

article or securely attached to the article itself if not in a container, and with such tag or label bearing a controlled import permit number corresponding to the number of the controlled import permit issued for such article.

30. Section 319.75–1 is amended as follows:

a. By removing the definition of *Deputy Administrator*.

b. In the definition of *inspector*, by removing the word “Deputy”.

c. By adding, in alphabetical order, a definition for *Administrator* to read as set forth below.

§ 319.75–1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

* * * * *

§ 319.75–3 [Amended]

31. In § 319.75–3, paragraph (d) is amended by removing the word “Deputy” each time it appears.

§ 319.75–8 [Amended]

32. Section 319.75–8 is amended by removing the word “Deputy”.

Done in Washington, DC, this 19th day of October 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–27580 Filed 10–24–11; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2010–0116]

RIN 0579–AD51

Importation of Litchi and Longan Fruit From Vietnam Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of litchi and longan fruit from Vietnam into the continental United States. As a condition of entry, litchi and longan fruit from Vietnam would be subject to a systems approach that would include

requirements for treatment and inspection and restrictions on the distribution of the fruit. This action would allow for the importation of litchi and longan fruit from Vietnam into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before December 27, 2011.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2010-0116-0001>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2010–0116, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0116> or in our reading room, which 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.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 734–0754.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–52, 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 within the United States.

The national plant protection organization (NPPO) of Vietnam has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh litchi (*Litchi chinensis* Sonn.) and longan (*Dimocarpus longan* Lour.) to be imported from Vietnam into the continental United States. The NPPO of Vietnam also proposed that the litchi and longan fruit be treated with irradiation at the 400 Gy dose approved to neutralize most insect pests, except

pupae and adults of the order Lepidoptera.

As part of our evaluation of that request, we prepared a pest risk assessment identifying all quarantine pests of litchi and longan in Vietnam and a risk management document (RMD) that recommends risk mitigation measures to prevent the quarantine pests associated with these commodities from being introduced into the United States. Copies of the pest risk assessment and the RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The pest risk assessment identified 16 pests of quarantine significance present in Vietnam that could be introduced into the United States through the importation of fresh litchi:

Lepidopteran Pests:

Conopomorpha sinensis.
Conogethes punctiferalis.
Cryptophlebia ombrodelta.
Non-Lepidopteran Insect Pests:
Bactrocera cucurbitae.
Bactrocera dorsalis.
Ceroplastes rubens.
Coccus viridis.
Dysmicoccus neobrevipes.
Nipaecoccus viridis.
Paracoccus interceptus.
Planococcus lilacinus.
Planococcus litchi.
Planococcus minor.
Pseudococcus cryptus.

Mite Pest:

Aceria litchii.

Fungi Pest:

Phytophthora litchii.

The pest risk assessment also identified 17 pests of quarantine significance present in Vietnam that could be introduced into the United States through the importation of fresh longan:

Lepidopteran Pests:

Conopomorpha sinensis.
Conogethes punctiferalis.
Cryptophlebia ombrodelta.

Non-Lepidopteran Insect Pests:

Bactrocera dorsalis.
Ceroplastes rubens.
Coccus viridis.
Drepanococcus chiton.
Dysmicoccus neobrevipes.
Exallomochlus hispidus.
Maconellicoccus hirsutus.
Nipaecoccus viridis.
Paracoccus interceptus.
Planococcus lilacinus.
Planococcus litchi.
Planococcus minor.
Pseudococcus cryptus.

Mite Pest:

Aceria litchii.

APHIS has determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests. Therefore, we are proposing to allow the importation of litchi and longan fruit from Vietnam into the continental United States only if they are produced in accordance with a systems approach to mitigate pest risk as outlined below. We are proposing to add the systems approach to the regulations in a new § 319.56–54 governing the importation of litchi and longan fruit from Vietnam.

Proposed Systems Approach

Paragraph (a) of proposed § 319.56–54 would require that the litchi fruit be grown in orchards registered with and monitored by the NPPO of Vietnam. Requiring the NPPO of Vietnam to monitor fields where litchi is produced for export will ensure application of disease control measures and that the litchi are produced free of disease caused by *P. litchii*.

Paragraph (b) of proposed § 319.56–54 would set out treatment requirements for litchi and longan fruit exported to the United States. Fourteen of the pests of litchi and 16 of the pests of longan are insect pests. A minimum absorbed dose of 400 Gy is approved to neutralize all these insect pests, except pupae and adults of the order Lepidoptera.

Three of the insect pests associated with litchi and longan belong to the order Lepidoptera. Although the generic irradiation treatment is not approved for Lepidopteran pupae and adults, those life stages are unlikely to be associated with litchi and longan. Due to their mobility, Lepidopteran adults either feed externally, where they would be easily detected, or do not attack mature fruit. In most of the genera of concern, the pupae are either associated with plant parts other than fruit or they occur externally on their host's plant parts, where they would be easily detected. If the pupae do occur inside the fruit or seed of their host plants, they would be associated with premature fruit drop or obvious damage and symptoms and would be culled at the packinghouse or detected through inspection.

