

UNITED STATES DEPARTMENT OF AGRICULTURE

In the matter of:

MEXICAN HASS AVOCADO IMPORT PROGRAM
PROPOSED RULE

Pages: 1 through 40

Place: Denver, Colorado

Date: August 14, 2001

HERITAGE REPORTING CORPORATION

Official Reporters

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BEFORE THE
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

* * * * *

In the matter of:

MEXICAN HASS AVOCADO IMPORT PROGRAM
PROPOSED RULE

Renaissance Hotel
3801 Quebec Street
Denver, Colorado

Tuesday,
August 14, 2001

The public meeting reconvened at 9:00 a.m.

BEFORE: MICHAEL A. LIDSKY
Assistant Director of Regulatory
Coordination

PARTICIPANTS:

WAYNE BURNETT
EDWARD PODLECKIS
SCOTT SCANNER

ALSO PRESENT:

GRACIELA S. MASSONNAT-MICK, Interpreter

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P R O C E E D I N G S

1
2 MR. LIDSKY: Ladies and gentlemen, good
3 morning, and welcome to the Animal and Plant Health
4 Inspection Services public hearing on its proposed rule to
5 amend the regulations governing the importation of Hass
6 avocados from Mexico so as to allow an expansion of both
7 the current shipping season and the number of states into
8 which Hass avocados may be lawfully distributed.

9 My name is Mike Lidksy. I'm Assistant Director
10 for Regulatory Coordination and Plant Protection and
11 Quarantine of the Animal and Plant Health Inspection
12 Service, which we refer to as APHIS, of the U.S.
13 Department of Agriculture. I'll be the presiding officer
14 for today's hearing.

15 Today's hearing in Denver is the first of four
16 public hearings that are being held on the proposed rule.
17 The three remaining hearing are scheduled for August 16 in
18 Escondido, California; August 21 in Homestead, Florida;
19 and August 23 in Austin, Texas.

20 Notice of the public hearings was published in
21 the Federal Register in the proposed rule on July 13 in
22 Volume 66, pages 36892 through 36905. And in a separate
23 notice published in the Federal Register on July 27, in
24 Volume 66 in page 39121. Copies of both these documents
25 are available at the registration table along with a

1 summary sheet from the APHIS website, which lists all the
2 supporting document upon which the proposed rule is based.
3 These documents may be downloaded in a portable document
4 format from the website at aphis.usda.gov/ppq/avocados.

5 The purpose of today's hearing is to give
6 interested persons an opportunity for the oral
7 presentation of data, views, or arguments on the July 13
8 proposed rule. Those persons that are testifying will
9 have the opportunity to ask clarifying questions about the
10 provisions of the proposed rule.

11 In the course of this process, agency personnel
12 will be limited to explaining the provisions of the
13 proposed rule and the documents upon which it is based.
14 However, they must refrain from answering questions which
15 would address any particular future regulatory action the
16 agency may take in the course of this rulemaking
17 proceeding.

18 APHIS views this hearing as an opportunity to
19 receive public comments and to answer clarifying questions
20 and not as an opportunity for a debate on the issues. At
21 these hearings, any interested person may appear and be
22 heard in person or through an attorney or other
23 representative.

24 Persons who have registered either by email or
25 fax in advance of the hearing or have registered this

1 morning in person will be given an opportunity to speak
2 before unregistered persons. If time permits, persons who
3 have not registered will be given an opportunity to speak
4 after all registered persons have been heard.

5 Today's hearing, as well as the three other
6 hearings, are scheduled to conclude at 5:00 p.m. However,
7 the hearing will conclude earlier than 5:00 if all persons
8 who have registered to speak have been heard and there are
9 no other persons who wish to speak.

10 I may extend the time or limit the time for
11 each presentation so that everyone is accommodated and all
12 interested persons have an opportunity to participate. I
13 will announce any other procedural rules for the conduct
14 of today's hearing as may be necessary.

15 All comments made here today are being recorded
16 and will be transcribed. The court reporter for today's
17 hearing is Ms. Phyliss Lund of On the Recording Reporting
18 Corporation. A copy of the transcript shall be placed on
19 the APHIS website at www.aphis.usda.gov in approximately
20 two weeks. A copy will also be made available for public
21 inspection at the APHIS reading room in room 1141 of the
22 USDA South Building in Washington, D.C. That room is open
23 from 8:00 to 4:30 p.m.

24 I shall announce each registered speaker that
25 has requested to present a prepared statement. Before

1 commencing your remarks, please state and spell your last
2 name for the benefit of the court reporter.

3 In accordance with the procedures noted in the
4 July 27 notice, I'm requesting that anyone that reads a
5 prepared statement, please provide me with two copies of
6 your prepared statement at the conclusion of your remarks.
7 Any written, as well as any oral statements, submitted or
8 presented at today's hearing, as well as any written
9 comments submitted prior to the close of the comment
10 period, shall become part of the public record for this
11 rulemaking.

12 If an individual's comments do not relate to
13 the stated purpose of the hearing, which again is to
14 present comments or questions on any aspect of the
15 proposed rule, it'll be necessary for me to ask the person
16 to focus his or her comments accordingly.

17 I'd like to remind everyone that the close of
18 the comment period of the proposed rule is September 11,
19 2001. Any comments made in addition to those presented at
20 today's hearing should be submitted to Docket Number
21 00-003-2, Regulatory Analysis and Development, PPD, APHIS,
22 Suite 3C03, 4700 River Road, Unit 118, Riverdale, Maryland
23 20737-1238.

