



This document is scheduled to be published in the Federal Register on 04/18/2013 and available online at <http://federalregister.gov/a/2013-09147>, and on FDsys.gov

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2011-0072]

Plants for Planting Whose Importation is Not Authorized Pending Pest Risk Analysis; Notice of Addition of Taxa of Plants for Planting to List of Taxa Whose Importation is Not Authorized Pending Pest Risk Analysis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are adding 31 taxa of plants for planting that are quarantine pests and 107 taxa of plants for planting that are hosts of 13 quarantine pests to our lists of taxa of plants for planting whose importation is not authorized pending pest risk analysis. A previous notice made data sheets that detailed the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of quarantine pests available to the public for review and comment. This notice responds to the comments we received and makes available final versions of the data sheets, with changes in response to comments.

EFFECTIVE DATE: [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Tschanz, Senior Regulatory Policy Specialist, Plants for Planting Policy, RPM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2018.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in “Subpart--Plants for Planting” (7 CFR 319.37 through 319.37-14, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of plants for planting (including living plants, plant parts, seeds, and plant cuttings) to prevent the introduction of quarantine pests into the United States. Quarantine pest is defined in § 319.37-1 as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

In a final rule published in the Federal Register on May 27, 2011 (76 FR 31172-31210, Docket No. APHIS-2006-0011), and effective on June 27, 2011, we established in § 319.37-2a a new category of plants for planting whose importation is not authorized pending pest risk analysis (NAPPRA) in order to prevent the introduction of quarantine pests into the United States. The final rule established two lists of taxa whose importation is NAPPRA: A list of taxa of plants for planting that are quarantine pests, and a list of taxa of plants for planting that are hosts of quarantine pests. For taxa of plants for planting that have been determined to be quarantine pests, the list will include the names of the taxa. For taxa of plants for planting that are hosts of quarantine pests, the list will include the names of the taxa, the foreign places from which the taxa's importation is not authorized, and the quarantine pests of concern. The final rule did not add any taxa to the NAPPRA lists.

Paragraph (b) of § 319.37-2a describes the process for adding taxa to the NAPPRA lists. In accordance with that process, we published a notice¹ in the Federal Register on July 26, 2011 (76 FR 44572-44573, Docket No. APHIS-2011-0072) that announced our determination that 41 taxa of plants for planting are quarantine pests and 107 taxa of plants for planting are hosts of 13 quarantine pests. That notice also made available data sheets that detail the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of a quarantine pest.

We solicited comments concerning the notice and the data sheets for 60 days ending September 26, 2011. We reopened and extended the deadline for comments until November 25, 2011, in a document published in the Federal Register on October 25, 2011 (76 FR 66033). We received 37 comments by that date. They were from producers, importers, researchers, and representatives of State and foreign governments. They are discussed below by topic.

General Comments

Effective Date and Federal Orders

The July 26, 2011, notice indicated that we would consider comments and announce whether the taxa identified in the data sheets would be added to the NAPPRA lists in a subsequent notice.

One commenter stated that, due to the risk of importing quarantine pests after the initial notice is published, plants that we determine to be quarantine pests or hosts of quarantine pests should be added to the NAPPRA list at the same time as we publish the notice making available the data sheets supporting that determination. The notice could have a public comment period allowing for changes to the initial list of taxa.

¹ To view the notice, the data sheets, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0072>.

Another commenter disagreed, stating that APHIS must often make regulatory decisions on the basis of incomplete information, and a reasonable comment period prior to action allows other interested parties the opportunity to present valid information and perspectives that will help APHIS to "get it right." This commenter stated that APHIS always has the ability to issue emergency prohibitions or restrictions, should the situation warrant them.

We agree with the second commenter. As described in the May 2011 final rule establishing the NAPPRA category, when we find evidence that the importation of a taxon of plants for planting that is currently being imported poses a risk of introducing a quarantine pest, we restrict or prohibit its importation through the issuance of a Federal import quarantine order, also referred to as a Federal order. For other taxa, we will issue a notice through the NAPPRA process.