Also, except for two interceptions of *Conopomorpha* spp. in permit cargo with litchi fruit, inspectors at U.S. ports of entry have never intercepted pupae of the other quarantine Lepidoptera genera with commercial shipments of any type of fruit. This lack of interceptions is evidence of the low likelihood of any of the Lepidoptera pupae following the pathway of commercial fruit.

Therefore, irradiation treatment, along with standard post-harvest processes,

would mitigate the risks from all the insect pests.

The litchi rust mite, *A. litchii*, is another pest of litchi and longan. The mite is primarily a pest of foliage and flower parts but is also sometimes associated with the fruit. Mites are external pests on the fruit, and because of the damage they cause on fruit, inspection and culling of the damaged fruit are considered effective in mitigating risk from such pests.

Although it is unlikely that commercially produced fruit is a pathway for the litchi rust mite, the pest's small size prevents its detection during inspection. Therefore, we would prohibit shipments of litchi and longan from Vietnam from being imported into or distributed to Florida, where litchi and longan fruit are grown, to protect that State's commercial litchi and longan production from litchi rust mite. Paragraph (c) of proposed § 319.56–54 would require the cartons containing the litchi or longan fruit to be stamped "Not for importation into or distribution in Florida." This is consistent with other import programs where shipments of litchi or longan fruit are prohibited into Florida for the same pest.

Paragraph (d) of proposed § 319.56–54 would state that only commercial consignments of litchi and longan fruit would be allowed to be imported. 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. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

The last pest of litchi is the fungus *P. litchii*. Requiring the NPPO of Vietnam to monitor fields where litchi is produced for export as in paragraph (a) of proposed § 319.56–54 will ensure application of disease control measures for this fungus. Most infected litchi fruit will be culled because trained harvesters, packinghouse personnel, and plant quarantine inspectors can easily detect the distinctive signs of the disease on fruit.

Infected, nonsymptomatic fruit may go undetected, but the likelihood of

introduction via the few fruit that may escape detection is very low. It is highly unlikely that commercial fruit will be in a situation to introduce the disease because free water is required for the spores to infect a host. Additionally, there is no record of interception of this disease on litchi imported into the United States from other countries in regions where this pathogen is present. Therefore, no measures are necessary to mitigate the risk posed by this pathogen beyond certification of freedom based on inspection.

Accordingly, proposed paragraph (e) of § 319.56–54 would require each consignment of litchi or longan fruit to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country certifying that the provisions of the proposed regulations have been met. In addition, the phytosanitary certificate accompanying each consignment of litchi would also have to include an additional declaration stating that the consignment was inspected in Vietnam and found free of *P. litchii*.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This proposed rule is in response to a request from the NPPO of Vietnam to export fresh litchi and longan to the continental United States. In the United States, these two fruits are commercially produced in Florida and, to a lesser

extent, in Hawaii. Production in California is still largely in the developmental stage. Annual U.S. production volumes in 2008 were about 535 metric tons (MT) for litchi and 776 MT for longan. Virtually all U.S. farms that grow litchi and longan are believed to be small entities based on the Small Business Administration (SBA) standard of annual receipts of not more than \$750,000.

Our review of available information suggests that the proposed rule may have a negative economic impact on longan growers and, to a lesser extent, on litchi growers, particularly when the fruit is sold in Asian and Hispanic markets where the demand for produce tends to be more price-sensitive. The annual quantities of litchi and longan that Vietnam expects to export to the United States, namely, 600 MT and 1,200 MT, would be equivalent to about 18 percent and more than 100 percent, respectively, of U.S. import levels for these two fruits in 2010. Negative impacts for U.S. producers would be moderated to the extent that imports from Vietnam displace imports from other foreign sources.

For the proposed rule, APHIS does not have an alternative to the proposed systems approach for allowing the importation of fresh litchi and longan fruit from Vietnam. Widely ranging prices for litchi and longan among U.S. markets and consumers' varying purchasing criteria in regard to price, quality, and sustainability may indicate opportunities for domestic growers to alleviate negative effects of increased foreign competition through alternative marketing arrangements or marketing channels.

Executive Order 12988

This proposed rule would allow litchi and longan fruit to be imported into the United States from Vietnam. If this proposed rule is adopted, State and local laws and regulations regarding litchi and longan fruit 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 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-2010-0116. Please send a copy of your comments to: (1) Docket No. APHIS-2010-0116, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, Room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of litchi and longan fruit from Vietnam into the continental United States. As a condition of entry, litchi and longan fruit from Vietnam would be subject to a systems approach that would include requirements from treatment and inspection and restrictions on the distribution of the fruit. This action would allow for the importation of litchi and longan fruit from Vietnam into the United States while continuing to provide protection against the introduction of quarantine pests.