24 When submitting such comments by mail, please
25 submit an original and three copies. The address for

1 submitting comments by mail appears in the proposed rule
2 on the registration table.

3 Before concluding my remarks, I'd like to
4 introduce several other persons seated beside me. First
5 person I'd like to introduce is Mr. Wayne Burnett, Senior
6 Import Specialist on the Phytosanitary Issues Management
7 staff. Mr. Burnett will provide an overview of the
8 current avocado importation program as well as a summary
9 of the proposed expansion.

10 Adjacent to Mr. Burnett is Dr. Edward
11 Podleckis, a Senior Plant Pathologist on the Permits and
12 Risk Assessment staff, and author of a memo analyzing the
13 previous risk assessment and its applicability to the
14 proposed expansion. Dr. Podleckis will summarize his
15 findings related to the risk assessment.

16 Adjacent to Dr. Podleckis is Mr. Scott Scanner,
17 Western Region director for Smuggling Interdiction and
18 Trade Compliance.

19 After the presentation made by APHIS program
20 personnel, I'll call the first registered speaker.

21 Lastly, we ask that before you leave today,
22 please take a minute to complete a brief survey concerning
23 the quality of today's hearing. We need your feedback,
24 please, on things such as the format for today's hearing,
25 the accommodations, and other aspects of the hearing. We

1 want to determine if how we've been conducting this
2 hearing has been satisfactory to you. Copies of the
3 survey are available on the registration table.

4 Wayne?

5 MR. BURNETT: Okay. Thank you, Mike. Again,
6 my name is Wayne Burnett. I am the agency contact that is
7 listed on the proposed rule. The same information that's
8 on the screen now is also on the -- in the proposed rule.
9 Wayne Burnett, senior import specialist, Phytosanitary
10 Issues Management, address being USDA, APHIS, PPQ, 4700
11 River Road, Unit 140, Riverdale, Maryland 20737. My phone
12 number is 301/734-6799.

13 First, I want to review the pest risk
14 management measures that are currently in place under the
15 rule now enforced, field surveys, trapping and field
16 treatments, field sanitation, host resistance, postharvest
17 safeguards, limited shipping window, packinghouse
18 inspection and fruit cutting, port-of-arrival inspection,
19 limited U.S. distribution.

20 I want to review each of these and talk about
21 what changes may be proposed in the proposed rule. First
22 the field surveys: There are no proposed changes for the
23 field surveys. Field surveys still will consist of
24 surveys needed to qualify the orchard to be in the Mexican
25 Export Certification Program, and they also include --

1 which includes an intensive orchard-by-orchard spring
2 inspection for target pests and followed by a joint
3 USDA/Mexican survey which begins after July 1.

4 Trapping and field treatments: There will be
5 no change offered in the proposed rule for this risk
6 mitigation measure. It still be consist of year-round
7 trapping for exotic fruit flies, and field treatments if
8 triggered by a detection.

9 Field sanitation: There's no proposed changes.
10 Field sanitation will still remain the same; still will be
11 required prune dead branches off of trees in approved
12 orchards and also remove any fallen fruit from underneath
13 the trees.

14 Host resistance: There is no change in this in
15 the proposed rule. Avocados are still considered a poor
16 host for fruit flies.

17 Postharvest safeguards: There's no change in
18 this under the proposed rule. There still remains in
19 effect the safeguards from time of harvest through packing
20 and shipping.

21 Limited shipping window: In the proposed rule,
22 there is a proposed change to this. The limited shipping
23 window will be increased from four months to six months.

24 Packinghouse inspection and fruit cutting: No
25 changes in the proposed rule. This remains still in

1 effect. Fruit will be inspected and cut at the
2 packinghouses.

3 Port-of-arrival inspection: No changes in the
4 proposed rule. Once the Mexican Hass avocados reach a
5 port-of-entry into the U.S., they will be inspected.

6 Limited U.S. distribution. There is a proposed
7 change in the proposed rule to increase the number of
8 approved states by 12.

9 Now to review a little history of the current
10 program. There has been four shipping seasons completed.
11 Two program reviews were completed. The total cartons
12 imported so far under the program was 3,334,600. Total
13 fruit cut and inspected under the program, 5,464,173. No
14 target pests detected in inspected fruit, and there was
15 good compliance to limited distribution requirement.

16 Now to illustrate the compliance record, this
17 is a pie graph which illustrates the number of -- number
18 of cartons being 3.3 million over the course of the four
19 seasons; distributed within the approved states, 99.89
20 percent remained within the approved states, and only .11
21 percent were found outside of the approved states over the
22 four years.

23 Give further details on the cartons that were
24 found outside the approved area: This is a bar graph
25 which breaks down year by year. You'll notice that the

1 first two years are higher than the last two years. This
2 can be attributed to in the year late 1999-2000 there was
3 an intensive public-affairs campaign targeted at industry
4 and distributors to make them understand the program, and
5 also promulgated was an amendment to the rule, which
6 requires that all distributors within the U.S. obtain a
7 compliance agreement from the USDA.

8 Again, to review what the proposed changes are
9 in the proposed rule: Shipping window increased by two
10 months to include March and April; approved area for
11 distribution increased by 12 states.

12 To give a more graphic of what the approved
13 area would be, the approved states currently are in the
14 northeast section, upper-right of the map, and newly
15 proposed states would be the green portion of the map.