One commenter expressed concern that the 60-day comment period on the initial notice and subsequent decisionmaking period may create something of a "gold rush" effect in which importers are forewarned to import numerous specimens of risky species before APHIS blocks further imports. The commenter stated that the May 2011 final rule did not fully address this risk. The commenter recommended we address this risk by making liberal use of immediate prohibition orders for the riskiest species, such as was done in the May 30, 2008, Federal order that prohibited imports of Lygodium microphyllum and L. flexuosum,² and ensure a rapid decisionmaking period after the close of the comment period, to provide the speedy protections the nation needs to prevent new plant invasions.

We will issue a Federal order prohibiting the importation of a taxon of plants for planting that is currently being imported whenever we determine it to be necessary to prevent the introduction of a quarantine pest. We will also strive to ensure that we complete our

² See http://www.aphis.usda.gov/plant_health/plant_pest_info/weeds/downloads/federalorder-lygodiums.pdf.

decisionmaking quickly after the comment period has ended. However, we will continue to monitor imports of taxa that we have proposed to add to NAPPRA; if a "gold rush" effect occurs for any of them, we have the option to issue a Federal order.

One commenter asked about the relationship between Federal orders and the NAPPRA category. The commenter perceived some inconsistencies. For example:

- Exemptions for specific host plant material types (e.g., plant size, cuttings, etc.) outlined in Federal orders are inconsistent with NAPPRA.
- Exemptions for specific origins (i.e., pest not present/ known to occur in specified origin) outlined in Federal orders are inconsistent with NAPPRA.

The importation of taxa that are hosts of several of the quarantine pests described in our data sheets has been subject to Federal orders. In the July 2011 notice, we took comment on their addition to the NAPPRA category. This is consistent with our overall plan for the relationship between Federal orders and NAPPRA.

If a taxon of plants for planting is currently being imported and we determine that the taxon should be added to the NAPPRA category because it is a host of a quarantine pest, we will issue a Federal order to restrict or prohibit its importation. We will also publish a notice announcing our determination that the taxon is a host of a quarantine pest and making available a data sheet that details the scientific evidence that we evaluated in making our determination, including references for that scientific evidence. We will solicit comments from the public. If comments present information that leads us to determine that the importation of the taxon does not pose a risk of introducing a quarantine pest into the United States, APHIS will rescind the Federal order and not add the taxon to the NAPPRA list.

As noted in the July 2011 notice, in a few cases, taxa that are listed as NAPPRA from most countries will be allowed to be imported from countries that are currently exporting the taxa to the United States, subject to restrictions in a Federal order that was issued previously. We would continue to allow such importation based on our experience with importing those taxa of plants for planting and our findings, through inspection, that they are generally pest-free, and based on our determination that the restrictions in the Federal order are sufficient to mitigate the risk associated with the quarantine pest in question. Each data sheet we made available with the July 2011 notice included an "Action under NAPPRA" section describing the specific taxa and countries that would be added to NAPPRA. These sections reflected our policy with respect to current importation under Federal orders, and the final versions of the data sheets published along with this notice continue to do so.

With respect to host plant material types, the NAPPRA category does not allow for exceptions for host material types except for seed. Plant type-specific restrictions are discussed further later in this document under the heading "Hosts of Quarantine Pests."

With respect to the origin of imports, the Federal order is specifically designed to address current trade; the NAPPRA category is designed to prevent the importation of a taxon from anywhere in the world until we can conduct a pest risk analysis (PRA) to determine what risks may be associated with the importation of the taxon and what means may be available to mitigate those risks.

The commenter also asked how we will ensure cohesion and consistency between the Federal orders and the NAPPRA list of plants, e.g., will the Federal orders be updated to reflect the new NAPPRA list.

If a taxon of plants for planting is on the NAPPRA list for a given country, we would no longer need to include it in a Federal order for that country, and would update the Federal order accordingly. We are doing just that with the pests that have been subject to Federal orders and that are being addressed by this action. The updated Federal orders will note that the importation of the taxa from some countries is not allowed under NAPPRA.

