

# Proposed Rules

Federal Register

Vol. 79, No. 69

Thursday, April 10, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2013-0057]

RIN 0579-AD84

#### Expansion of Areas in the Philippines Considered Free of Mango Seed Weevil and Mango Pulp Weevil and Establishment of a Lower Irradiation Dose as a Treatment for Mango Pulp Weevil

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the list of designated pest-free areas for mango seed weevil and mango pulp weevil within the Philippines. We are also advising the public that we have determined that it is necessary to amend the Plant Protection and Quarantine Treatment Manual to establish a specific approved dose of irradiation as an authorized treatment for mango pulp weevil. These actions are necessary because surveys have determined that additional areas within the Philippines are free of mango seed weevil and mango pulp weevil. Additionally, we have determined that the mango pulp weevil can be neutralized with a lower dose of irradiation than the current generic dose for most plant pests of the class Insecta.

**DATES:** We will consider all comments that we receive on or before June 9, 2014.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2013-0057>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2013-0057, 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-2013-0057> 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) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Mr. Juan A. (Tony) Román, Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-66, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Under the regulations in § 319.56-5, APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standards for Phytosanitary Measures (ISPM) No. 4, “Requirements For the Establishment of Pest Free Areas.”<sup>1</sup> The international standard was established by the International Plant Protection Convention of the United Nations’ Food and Agriculture Organization and is incorporated by reference in our regulations in 7 CFR 300.5. In addition, APHIS must also approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

APHIS has received a request from the Government of the Philippines to recognize additional areas of that

country as being free of *Sternochetus mangiferae* (mango seed weevil) and *Sternochetus frigidus* (mango pulp weevil). Specifically, the Government of the Philippines asked that we recognize the mango growing regions of Luzon, Visayas, and Mindanao as free of mango seed weevil and mango pulp weevil and the island of Palawan as free of mango seed weevil. Hawaii and Guam are infested with mango seed weevil. Section 319.56-33 of the regulations sets out the requirements for the importation into the United States of mangoes from the Philippines. This section currently specifies that mangoes from the Philippines may be imported into the United States to areas other than Hawaii and Guam only from the island of Guimaras, which is considered free of both mango seed weevil and mango pulp weevil. Mangoes from the island of Palawan are currently prohibited entry into all areas of the United States due to the presence of mango pulp weevil.

In accordance with our regulations and the criteria set out in ISPM No. 4, we have reviewed and approved the survey protocols and other information provided by the Philippines relative to its system to establish freedom, phytosanitary measures to maintain freedom, and system for the verification of the maintenance of freedom. Therefore, we are proposing to recognize the mango growing regions of Luzon, Visayas, and Mindanao as free of mango seed weevil and mango pulp weevil and the island of Palawan as free of mango seed weevil. Rather than amending the regulations to add these areas to the list of pest-free areas in § 319.56-33, we would instead amend the regulations to allow the importation of mangoes from pest-free areas in the Philippines in accordance with the criteria set forth in § 319.56-5. We are also proposing to amend the box labeling restriction in § 301.56-33(d) and the additional declaration requirement in § 319.56-33(e) to refer to areas that are free of mango seed weevil and mango pulp weevil in accordance with the regulations in § 319.56-5 rather than to specific areas. In the event that additional pest-free areas within the Philippines are recognized in the future, these changes would allow us to update the list of pest-free areas through a notice published in the **Federal Register**

<sup>1</sup> The IPPC’s Web site may be viewed at <https://www.ippc.int/>.

in accordance with § 319.56–5 rather than a proposed rule.

Because this action concerns the expansion of a currently recognized pest-free area in the Philippines from which fruits and vegetables are authorized for importation into the United States, our review of the information presented by the Philippines in support of its request is examined in a commodity import evaluation document (CIED) titled “Recognition of Mango Production Sites That are Free of Mango Seed Weevil, *Sternochetus mangiferae* and Mango Pulp Weevil, *Sternochetus frigidus* in the Philippines.” The CIED may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the CIED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### Treatment

The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.<sup>2</sup> Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (a) sets out the process for adding, revising, or removing treatment schedules when there is no immediate need to make a change.

The PPQ Treatment Manual currently provides a generic treatment of 400 Gy of irradiation for all pests of the class Insecta, except pupae and adults of the order Lepidoptera. This class includes the mango pulp weevil. However, the Treatment Manual also specifies lower doses for certain pests in this class. It is important that required irradiation doses be set at the lowest effective level. Higher doses cost more to administer and may affect the marketability of the product.

Therefore, in accordance with § 305.3(a)(1), we are providing notice of a new pest-specific irradiation dose of

165 Gy that we have determined is effective against mango pulp weevil in mangoes. The reasons for this determination are described in a treatment evaluation document (TED) we have prepared to support this action. The TED may be viewed on the Regulations.gov Web site or in our reading room. You may also request paper copies of the TED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. We welcome public comment on this new pest-specific irradiation treatment.

Currently, the Treatment Manual also lists a pest-specific irradiation dose of 300 Gy for mango seed weevil. However, this treatment option is not reflected in the regulations. Therefore, we are proposing to amend the regulations to allow for the importation of mangoes from areas of the Philippines that are either free of mango pulp weevil or that have been treated for that pest with the new pest-specific irradiation dose. This would allow the importation of mangoes from Palawan. We are also proposing to amend the regulations to allow for the importation of mangoes from areas of the Philippines that are either free of mango seed weevil or that have been treated for that pest, either in the Philippines or at the port of first arrival within the United States, in accordance with the authorized pest-specific irradiation dose listed in the Treatment Manual.