16 And that concludes my portion of the program.
17 I want to turn it over to Dr. Podleckis.

18 DR. PODLECKIS: Thanks, Wayne.

19 Good morning. My name is Ed Podleckis. I am
20 senior plant pathologist on the Commodity Risk Assessment
21 team of the Permit and Risk Assessment staff at APHIS.
22 Our staff, headed by Dr. Mike Firko, is responsible for
23 conducting plant pest risk assessments on imported
24 commodities.

25 And it was our staff that wrote the 1995 pest

1 risk assessment for the importation of Mexican Hass
2 avocados into the United States. So when this proposed
3 expansion of the current import program was made, we were
4 asked to review the proposal and make a recommendation as
5 to whether the 1995 risk assessment was still valid.

6 That 1995 risk assessment used this model to
7 estimate the likelihood of four pest groups being
8 introduced into the United States as a result of importing
9 Mexican Hass avocados under a systems approach. The four
10 pest groups of concern were *Anastrepha* fruit flies, seed
11 weevils, stem weevils -- a stem weevil, and a seed moth.

12 The model lists the major steps that all must
13 occur in order for a pest introduction to take place. We
14 used a range of probabilities to estimate the chance of
15 each of these steps, or nodes as we call them, occurring.
16 The estimates for each node were multiplied together to
17 calculate the estimated annual chance for an outbreak of
18 each pest.

19 Our job with regard to the current proposal was
20 to determine whether the proposed changes would impact any
21 of these nodes, and if there was an impact, whether the
22 1995 estimates were still valid.

23 F1 estimates the number of boxes of Mexican
24 Hass avocados imported into the United States. The 1995
25 risk assessment estimated that between 1- and 2 million

1 boxes would be imported annually. The actual number of
2 boxes imported fell short of the minimum estimate in all
3 but one of the four years of the current program. This
4 means that the 1995 risk assessment actually overestimated
5 the number of fruit that would be imported. It also means
6 that even if the addition of 12 states to the approved
7 list resulted in a doubling of the amount of avocados
8 imported, which is unlikely, the amount of fruit shipped
9 annually would still fall within the range estimated by
10 the 1995 risk assessment.

11 P1 is the probability that avocados in export
12 groves in Mexico are invested with one of the four target
13 pests. The addition of states to the approved list for
14 distribution in the United States would have no impact on
15 whether avocados in Mexican orchards are infested.

16 Winter shipping would have little impact on the
17 level of infestation by either the weevils or the seed
18 moth, but it does reduce the probability of fruit being
19 infested by fruit flies. The majority of this reduction
20 is the result of lower adult fruit fly activity in the
21 Mexican orchards during the colder winter months.

22 The question then becomes, would extending the
23 shipping season to include March and April mean that
24 avocado fruit shipped -- would be shipped from Mexican
25 orchards with high levels of fruit fly activity.

1 Trapping data collected in Mexico as part of
2 the current import program would indicate that this is not
3 the case. In four years of trapping, only five fruit
4 flies have been trapped during the months of March and
5 April. All of those captures occurred in a single
6 shipping season in a single Mexican municipality.

7 Our inspection data also indicate that the 1995
8 risk assessment estimates were sound. No target pests
9 found in nearly 3-1/2 million boxes of avocados shipped so
10 far falls well within the range estimated for fruit flies
11 and is actually better than we estimated for either the
12 weevils or the seed moth.

13 Each of these nodes is a probability that would
14 not be affected by the proposed changes to the import
15 program. P2 depends on the success rate of inspections
16 that occur in the field and at the packinghouse, which in
17 turn depends on factors such as the skill of the
18 inspectors and the level of scrutiny.

19 Now, although this probability would be
20 unaffected by the proposed changes to the program, it is
21 worth noting, as Wayne mentioned, that in -- that no
22 target pests have been found in over 5 million fruit that
23 have been inspected by fruit cutting.

24 P3 is the pest mortality rate that occurs
25 during shipping. This is dependent on the pest biology

1 and would be unaffected by the program.

2 P4, like P2, depends on factors such as the
3 skill of inspectors and the level of scrutiny, but now
4 we're talking about inspections at the port of entry. And
5 again, it's worth noting that in over 65,000 fruit
6 inspected at the port of entry by cutting, no target pests
7 have been detected.

8 Finally, P6 is the probability that a pest in
9 an infested fruit that is transported to a suitable
10 habitat can cause an outbreak. P6 is based on historical
11 data that we have for the frequency of fruit fly outbreaks
12 in the United States. It's a probability that's derived
13 from the characteristics of the pest and, again, would not
14 be impacted by the proposed changes to the import program.

15 Now, P5, the probability that infested fruit is
16 transported to a suitable habitat, is the node that the
17 greatest potential for impact by the proposed changes.
18 Suitable habitat can be defined primarily by two
19 characteristics: available hosts and a favorable climate.

20 Avocado is essentially the only host for the
21 weevils and the preferred host for the seed moth. And
22 like in the currently approved states, avocado and the
23 alternate host for the seed moth are not grown in the
24 states proposed for expanded distribution. So even in the
25 unlikely event that those pests were transported to these

1 states, they would not find suitable host material.

2 For the fruit flies, we referred to a recent
3 publication produced by a subgroup of the North American
4 Plant Protection Organization, or NAPPO, pest risk
5 analysis panel headed by Dr. Ronaldo Sequeira. This study
6 predicts area of the United States that might be
7 susceptible to the establishment of *Anastrepha* fruit
8 flies. Using climate and host data, as well as a
9 knowledge of the pest biology, it focuses on the
10 likelihood that these *Anastrepha* fruit flies could become
11 established in the United States, with particular
12 reference to the possibility of their using imported
13 Mexican Hass avocados has as a pathway for entering the
14 United States.