Pests for Consideration

Some commenters suggested pests for consideration for future addition to the NAPPRA lists. We are considering those taxa for addition to NAPPRA. Interested members of the public can also submit suggestions for additions to the NAPPRA lists at http://www.aphis.usda.gov/import_export/plants/plant_imports/Q37/nappra/suggestions.shtml.

Future Regulatory Changes

One commenter described the goal of the NAPPRA category as responding more swiftly and effectively to prevent the introduction of specific quarantine pests from established trading partners. In that case, the commenter stated, APHIS should be prepared to remove a plant taxon from NAPPRA if presented with a mitigation proposal that addresses the quarantine pest(s) for which APHIS justified the NAPPRA listing in the first place.

The commenter urged APHIS to concurrently implement two other components of the overhaul of our regulations on the importation of plants for planting. First, APHIS should overhaul the permit system to allow for swift, legal importation of limited quantities of germplasm that is restricted under NAPPRA for research, development, and new variety introduction, subject to appropriate safeguards and oversight.

Secondly, the commenter urged APHIS to establish the regulatory framework for implementing integrated measures programs, widely known and referred to as systems

approaches. The commenter stated that integrated measures approaches offer the promise of mitigating the risk of various pests of regulatory concern, and, as NAPPRA is implemented, such approaches can and should serve as a mechanism for facilitating trade in plants that may be restricted under NAPPRA as hosts of quarantine pests. The commenter also stated that implementation of those systems approaches should not necessarily require a full PRA, although in some cases it may.

The commenter expressed concern that restriction of horticulturally significant plant taxa under NAPPRA without concurrent attention to the controlled import permit (CIP) and integrated measures regulatory strategies will discourage compliant trade and encourage unauthorized importation and could also subject APHIS to challenge under international trade agreements. By contrast, concurrent implementation of those rules could address the concerns one commenter expressed that proposals to restrict plants as NAPPRA may create something of a “gold rush mentality” in which various interests rush to import them in advance of restrictions taking effect.

We agree with the commenter regarding the importance of these regulatory strategies. As the commenter noted, we published a proposed rule to establish CIPs in the Federal Register on October 25, 2011 (76 FR 65976-65985, Docket No. APHIS-2008-0055).³ We are considering the comments we received on that proposal.

We are also developing a proposed rule to reorganize the plants for planting regulations and to establish a framework for integrated measures programs. The framework will be based on Regional Standard for Phytosanitary Measures (RSPM) No. 24⁴ of the North American Plant Protection Organization, of which APHIS is a member. The framework will also be consistent

³ To view the CIP proposal and the comments we received in response to it, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0055>.

⁴ Available at <http://www.nappo.org/en/data/files/download/PDF/RSPM24-16-10-05-e.pdf>.

with the recently developed International Plant Protection Convention (IPPC) standard for plants for planting.⁵ It is our hope that there is sufficient interest in the industry in developing functional integrated measures for broad categories of pests (insects, fungi, bacteria, etc.) that we will be able to use these integrated measures to facilitate trade in the manner the commenter describes.

We are adding taxa to the NAPPRA category before finalizing the CIP proposal and the integrated measures proposal because it is necessary to protect U.S. agricultural and environmental resources against the introduction of the quarantine pests identified and described in our data sheets. However, it is our intention that the two rules will provide increased flexibility to safely import NAPPRA-listed taxa in the manner the commenter describes. In the meantime, limited quantities of plant taxa on the NAPPRA lists may be imported by the USDA for experimental or scientific purposes under controlled conditions in accordance with the Departmental permit provisions in § 319.37-2(c).

We would also like to note that the goal of the NAPPRA category is not to respond to specific quarantine pest risks from established trading partners, but rather to prevent the importation of taxa that are quarantine pests or hosts of quarantine pests while a PRA is conducted to determine all the quarantine pests associated with the taxon and, if available, appropriate mitigations. As described earlier, when we find evidence that the importation of taxa of plants for planting that are currently being imported poses a risk of introducing a quarantine pest, we prohibit or restrict their importation through the issuance of a Federal order. The Federal order for such taxa may be followed by a NAPPRA notice for the countries from which the taxa are imported if no mitigations are available for the quarantine pest.

