

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2015–0005]

RIN 0579–AE09

#### Importation of Citrus From Peru; Expansion of Citrus-Growing Area

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetable regulations to allow citrus fruit from the entire country of Peru to be imported into the continental United States. Currently, the regulations allow the importation of citrus fruit to the United States from five approved citrus-producing zones in Peru, subject to a systems approach. However, based on the findings of a pest list and commodity import evaluation document, we have determined that this systems approach also mitigates the plant pest risk associated with citrus fruit produced in all other areas of Peru. This action will allow the importation of citrus fruit from the entire country of Peru while continuing to provide protection against the introduction of plant pests into the continental United States.

**DATES:** Effective September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tony Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 851–2242.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–72, 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 regulations in § 319.56–41 have provided conditions for the importation of citrus from five approved citrus-producing zones in Peru.

On May 1, 2015, we published in the **Federal Register** (80 FR 24838–24840, Docket No. APHIS–2015–0005) a proposal<sup>1</sup> to amend § 319.56–41 to allow citrus from the entire country of Peru to be imported into the continental United States based on the findings of a pest list and commodity import evaluation document (CIED).

We solicited comments on the proposal, pest list, and CIED for 60 days ending June 30, 2015. We received 13 comments by that date. They were from producers, exporters, representatives of State and foreign governments, U.S. citrus industry representatives, a chamber of commerce, a pork producers organization, a port representative, and private citizens. All of the commenters supported the action; however, one commenter asked if the citrus would be required to undergo cold treatment.

As explained in the proposal, citrus from Peru may be imported into the continental United States under a systems approach designated to mitigate the risk presented by four species of fruit fly (*Anastrepha fraterculus*, *A. obliqua*, *A. serpentina*, and *Ceratitis capitata*) and a Tortricid (*Ecdytoplopha aurantiana*). One of the conditions of the systems approach requires that citrus from Peru, except limes, be cold treated for fruit flies in accordance with 7 CFR part 305.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

#### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Immediate implementation of this rule is necessary to provide relief to those persons who are adversely

affected by restrictions we no longer find warranted. The shipping season for citrus from Peru is in progress. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year's shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

#### Executive Order 12866 and Regulatory Flexibility Act

This final 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 on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The regulations have allowed the importation of fresh grapefruit, lime, mandarin, orange, tangerine or hybrids, sweet orange, and tangelo from five approved citrus-producing zones in Peru to the United States. This rule will allow the importation of these fruits from the entire country of Peru into the continental United States under the same conditions that have been in place for the five zones. This change is expected to increase the area in Peru approved to produce citrus for export to the United States to about 1,500 hectares over 3 years. Additional volumes of citrus expected to be shipped to the United States are 5,000 metric tons (MT) in the first year that the rule is in effect, 6,500 MT in the second year, and 8,000 MT in the third year. These quantities are equivalent to less than 1 percent of annual U.S. citrus production or U.S. citrus imports.

The primary entities that may be affected by this rule are citrus producers, citrus importers, and support industries such as packinghouses. Based on data from the 2012 Census of Agriculture and Small Business Administration small-entity standards, the majority of these operations are small.

<sup>1</sup> To view the proposed rule, pest list, CIED, and the comments we received, go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2015-0005>.

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

#### Executive Order 12988

This final rule allows citrus to be imported into the continental United States from the entire country of Peru. State and local laws and regulations regarding citrus imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and 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. 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 final rule, which were filed under 0579–0433, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

#### 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 rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

#### 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 are amending 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.

#### § 319.56–41 [Amended]

■ 2. Section 319.56–41 is amended as follows:

■ a. In the introductory text, by adding the word “continental” between the words “the” and “United States”.

■ b. By removing paragraph (c).

■ c. By redesignating paragraphs (d) through (h) as paragraphs (c) through (g), respectively.

■ d. By adding the words “(Approved by the Office of Management and Budget under control number 0579–0433)” at the end of the section.

Done in Washington, DC, this 9th day of September 2015.

**Michael C. Gregoire,**

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

[FR Doc. 2015–23039 Filed 9–11–15; 8:45 am]

**BILLING CODE 3410–34–P**

### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2014–0028]

RIN 0579–AD97

#### Importation of Fresh Peppers From Peru into the Continental United States and the Territories

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetables regulations to allow the importation of fresh peppers into the continental United States and the Territories from Peru. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes requirements for fruit fly trapping, pre-harvest inspections, production sites, and packinghouse procedures designed to exclude quarantine pests. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Peru with an additional declaration stating that the consignment was produced in accordance with the

requirements of the systems approach. This action allows for the importation of untreated fresh peppers from Peru while continuing to provide protection against the introduction of plant pests into the continental United States and the Territories.

**DATES:** Effective October 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Balady, Senior Regulatory Policy Specialist, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2240.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–72, 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.

On April 24, 2015, we published in the **Federal Register** (80 FR 22934–22938, Docket No. APHIS–2014–0028) a proposal<sup>1</sup> to amend the regulations in order to allow the common chili pepper (*Capsicum annuum* L.), aji pepper (*Capsicum baccatum* L.), habanero chili (*Capsicum chinense* Jacq.), Thai pepper (*Capsicum frutescens* L.), and rocoto (*Capsicum pubescens* Ruiz & Pav.) (hereafter we refer to these species as “fresh peppers”) to be imported into the continental United States and the Territories (the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States).

We prepared a pest risk assessment (PRA) and a risk management document (RMD) to accompany the proposed rule. Based on the conclusions of the PRA and the RMD, we proposed to allow the importation of fresh peppers from Peru into the continental United States and the Territories, provided that the fresh peppers were produced in accordance with a systems approach consisting of the following requirements: Provision of an operational workplan to the Animal and Plant Health Inspection Service (APHIS) by the national plant protection organization (NPPO) of Peru; importation in commercial consignments only; fresh peppers grown in a pest-free, pest-exclusionary structure approved by and registered

<sup>1</sup> To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#/docketDetail;D=APHIS-V2014-0028>.