15 The document is part of a broader joint effort
16 by the United States, Mexico, and Canada to assess the
17 likelihood establishment for these *Anastrepha* fruit flies
18 in all of North America. Data in the study indicate that
19 in the states proposed for addition to the approved list,
20 suitable host material would not be available for more
21 than six months out of the year and that winter
22 temperatures are too cold for fruit fly establishment.

23 As this map from the study summarizes, all of
24 the states proposed for addition to the approved list fall
25 within an area at low risk for *Anastrepha* fruit flies

1 establishment. This map was based on a combination of
2 fruit fly temperature requirements, host availability, and
3 generation potential.

4 Now, while the states that are approved for
5 distribution or proposed for distribution may not provide
6 suitable habitat, it is possible that fruit would be
7 transported to states that have -- to areas outside the
8 approved distribution area. This could be the result
9 either of inadvertent movement or intentional smuggling.

10 The 1995 pest risk assessment estimated that
11 between 1/2 of 1 percent and 5 percent of the avocados
12 imported would be transported to a suitable habitat.
13 According to the interception data we have, during the
14 first two years of the import program the percentage of
15 fruit found outside the approved area fell well below the
16 minimum estimate of the 1995 risk assessment.

17 And in the second two years of the program,
18 after the adoption of a more stringent compliance program,
19 the percentage of fruit found outside the approved area
20 dropped to levels between a hundred- and a thousand-fold
21 less than the range of values estimated in the 1995
22 assessment.

23 Now, even if one assumes that all of the
24 fruit -- not all of the diverted fruit is intercepted, the
25 estimates in the 1995 risk assessment still are, at the

1 very least, sound and, more likely, actually overestimated
2 the chance the fruit would be transported to a suitable
3 habitat.

4 I tried to keep my comments brief so as not to
5 take away any time from your opportunity to make comments.
6 I realize that risk and risk assessment are complex
7 topics, but I hope that I've given you at least some idea
8 of our reasons for determining that the evidence, the
9 assumptions, and the conclusions of the 1995 plant pest
10 risk assessment for the importation of Mexican Hass
11 avocados into the United States remains valid even -- and
12 a new risk assessment is not necessary even if the
13 proposed changes are adopted.

14 Thank you for your attention.

15 MR. LIDSKY: Our first registered speaker is
16 Mr. Mitchell Yergert from the Colorado Department of
17 Agriculture.

18 MR. YERGERT: My name is Mitchell Yergert. I
19 am the chief of the Plant and Insect section within the
20 Division of Plant Industry for the Colorado Department of
21 Agriculture, and I am presenting these comments for
22 Commissioner Don Ament regarding the expansion of the
23 Mexican Hass avocados import program.

24 The Colorado Department of Agriculture has no
25 phytosanitary concerns with this expansion, and we believe

1 strongly in the further development of trade between our
2 countries. NAFTA has been a very important trade
3 agreement in allowing both the U.S. and Mexico to expand
4 our trade of agricultural products.

5 Agricultural trade between our countries is now
6 over \$11.6 billion annually. The removal of unnecessary
7 trade restrictions will be a benefit to both of our
8 countries. I believe that all barriers to free trade
9 between our two countries which are not based upon sound
10 scientific principles should be removed. In addition to
11 the expansion of the Mexican Hass avocados into Colorado,
12 we are looking forward to the day when Colorado apples and
13 table stock and seed potatoes can be shipped to Mexico.

14 I strongly urge APHIS to adopt this rule and to
15 work to further eliminate all unnecessary trade barriers.
16 Sincerely, Don Ament, Commission.

17 Thank you.

18 MR. LIDSKY: Thank you. Our next speaker is
19 Mr. Enrique Lobo from the Embassy of Mexico Agricultural
20 Office.

21 MR. LOBO: Thank you, Mike.

22 Good morning. I'm Enrique Lobo, and I'm the
23 Agricultural Minister at the Embassy of Mexico in
24 Washington, D.C. I'm pleased to be making this statement
25 on behalf of the Mexican [speaking in Spanish], SAGARPA,

1 in support of the proposed limited expansion of access to
2 the U.S. market for Mexican Hass avocado.

3 To date, both Mexico and the United States are
4 reaping the benefits of cooperative approach to fair
5 competition and free trade. Mexico and U.S. trade in
6 agricultural products is at record levels and continues to
7 grow.

8 Trade between Mexico and the United States has
9 grown because have worked together to dismantle barriers
10 to trade, to expand the market access, and to honor our
11 obligations under the North American Free Trade Agreement,
12 NAFTA, and under the rules of the World Trade
13 Organization, WTO.

14 Based upon the experience of the past four
15 years when Mexican Hass avocado have been permitted to be
16 sold in 19 states during the four winter months, since the
17 beginning of the Hass Avocado import program in 1997, the
18 U.S. and the Mexico governments have cut and inspected
19 5-1/2 million avocados in orchards and packing facilities
20 in Mexico without finding any of the quarantine pests of
21 concern to APHIS.

22 In addition, more than 65,000 avocados have
23 been cut open at the border without finding any other
24 target pests. The scientific evidence is overwhelming
25 that Hass avocado imported from Mexico does not pose any

1 real risk of the transmitting of quarantine pests.