⁵ Available at https://www.ippc.int/file_uploaded/1335957921_ISPM_36_2012_En_2012-05-02.pdf.

Potential Economic Effects

One commenter expressed concern that the addition of taxa to the NAPPRA lists could have a potentially marked effect on importers and those who rely on imported products to sell, as many of the proposed taxa are commonly traded. As an example, the commenter cited our determination that imported plants of the genera Camelia, Rhododendron, and Viburnum are hosts of Anoplophora chiensis, the citrus longhorned beetle (CLB). The commenter quoted a summary of imports from a Phytophthora ramorum working group consisting of APHIS and the National Plant Board, in which the three genera named earlier plus Pieris and Kalmia accounted for 584,285 units of importation from the years 2004 through 2010.

As described earlier and in the initial notice, in a few cases, taxa we identified as hosts of quarantine pests that should be added to the NAPPRA category would be allowed to be imported from countries that are currently exporting the taxa to the United States, subject to restrictions in a Federal order that was issued previously. The hosts of CLB were previously regulated under a Federal order,⁶ and the identified NAPPRA restrictions for CLB took the Federal order into account.

With respect to CLB hosts specifically, we have re-examined our import records in order to ensure that all countries that have had significant trade with the United States and that generally supply pest-free plants for planting in importation are not included in the NAPPRA list. We found several additional countries that needed to be exempted for various host taxa.

Specifically:

- All CLB host taxa from Canada are now exempted from the NAPPRA action.
- New Zealand is now exempted from the NAPPRA action for Acer spp.

⁶ See http://www.aphis.usda.gov/import_export/plants/plant_imports/federal_order/downloads/2011/CitrusandALB2011-04-01.pdf.

- Netherlands is now exempted from the NAPPRA action for Aralia spp., Cotoneaster spp., Fagus spp., Robinia spp., and Styrax spp.
- Thailand is now exempted from the NAPPRA action for Ficus spp.
- Israel is now exempted from the NAPPRA action for Hedera spp. and Robinia spp.
- France is now exempted from the NAPPRA action for Hibiscus spp. and Quercus spp.
- Japan is now exempted from the NAPPRA action for Pinus spp. and Rhododendron spp.
- Korea is now exempted from the NAPPRA action for Pinus spp.
- United Kingdom is now exempted from the NAPPRA action for Rubus spp.

The CLB data sheet has been amended to reflect these changes; the amended CLB data sheet is available on Regulations.gov at the address listed under footnote 1. The importation of these CLB host taxa from the specified countries will continue to be allowed under the conditions in the Federal order. These changes are consistent with our policy for implementing NAPPRA.

As noted earlier, the exemptions from the NAPPRA action for hosts of CLB are based on our trade records, and we reexamined them in the process of developing this final action. We issued the first Federal order restricting imports of CLB hosts in January 2009; as the statistics cited by the commenter reflect years of trade subject only to the general restrictions in the plants for planting regulations, those statistics may not reflect recent trade patterns. In addition, the statistics include genera that were not included in the NAPPRA action for CLB hosts. We have carefully considered potential impacts on existing trade in developing this action, and we will do so for future NAPPRA actions as well.

The commenter also stated that the nursery industry is under a severe contraction due to the national economy, with many companies failing, and that adding taxa to NAPPRA will likely

lead to many additional failures and job loss. In addition, the commenter stated, the action would affect many sales orders and contracts that are in the process of being filled. These are often multi-year agreements, often with plant material originating in multiple countries with specific horticultural traits. Without its intended market, the commenter stated, this material will likely be destroyed, creating a loss for overseas trading partners and potential litigation on U.S. importers.

The Plant Protection Act (7 U.S.C. 7701 et seq.), the authorizing statute for APHIS' plant health-related activities, authorizes the Secretary of Agriculture to prohibit or restrict the importation of any plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States. We have determined that adding the taxa specified in this final notice to the NAPPRA lists is necessary to prevent the introduction of plant pests and noxious weeds. The factors cited by the commenter are not within our decisionmaking authority under the Act.