Currently, the regulations require treatment of mangoes from the Philippines for fruit flies of the genus *Bactrocera* with vapor heat prior to importation into the United States. We are proposing to amend the regulations to allow the use of any approved treatments for *Bactrocera* fruit flies. This would allow for the treatment of mangoes from the Philippines with the new irradiation dose for mango pulp weevil or the current irradiation dose for mango seed weevil, both of which exceed the minimum irradiation dose approved for the treatment of *Bactrocera* fruit flies.

#### 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 the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. 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).

This proposed rule is in response to a request from the Philippines to recognize additional areas (regions in Luzon, Visayas, and Mindanao) as free of mango seed and mango pulp weevils, and the island of Palawan as free of mango seed weevil. Currently, fresh mango from the Philippines is enterable into the United States from the island of Guimaras, which is considered free of these weevils, subject to treatment to mitigate the risk associated with fruit flies of the genus *Bactrocera*.

In addition, APHIS is proposing to amend the PPQ Treatment Manual by adding irradiation at 165 Gy as an option to mitigate the risk associated with mango pulp weevil. This dosage also mitigates the risk associated with fruit flies of the genus *Bactrocera*.

In 2010 and 2011, fresh mango exports to the United States from the Philippines averaged about 42,000 pounds per year. U.S. mango imports from all sources averaged more than 3.3 billion pounds per year between 2009 and 2012, with most coming from Mexico, Peru, Ecuador, Brazil, and Guatemala. Thus, imports from the Philippines comprise a negligible share of total fresh mango imports, less than 0.002 percent. Given the Philippines' current very small share and the proximity of major Latin American sources, the additional quantity of fresh mango that may be imported from the Philippines because of this rule is unlikely to make an appreciable difference in the total quantity imported.

U.S. mango production, about 6.6 million pounds per year, is equivalent to 0.2 percent of imports. Most if not all mango farms are small entities in Florida, California, Texas, and Hawaii, where the fruit is primarily marketed locally. Any effect for these farms and for mango importers of additional fresh mango imports from the Philippines would be inconsequential, given the very small change expected to total imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule would allow mangoes to be imported to the United States from additional areas of the Philippines that APHIS has determined to be pest-free. If this proposed rule is adopted, State and local laws and

<sup>2</sup> The PPQ Treatment Manual is available on the Internet at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf) or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

regulations regarding mangoes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### 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 and 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.56–33 is amended by revising paragraphs (a), (b), (d), and (e) to read as follows:

#### § 319.56–33 Mangoes from the Philippines.

\* \* \* \* \*

(a) *Limitation of origin.* The mangoes must have been grown in an area that the Administrator has determined to be free of mango seed weevil (*Sternonchetus mangiferae*) and mango pulp weevil (*Sternonchetus frigidus*) in accordance with sect; 319.56–5 or be treated for mango seed weevil and mango pulp weevil in accordance with the requirements in paragraph (b) of this section. Mangoes from areas of the Philippines that are not free of mango seed weevil or that are not treated for mango seed weevil are eligible for importation into Hawaii and Guam only.

(b) *Treatment.* The mangoes must be treated for fruit flies of the genus *Bactrocera* in accordance with part 305 of this chapter. Mangoes from areas that are not considered to be free of mango pulp weevil in accordance with

§ 319.56–5 must be treated for that pest in accordance with part 305 of this chapter. Mangoes from areas that are not considered to be free of mango seed weevil in accordance with § 319.56–5 must be treated for that pest in accordance with part 305 of this chapter or they are eligible for importation into Hawaii and Guam only.

\* \* \* \* \*

(d) *Labeling.* Each box of mangoes must be clearly labeled in accordance with § 319.56–5(e)(1). Consignments originating from areas that do not meet the requirements in paragraph (a) of this section for freedom from or treatment for mango seed weevil must be labeled “For distribution in Guam and Hawaii only.”

(e) *Phytosanitary certificate.* Mangoes originating from all approved areas must be accompanied by a phytosanitary certificate issued by the Republic of the Philippines Department of Agriculture that contains an additional declaration stating that the mangoes have been treated for fruit flies of the genus *Bactrocera* in accordance with paragraph (b) of this section either in the Philippines or at the port of first arrival within the United States.

Phytosanitary certificates accompanying consignments of mangoes originating from pest-free mango growing areas within the Philippines must also contain an additional declaration stating that the mangoes were grown in an area that the Administrator has determined to be free of mango seed weevil and mango pulp weevil or have been treated in accordance with paragraph (b) of this section.

\* \* \* \* \*

Done in Washington, DC, this 4th day of April 2014.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2014–08020 Filed 4–9–14; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2013–0059]

RIN 0579–AD85

#### Importation of Fresh Unshu Oranges From Japan Into the United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning the importation of citrus fruit to remove certain restrictions on the importation of Unshu oranges from Japan that are no longer necessary. Specifically, we propose to remove requirements for the fruit to be grown in specified canker-free export areas with buffer zones and for joint inspection in the groves and packinghouses by the Government of the Republic of Japan and the Animal and Plant Health Inspection Service. We would also clarify that surface sterilization of the fruit must be conducted in accordance with our regulations. Finally, we would require that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization. These proposed changes would make the regulations concerning the importation of Unshu oranges from Japan consistent with our domestic regulations concerning the interstate movement of citrus fruit from areas quarantined because of citrus canker.

**DATES:** We will consider all comments that we receive on or before June 9, 2014.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0059>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2013–0059, 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-2013-0059> 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) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Jones, Regulatory Policy Specialist, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road, Unit 156, Riverdale, MD 20737; (301) 851–2289.

#### SUPPLEMENTARY INFORMATION:

#### Background

Citrus canker is a plant disease that is caused by a complex of *Xanthomonas* spp. bacteria and that affects plants and