2 The experience of the past four years, based on
3 scientific data, clearly demonstrates the absence of risk
4 to the United States growers for Hass avocado imported
5 from Mexico.

6 The proposed regulation would permit the sale
7 of Mexican Hass avocado in 12 additional states, none of
8 which are avocado-production states. So the program will
9 now be available to 31 states.

10 The proposed regulation will also permit
11 Mexican Hass avocado to enter to the United States during
12 two additional months, resulting in Mexican Hass avocado
13 being able to enter into the United States during the
14 months of November through April. Additionally, the
15 making and distribution safeguards will continue.

16 To increase access to the United States market
17 for Mexican Hass avocado will benefit U.S. customers by
18 leading to increased supply of the product at reasonable
19 prices, allowing more customers to enjoy high-quality,
20 fresh avocado during the off season of U.S. producers.

21 The implementation of the proposed APHIS
22 regulation will result in the increased economic activity
23 benefiting U.S. shippers, importers, producers,
24 distributions, and wholesalers, restaurants, supermarkets,
25 and consumers.

1 The proposed expansion of access to the U.S.
2 market for Mexican Hass avocado is an addition which,
3 under any analysis, should be taken and should be welcome.

4 Thank you for your attention.

5 MR. LIDSKY: Thank you.

6 Our next speaker is Mr. Jesus Mendez.

7 MR. MENDEZ SANCHEZ (THROUGH INTERPRETER): Good
8 morning. My name is Jesus Mendez Sanchez, and I am the
9 chairman of the board of an association in Michoacan that
10 groups packers and producers of avocados and who also
11 export avocados.

12 I'm going to present today some comments of our
13 organization on this APHIS proposal to expand market
14 access for Hass avocados produced in Michoacan, Mexico.

15 On July 13, 2001, the Animal and Plant Health
16 Inspection Service, or APHIS, published a proposed rule in
17 the Federal Register. The rule proposed that market
18 access should be expanded for this Mexican avocado to 12
19 additional states -- Minnesota, Iowa, Missouri, North
20 Dakota, South Dakota, Nebraska, Kansas, Montana, Wyoming,
21 Colorado, Idaho, and Utah -- and also to add two
22 additional months, months March and April. And comments
23 on this proposed rule are due by September 11, 2001.

24 The docket number is 00-003-2, and the document
25 provides the comments of the *asociación*, which is the

1 Association of Producers and Packers who also export
2 avocado from Michoacan, Mexico. And the acronym is APEAM.

3 APEAM is the association in Michoacan, Mexico,
4 that groups the producers and packers who also export
5 avocado, Hass avocado, into the United States. And APEAM
6 supports expansion of the market access for the proposed
7 12 additional states of the United States and for the two
8 additional months, and urge APHIS to complete the current
9 rulemaking process as quickly as possible.

10 This is to -- in order for exporters and
11 importers to take advantage of the expanded rule of
12 expanded market access during the coming shipping season.
13 And in support of the finalization of the proposed rule,
14 our organization, APEAM, offers these comments.

15 Mexico is the larger producer and exporter of
16 Hass avocados in the world, and the principal markets for
17 exports are Japan, Central America, the United States,
18 Canada, and the European Union.

19 The Foreign Agricultural Service of the United
20 States Department of Agriculture has estimated that
21 production and export in metric tons of Mexican avocados
22 will be as follows: In 1998, the production was 762,336
23 tons, and the exports for the same year were 38,571 tons.
24 For the year 1999, the production was 876,623 tons, and
25 the exports 22,415 tons. For the year 2000, the

1 production was 650,000 tons, and the exports 35,000 tons.

2 From 1914 to 1997, Mexican avocados were
3 prohibited from entering the United States by the United
4 States Department of Agriculture due to concerns about
5 host-specific avocado pests not known to occur in the
6 United States. And the view that the commercially
7 produced Mexican Hass avocado was an *Anastrepha* spp. fruit
8 fly host -- since 1997 imports of Mexican avocados have
9 been permitted into Alaska.

10 And that was during 12 months of the year and
11 into 19 states in 1997, which were the northeastern states
12 and the Columbia District [sic] and during the four months
13 of winter from November to February. These imports have
14 been allowed under a systems approach with major
15 safeguards in the orchards and packinghouses in Mexico.
16 Field service for stem and seed weevils and fruit flies
17 have been performed by APHIS officials in Mexico.

18 These include visual inspection, fruit cutting,
19 and branch shaking at appropriate times during the growing
20 season to determine the presence or absence of pests.
21 Orchards are precertified by SAGARPA, which is the
22 Government of Mexico's Department of Agriculture and
23 Vegetal Sanitary and then registered and certified by
24 APHIS as free from quarantine pests.

25 APHIS also performs trapping and field bait

1 treatments for fruit flies in the Mexican avocado orchards
2 and surrounding communities -- and *Anastrepha* and
3 *Anastrepha ludens, striata, and serpentina*, and these
4 fruit flies have been captured in very small quantities in
5 orchards in field trapping using McPhail traps, which
6 prove the very low incidence of fruit flies in growing
7 areas in Michoacan.

8 For instance, in Urapan, which is the capital
9 of the Mexican avocado industry, the trapping data
10 indicates that in 1999-2000, only 21 fruit flies were
11 captured in servicing 14,352 traps for a rate of 0.00002
12 flies per trap per day. And no fruit flies were captured
13 in Urapan during the 1998-1999 period.

