIS, Riverdale, MD.