In addition, the taxa we proposed to add to the NAPPRA category have not been imported into the United States in significant amounts. As described earlier, for those taxa that have been imported in significant amounts, we are using Federal orders to restrict their importation, rather than adding them to the NAPPRA category. These factors indicate that our listings under NAPPRA are not likely to cause significant economic hardship to U.S. growers.

Quarantine Pest Plants

As noted above, the NAPPRA category includes plants that are quarantine pests and plants that are hosts of quarantine pests. The regulations in § 319.37-1 define quarantine pest as a plant pest or noxious weed that is of potential economic importance to the United States and

not yet present in the United States, or present but not widely distributed and being officially controlled.

Two commenters generally addressed the concept of plant presence in the United States, asking us to adopt a clear standard for determining whether a plant is not yet present in the United States, or present but not widely distributed and being officially controlled. One stated that a taxon should be considered to be present in the United States when the taxon can be shown to have had multiple entries through importation or when the taxon is available in commercial trade. This commenter also stated that there should be a clearly defined standard against which to judge presence if the record shows one or multiple introductions of the taxon, or natural occurrences for plants whose native habitats exist near the United States' northern or southern borders.

Another commenter agreed that any taxon available in commercial trade should be considered to be present, and also indicated that plant taxa that are in cultivation among specialists should be considered to be present. This commenter also stated that only a small percentage of the people who use the Internet ever post any information on it, meaning that an online report from a grower of a taxon probably represents 10 to 100 other growers who also grow the plant. For that reason, any Internet report of growth of a plant in the United States would indicate that the plant was present in the United States.

We consider a plant taxon to be present in the United States if there is evidence that it is being grown here. Commercial trade, cultivation among specialists, and multiple entries through importation would be evidence that a plant is being grown in the United States. We agree with the second commenter that Internet reports of growth of a plant in the United States would indicate that the plant taxon described was present in the United States. However, we have

determined that such information may not necessarily indicate that the taxon is widely distributed within the United States, which is another component of the quarantine pest definition.

One commenter stated that taxa that have had some entries into the United States or natural occurrences within the United States with no evidence of invasiveness should not be considered a problem. Another commenter stated that plants that have been imported into the United States sporadically in the past, but that are not currently in cultivation, are not present in the United States. However, the commenter recommended that we consider the fact that the plants did not establish permanently in the United States as evidence against their invasiveness.

Noting that certain taxa that we proposed to add to the NAPPRA category appeared to be present in the United States, one commenter recommended that we put those species under consideration for official control, thus ensuring that they qualify as quarantine pests under the definition. This commenter stated that all species added to the NAPPRA category should be analyzed to determine whether they qualify as Federal noxious weeds under our regulations in 7 CFR part 360.

We generally agree with the first two commenters that taxa that have previously been imported into the United States without problems would not be likely to be considered quarantine pests. However, sometimes the potential economic importance of a taxon's effects on U.S. agricultural and natural resources becomes apparent after importation. New information may also become available indicating that the taxon may pose more of a threat to U.S. agricultural and environmental resources than previously thought. As suggested by the last commenter, these circumstances would spur us to consider placing the taxon under official control by adding it to the list of noxious weeds in 7 CFR part 360.

We determine whether to place a taxon under official control by conducting a weed risk assessment (WRA). If the WRA indicates that official control is necessary, we add the taxon to the list of noxious weeds. Taxa that are present in the United States but not widely distributed and under consideration for official control are potential additions to the NAPPRA category, if they meet the other criteria for being considered a quarantine pest.

We do not automatically conduct WRAs for taxa on the NAPPRA list of quarantine pest plants; people who want a taxon to be removed from the NAPPRA category need to request that a risk analysis be conducted for its removal, as provided in § 319.37-2a(e). However, if we add a taxon to the NAPPRA list of quarantine pest plants in part because we are considering it for official control, then the process of conducting a WRA has already begun, and our decision to remove the taxon from the NAPPRA list or add it to the list of noxious weeds would be based on the results of the WRA.⁷

The first two commenters also mentioned invasiveness as a criterion for adding a plant taxon to NAPPRA. We would like to note that invasiveness in and of itself does not mean that a plant taxon could be considered a quarantine pest; rather, the damage caused by a plant's invasiveness would have to be of potential economic importance.