14 This very small risk of the possible
15 transmission of fruit flies is overcome by other aspects
16 of the systems approach undertaken in Mexico.

17 Mexico has exported 2,152 shipments to the
18 United States, totaling almost 38 million kilos. Upon
19 arrival at the border, an additional 64,560 avocados have
20 been cut open and examined by APHIS inspectors, and no
21 quarantine pests have been identified in any of these
22 shipments.

23 APHIS regulations require that second- and
24 third-party handlers of imported Mexican avocados sign a
25 compliance agreement in order to legally purchase and

1 distribute the fruit in the states of this country.

2 Prior to allowing importation of Mexican Hass
3 avocados in 1997, APHIS developed a risk assessment that
4 examined the plant pest risk associated with this action.
5 Among other data, the overall risk analysis focused on an
6 analysis of a proposed risk mitigation program as reported
7 in Risk Management Analysis, 1995.

8 When this risk assessment analysis and
9 subsequent risk assessment were developed, there were a
10 number of unknowns regarding the phytosanitary risk posed
11 by the proposed imports. The importation of avocado fruit
12 from Mexico was seen as a potential pathway for the
13 introduction of plant pests.

14 This unknown risk and the fear of potential
15 negative economic impact to U.S. growers by the
16 importation of exotic pests associated with avocado
17 imports from Mexico resulted in the development of one of
18 the most restrictive phytosanitary regulations APHIS has
19 ever published. The temporal and geographic restrictions
20 were not shown to be strictly necessary by scientific
21 evidence but were more a reflection of the fear of the
22 unknown.

23 The systems approach outlined in 7 C.F.R.
24 319.56-2ff is a complicated series of risk mitigation
25 measures that were linked together forms what APHIS views

1 as an effective barrier against the importation of
2 quarantine pests.

3 In order to attain market access, the Mexican
4 growers and packers have accepted this overly restrictive
5 regulation. However, as more data becomes apparent and
6 delays to expansion continue, scientists and government
7 officials from around the world are beginning to view
8 these import requirements as protectionist trade barriers
9 designed to mitigate an exaggerated risk.

10 The most contentious components of the system
11 are the limited season and distribution restrictions. The
12 Mexican Hass avocado is considered by APHIS to be a
13 possible non-host, and this is according to Miller, et
14 al., 1995, page 11, for the *Anastrepha* fruit flies that
15 occur in the growing areas of Michoacan.

16 However, Mexican avocados can only be shipped
17 to the U.S. during the time when the fruit fly population
18 levels are almost nonexistence in the growing areas, and
19 only to an area of the United States where fruit flies
20 cannot become established.

21 The geographic distribution and the limited
22 season component of the system is based mainly on this
23 perception that if fruit flies of the genus *Anastrepha*
24 accompany shipments of Mexican Hass avocados into the
25 United States they will not be able to survive the colder

1 climates of the northeast, and this again according to
2 Miller, et al., 1995, pages 13 and 15.

3 As an additional mitigation, fruit fly trapping
4 in the growing areas is also required to ensure fruit fly
5 population densities remain low. If two or more flies are
6 discovered within a 30-day time frame, malathion bait
7 treatments must be applied in the affected orchard in
8 order to remain eligible to ship to the United States.

9 Other mitigations for fruit flies include field
10 sanitation, safeguarding fruit after harvest, and, most
11 importantly, host resistance. However, fruit fly
12 infestation of the Hass avocado is not known to occur
13 under normal growing conditions, and no historical
14 evidence exists that these pests attack Hass avocado in
15 nature, again according to Miller, et al., 1995, page 12.

16 APHIS has not only accepted that the Hass
17 avocado is a poor host for this genus, but also
18 acknowledges the possibility that this fruit is not a host
19 to these pests, again according to Miller, et al., 1995,
20 page 11.

21 There is no precise scientific evidence on the
22 status of *Anastrepha* as a pest of *Persea americana*
23 cultivar Hass, the Hass avocado. The evidence is mainly
24 anecdotal, and the exact species and variety of *Persea*
25 were not specified in many past arguments on the subject.

1 And this is according to Aluha [phonetic], 1999.

2 Moreover, the high altitudes, cooler climates,
3 and lack of suitable host material in Michoacan is not
4 favorable for *Anastrepha* fruit flies. A combination of
5 poor to inadequate hosts with marginal development
6 conditions leads to low field densities, especially when
7 associated with a much less preferred avocado crop Hass
8 cultivar, and this is according to Sequeira, et al., 2001.

9 APHIS continues to question the fruit fly host
10 status of the commercially produced Mexican Hass avocado
11 to the fruit flies that occur in the growing areas of
12 Michoacan. In 1995, APHIS justifies the season and
13 distribution limitations based on a perceived fruit fly
14 risk. However, four years of import data show that there
15 is no demonstrable risk of transmitting fruit flies and
16 strongly suggests that expansion of the season and
17 distribution area should be implemented.

18 As part of the export program, APHIS and
19 SAGARPA have cut and inspected over 6 million fruit in the
20 orchards and packinghouses without finding any of the
21 quarantine pests listed in the APHIS risk analysis. Prior
22 to the exportation of avocados to the United States,
23 SAGARPA and APHIS inspectors examined 2,152 shipments,
24 totaling almost 38 million kilos without finding any
25 quarantine pests.