Allowing the importation of litchi and longan fruit from Vietnam into the continental United States will require the completion of a phytosanitary certificate with a declaration, orchard registration, and labeling of boxes.

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 0.2554 hours per response.

Respondents: NPPO of Vietnam and importers of litchi and longan fruit from Vietnam.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 334.

Estimated annual number of responses: 1,002.

Estimated total annual burden on respondents: 256 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 319.56-54 is added to read as follows:

§ 319.56-54 Fresh litchi and longan from Vietnam.

Litchi (*Litchi chinensis* Sonn.) and longan (*Dimocarpus longan* Lour.) fruit

may be imported from into the continental United States from Vietnam only under the following conditions:

(a) *Growing conditions.* Litchi fruit must be grown in orchards registered with and monitored by the national plant protection organization (NPPO) of Vietnam to ensure that the fruit are free of disease caused by *Phytophthora litchii*.

(b) *Treatment.* Litchi and longan fruit must be treated with irradiation for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera, in accordance with part 305 of this chapter.

(c) *Labeling.* In addition to meeting the labeling requirements in part 305 of this chapter, cartons containing litchi or longan must be stamped "Not for importation into or distribution in FL."

(d) *Commercial consignments.* The litchi and longan fruit may be imported in commercial consignments only.

(e) *Phytosanitary certificates.* (1) Each consignment of litchi fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam attesting that the conditions of this section have been met and that the consignment was inspected in Vietnam and found free of *Phytophthora litchii*.

(2) Each consignment of longan fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam attesting that the conditions of this section have been met.

Done in Washington, DC, this 19th day of October 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011-27574 Filed 10-24-11; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2011-0040]

RIN 0579-AD52

Importation of Mangoes From Australia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh mangoes from Australia into the continental United States. As a condition of entry,

the mangoes would have to be produced in accordance with a systems approach employing a combination of mitigation measures for the fungus *Cytosphaera mangiferae* and would have to be inspected prior to exportation from Australia and found free of this disease. The mangoes would have to be imported in commercial consignments only and would have to be treated by irradiation to mitigate the risk of insect pests. The mangoes would also have to be accompanied by a phytosanitary certificate with an additional declaration that the conditions for importation have been met. This action would allow the importation of mangoes from Australia while continuing to protect against the introduction of plant pests into the United States.

DATES: We will consider all comments that we receive on or before December 27, 2011.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0040-0001>.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2011-0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0040> or in our reading room, which 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.

FOR FURTHER INFORMATION CONTACT: Ms. Donna West, Senior Import Specialist, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-0627.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56–1 through 319.56–52, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of Australia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh mangoes from Australia to be imported into the continental United States.

As part of our evaluation of Australia's request, we prepared a pest risk assessment (PRA), titled "Importation of Fresh Fruit of Mango, *Mangifera indica* L., from Australia into the Continental United States, A Pathway-Initiated Risk Analysis" (June 2011). The PRA evaluated the risks associated with the importation of mangoes into the continental United States from Australia.

The PRA identified 21 pests of quarantine significance present in Australia that could be introduced into the United States through the importation of mangoes:

Fruit Flies

- *Bactrocera aquilonis*
- *B. cucumis*
- *B. frauenfeldi*
- *B. jarvisi*
- *B. kraussi*
- *B. murrayi*
- *B. neohumeralis*
- *B. opiliae*
- *B. tryoni*
- *Ceratitis capitata*

Scales

- Red wax scale (*Ceroplastes rubens*)
- Green scale (*Coccus viridis*)

Weevil

- Mango seed weevil (*Sternuchus mangiferae*)

Fungi

- *Cytosphaera mangiferae*
- *Fusarium* spp. complex (associated with mango malformation disease)
- *Lasiodiplodia pseudotheobromae*
- *Neofusicoccum mangiferae*
- *Neoscytalidium novaehollandiae*
- *Phomopsis mangiferae*
- *Pseudofusicoccum adansoniae*

Bacterium

- *Xanthomonas campestris* pv. *mangiferaeindicae*

According to our PRA, for pests rated high risk (*C. rubens*, *C. capitata*, and the nine *Bactrocera* spp. fruit flies), specific phytosanitary measures beyond standard port-of-entry inspection are strongly recommended. For pests rated medium risk (*C. viridis*, *C. mangiferae*, *L. pseudotheobromae*, *N. mangiferae*, *N. novaehollandiae*, *P. adansoniae*, *S. mangiferae*, and *X. campestris* pv. *mangiferaeindicae*), specific phytosanitary measures beyond