One commenter stated generally that we should work with private growers and gardeners to monitor plants that are present in the United States and to react quickly if one starts to become a problem.

We agree. We have begun reaching out to gardeners, plant enthusiast societies, and others to share information about plants. We expect that these efforts will help to inform future control efforts.

⁷ If the WRA indicated that it was not necessary to list the taxon as a noxious weed, we would conduct a pest risk analysis to determine whether the taxon is a host of any quarantine pests as well.

We made available data sheets detailing the scientific evidence we considered in making the determination that 41 taxa of plants for planting are quarantine pests. We received comments on 21 of those taxa. The comments are discussed below by taxon.

Alstroemeria aurea. Four commenters presented evidence that this species is present in the United States. Three of these commenters also stated that A. aurea does not appear to have any invasive tendencies that would warrant designation as a quarantine pest. Based on the evidence presented by the commenters and our own analysis, we have determined that A. aurea is widely distributed in the United States, and we are no longer considering A. aurea for addition to the NAPPRA list of quarantine pest plants.

Angelica sylvestris. Three commenters presented evidence that this species is present in the United States. Another commenter expressed support for one of these comments. Two of these commenters also stated that A. sylvestris does not appear to have any invasive tendencies that would warrant designation as a quarantine pest. We have determined that A. sylvestris is widely distributed in the United States, and we are no longer considering A. sylvestris for addition to the NAPPRA list of quarantine pest plants.

Artemisia japonica. One commenter presented evidence that this species is present in the United States, specifically that it is mentioned on herbal medicine Web sites. Based on the comment, we have reexamined the available evidence and determined that A. japonica is present in the United States and not under official control. Therefore, we are no longer considering A. japonica for addition to the NAPPRA list of quarantine pest plants.

Berberis glaucocarpa. One commenter stated that this taxon is widely available in the United Kingdom and that there is a very good chance that it has been sold to the United States.

The commenter also stated that B. glaucocarpa has not been declared to be an invasive species there.

The data sheet we prepared for B. glaucocarpa indicated that it invades forests, forest margins, scrub, and disturbed areas. Its seedlings tolerate shade and establish successfully, shading out native plants and preventing their regeneration. Birds disperse its seeds.

B. glaucocarpa is naturalized in New Zealand, where it is considered an environmental weed.

These factors led to our determination that B. glaucocarpa is a quarantine pest. In addition, we can find no information indicating that B. glaucocarpa is actually present in the United States.

Finally, we are evaluating B. glaucocarpa for addition to the list of noxious weeds in 7 CFR part 360, meaning it is under consideration for official control. Therefore, we are adding

B. glaucocarpa to the NAPPRA list of quarantine pest plants.

Celtis sinensis. Four commenters presented evidence that this species is present in the United States. Another commenter expressed support for one of these comments. As the taxon is not under consideration for official control, we are no longer considering C. sinensis for addition to the NAPPRA list of quarantine pest plants.

Cestrum elegans. Three commenters presented evidence that this species is present in the United States, stating that it is offered for sale in several States, listed in guides to American horticulture, and grown at several arboretums and botanic gardens. We have determined that C. elegans is widely distributed in the United States, and we are no longer considering C. elegans for addition to the NAPPRA list of quarantine pest plants.

Chrysanthemoides monilifera. One commenter presented evidence that this species is present in the United States, specifically that it has been sold in the United States and was imported by the USDA 100 years ago. The commenter also stated that the species has been

grown under a synonym in the Mediterranean region for about 100 years, and the commenter could find no reports of invasiveness there. We have determined that C. monilifera is widely distributed in the United States, and we are no longer considering C. monilifera for addition to the NAPPRA list of quarantine pest plants.

Cordia curassavica. One commenter presented evidence that this species is present in the United States, specifically in Florida. Another commenter stated that C. curassavica is native to tropical America. This commenter also stated that it has been noted that C. curassavica seeds have a short viable life and cannot withstand low temperatures, characteristics that do not make it a good candidate for invasiveness.