1 Upon arrival at the border, every shipment was
2 inspected again by APHIS, and an additional 30 fruit per
3 shipment are cut open and inspected. No quarantine pest
4 has been identified in any of these border inspections.
5 The evidence is overwhelming that Hass avocado imported
6 from Mexico pose no risk of transmitting fruit flies and
7 an extremely low risk of harboring any other quarantine
8 pests.

9 The California Avocado Commission, CAC, has
10 said that there should be peer review of APHIS decisions
11 on phytosanitary issues. In fact, APHIS has conducted
12 end-of-the-year program reviews with the participation of
13 the CAC, and APHIS has incorporated CAC recommendations
14 into the phytosanitary work plan for the systems approach.

15 APHIS has sufficient staff to complete the
16 survey, to supervise activity of the packing sheds, and to
17 conduct spot checks of altered conditions during the
18 harvest. They are well trained and demonstrated good
19 knowledge of their work area and the work plan. SAGAR has
20 provided sufficient qualified personnel to conduct
21 surveys, to maintain trap lines, and to oversee the
22 harvest and transportation of avocados from the field to
23 the packing shed.

24 There is evidence there is a serious
25 enforcement effort taking place to make certain that the

1 requirements of the regulations and the work plan are met.
2 This includes activities by the producers, the SAGAR
3 representatives, and APHIS officials.

4 There is evidence that surveys are being
5 conducted in both commercial-approved groves as well as in
6 surrounding areas. Evidence of fruit cutting was noted in
7 areas which had already been completed by the survey teams
8 or brigades. This was true of both enrolled orchards and
9 adjacent areas.

10 While some groves will need some serious
11 attention by the producers in terms of cleanup, for the
12 most part, they are well maintained. Any problem areas
13 noted during the review were discussed between SAGAR and
14 producers or producers' representatives who accompanied us
15 through the orchards.

16 In more than one instance, SAGAR reminded the
17 producer that branches and fallen fruit would have the
18 same effect as an insect being found. For instance, the
19 orchard would be rejected.

20 Field observations and the attitudes of the
21 people involved in the program in Mexico confirmed that
22 there is little risk of insect infestations from the
23 groves involved in the program.

24 The greatest potential for introduction of
25 avocado pest into the United States comes from illegal

1 importations, smuggling of fruits from infested areas, and
2 the potential risk to California come from approved fruit,
3 while minimal, would be from trans-shipments of fruit
4 after importation into approved states.

5 Experience has shown that the CAC assessment in
6 1997 was correct. The CAC has offered nothing to
7 undermine the findings its expert analysts made at the
8 beginning of the program.

9 The above was extracted from a program review
10 conducted by CAC.

11 Regarding safeguarding and distribution of the
12 fruit after arrival, Mexican avocados are treated like no
13 other commodities listed in APHIS fruit and vegetable
14 regulation. There are a number of commodities in 7.
15 C.F.R. 319.56 that are enterable for distribution into
16 only certain areas of the United States due to
17 phytosanitary concerns; however, the administrative
18 instructions governing the entry of Mexican Hass avocados
19 is the only APHIS regulation.

20 This regulation requires that second- and
21 third-party handlers receive a compliance agreement in
22 order to legally purchase and distribute the fruit,
23 although this aspect of the regulation is not considered
24 in this rulemaking and need not be addressed at this time.
25 There should be no need to delay this rulemaking process

1 any further in order to ramp up for additional imports of
2 a singular commodity with a limited shipping season.

3 The market requirements for shipment to the
4 United States should be changed to require listing the
5 states that are prohibited rather than the permitted
6 states.

7 Additionally, APHIS Smuggling Interdiction and
8 Compliance Unit has developed a nationwide infrastructure
9 of plant protection and quarantine compliance officers who
10 spend the majority of their time ensuring that these
11 compliance agreement requirements are adhered to in
12 inspecting markets outside the approved distribution area
13 to ensure that the problem fruit is not leaking into other
14 markets within the United States.

15 Increasing the geographic distribution area
16 within the United States will allow these inspectors to
17 concentrate their efforts on a much smaller portion of the
18 country, making their inspection process more efficient.

19 Market access for Mexican avocados has not
20 harmed the California Hass avocado growers and packers.
21 According to Charlie Walk [phonetic], chairman of the
22 California Avocado Commission, California's 1999-2000
23 avocado crop returned a record \$339 million to the state's
24 5,500 growers, the highest farm-gate value ever. The ten-
25 year industry value from 1991-2000 increased \$1 billion

1 over the 1981-1990 total.

2 And Lesile E. Cole [phonetic], chairman,
3 president, and CEO of Calavo Growers of California, has
4 said, "We are pleased to report Calavo's most profitable
5 year in our 77-year history. Our standing achievement is
6 [indiscernible] to Calavo's increase in share of market of
7 both domestic and imported avocados and a highly
8 successful year in our process division. In addition,
9 roughly 80 percent of Mexican avocados are imported by
10 California packers."

11 To conclude, although we believe there is
12 scientific justification to support a much broader
13 expansion of market access, we commend APHIS for taking
14 this step forward, and support finalizing the regulation
15 as it is written.

16 The scientific principles used to support the
17 market limitations in 1997 also support this limited
18 expansion effort. We therefore urge APHIS to expedite
19 this rulemaking process and proceed to promulgate a final
20 rule by the start of the next shipping season on November
21 1, 2001.

22 I want to thank all of you, and I really do,
23 from the bottom of my heart, to have invited us to this
24 meeting and also for having here the Colorado government
25 representative. And I consider this place as my own home,

1 and I hope to have all of you, on November 1, so that we
2 can enjoy the delicious Hass avocados from Mexico.

3 Thank you.

4 MR. LIDSKY: Thank you very much. Our next
5 registered speaker is Mr. Marco Martinez.

6 MR. MARTINEZ: Thank you, Mr. Chairman. This
7 is to -- in support of the proposed rule, Docket 00-003-2,
8 to the proposed rule to amend the regulation of the Animal
9 and Plant Health Inspection Service, USDA APHIS, that
10 govern the import of Hass avocados from Michoacan, Mexico,
11 to include 12 additional states and two additional months.

12 The rule should be finalized expeditiously to
13 ensure increased market access for Mexican Hass avocados
14 by the opening of the next shipping season. There is no
15 longer a scientific reason for limiting imports of Hass
16 avocados from Mexico, and the limitation seems to be
17 merely protectionist.

18 Since the beginning of the import program in
19 1997, the U.S. and Mexican phytosanitary authorities have
20 cut and inspected more than 6 million fruits in the
21 orchards, packinghouses, and inspection points without
22 finding any of the quarantine pests.

23 After four shipping seasons, more than 2,000
24 shipments were inspected with the same result: no pests.
25 That is a clear evidence that the Hass avocados imported

1 from Mexico pose no risk of transmitting any quarantine
2 pests.

3 The USDA APHIS quarantine system is probably
4 the finest in the world. The zones from which the
5 avocado -- the Hass avocado is exported are surveyed by
6 teams of entomologists and plant pathologists from Mexico
7 and U.S.A. in a permanent basis. USDA APHIS are convinced
8 that these zones do not represent a risk and can be kept
9 relatively free of the quarantine pests of concern,
10 including seed and stem weevil and stem [sic] moth.

11 The provisions of the World Trade Organization
12 Agreement and the application of phytosanitary measures
13 are the corresponding provisions of the North American
14 Free Trade Agreement and prohibit the use of phytosanitary
15 measures to unfairly restrict imports in order to protect
16 domestic producers.

17 The United States cannot maintain unjustifiable
18 phytosanitary restrictions on Mexican avocado if it is to
19 hope to persuade other countries to remove their unfair
20 trade barriers against U.S. agricultural exports.

21 Congratulations to USDA APHIS for taking this
22 step forward. Thank you very much.

23 MR. LIDSKY: Thank you very much.

24 I'd now like to call any person who has not
25 registered to speak to make a presentation. Okay.

1 MR. CAMPBELL: Good morning. Just a quick
2 point of clarification. You'll notice a discrepancy in
3 the fruit-cutting data between the Mexican figures and
4 USDA figures, and I believe that's because the Mexican
5 figures include the data from the Comite Estatal and I'm
6 not sure whether the USDA figures include that. But that
7 may be a reason for that discrepancy. I think it's about
8 a half-million fruit or so.

9 MR. LIDSKY: Thank you. Could you state your
10 name for the record, please?

11 MR. CAMPBELL: Sorry. [speaking in Spanish].
12 Ron Campbell. I represent APEAM. And thank you for your
13 time.

14 MR. LIDSKY: Okay. Thank you.

15 I believe there was a gentleman that would like
16 to show a videotape?

17 MR. ILSLEY: Should we present it or --

18 MR. LIDSKY: Yes, please.

19 MR. ILSLEY: My name is Carlos Ilsley. I'm a
20 member of APEAM. We would just like to show this video,
21 which is more of a promotional video from one of our
22 member companies. We think it will be illustratively as
23 to the high technology that's been developed within the
24 Michoacan growing region and marketing of avocados. And
25 we hope it will also support our interest in further

1 developing the U.S. market for the Mexican Hass avocado.

2 Thank you very much.

3 (Whereupon a videotape was shown.)

4 MR. ILSLEY: We hope this helps us provide a
5 little bit of an illustration to those of you who have not
6 had the opportunity to visit us in Michoacan. We hope you
7 would be there sooner than later.

8 And we would like to take the opportunity to
9 mention that the technology and the standards that are
10 being held by this company are common for all of the
11 industry, at least on the export -- all of those that are
12 in the export business. And we're confident that this
13 will enhance our possibilities to remain a very
14 competitive exporter into the world markets, specifically
15 the U.S.

16 At the same time, we would like to take
17 advantage of the opportunity that APHIS will be providing
18 us, we hope, for this next season to be able to bring our
19 fine Hass avocados to the Denver market and the other
20 eleven states that are being proposed.

21 Thank you very much.

22 MR. LIDSKY: Thank you very much.

23 Are there any other persons who have not
24 registered who would like to make a prepared or unprepared
25 statement?

1 (No response.)

2 MR. LIDSKY: Well, since it appears that there
3 are no other persons who wish to speak, in accordance with
4 the rules published in the July 27 Federal Register
5 notice, we're going to adjourn this meeting early.

6 We ask that before you leave to please fill out
7 a survey form. The USDA APHIS really appreciates you
8 taking the time to share your comments with us. This was
9 very helpful. We thank you very much.

10 This hearing is now adjourned. Good day.

11 (Whereupon, at 11:00 a.m., the public hearing
12 was concluded.)

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IN RE: Public Hearing on Mexican Hass Avocado
 Import Program
LOCATION: Denver, Colorado
DATE: August 14, 2001

I do hereby certify that the foregoing pages,
numbers 1 through 39, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
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U.S. Department of Agriculture.

Phyliss Lund 08/16/01
(Transcriber) (Date)

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