However, as described in the data sheet, C. curassavica is considered an economically important foreign weed in Trinidad and the Pacific Islands, and there is no obvious reason why it would not be economically important in the warmer parts of the United States. We do not have any evidence that the plant is distributed outside Florida. In addition, we are currently evaluating C. curassavica for addition to the list of noxious weeds in 7 CFR part 360, meaning it is under consideration for official control. Therefore, we are adding C. curassavica to the NAPPRA list of quarantine pest plants.

Echinochloa pyramidalis. One commenter stated that the United Nations' Food and Agriculture Organization (FAO) promotes this taxon as a fodder grass for tropical Africa. The commenter quoted the FAO Web page⁸ on E. pyramidalis as stating that the taxon is a heavy seed producer but sometimes has low germination, so it is propagated by cuttings. The page also states that the taxon is not frost hardy. The commenter stated that such a taxon is not likely to be a quarantine pest in the United States.

⁸ See <http://www.fao.org/ag/AGP/AGPC/doc/Gbase/data/pf000231.htm>.

As stated in the data sheet, E. pyramidalis has decidedly invasive characteristics with its vigorous shoot and rhizome growth and abundant seed production. As an aquatic, it also has the potential to be very damaging to sensitive aquatic habitats. In Guyana, it was first noticed in 1982 and increased rapidly to become one of the most troublesome weeds in the aquatic system of the Guyana Sugar Corporation.

The FAO Web page cited by the commenter indicates that E. pyramidalis is adapted to the wet and dry seasons of Africa; the dry season would limit its growth there. The Web page further indicates that new growth is very vigorous after the rains start. If the dry stems are burned during the dry season, vigorous growth from ground level occurs without the incidence of rain. The Web page further states that the plant's dense, tangled, floating stems, rooting at the nodes, provide efficient protection against wave action on the walls of earthen dams or flood induced erosion of river banks. These characteristics indicate that the taxon can grow vigorously and block waterways, which would in turn indicate that it is of potential economic significance. This is consistent with the information we cited in the data sheet for E. pyramidalis.

For these reasons, we have determined that the introduction of E. pyramidalis would have potential economic significance for the United States, and we are adding E. pyramidalis to the NAPPRA list of quarantine pest plants. We are also evaluating it for addition to the list of noxious weeds in 7 CFR part 360.

Gladiolus undulatus. Three commenters presented evidence that this species is present in the United States. One of these commenters also stated that G. undulatus does not appear to have any invasive tendencies that would warrant designation as a quarantine pest. We have determined that G. undulatus is widely distributed in the United States, and we are no longer considering G. undulatus for addition to the NAPPRA list of quarantine pest plants.

Gymnocoronis spilanthoides. One commenter presented evidence that this species is present in the United States. We agree that G. spilanthoides is present in the United States, and we are no longer considering it for official control. Therefore, we are no longer considering G. spilanthoides for addition to the NAPPRA list of quarantine pest plants.

Hakea gibbosa. One commenter presented evidence that this species is present in the United States. We have determined that H. gibbosa is present in the United States, and we are no longer considering H. gibbosa for official control. Therefore, we are no longer considering H. gibbosa for addition to the NAPPRA list of quarantine pest plants.

Hakea salicifolia. Two commenters presented evidence that this taxon is present in the United States, specifically in California. Another commenter acknowledged that H. salicifolia is present in California but stated that the plant was invasive. However, the taxon does not appear to be distributed beyond California within the United States, and we are evaluating H. salicifolia for addition to the list of noxious weeds in 7 CFR part 360, meaning it is under consideration for official control. Therefore, we are adding H. salicifolia to the NAPPRA list of quarantine pest plants, as it is not widely distributed and is under official control.

Hakea servicea. One commenter stated that H. servicea is listed by several U.S. nurseries but is not currently for sale, which means the nurseries have trouble propagating it and can offer it only sporadically. The commenter stated that this indicates that H. servicea is not likely to be invasive.

The history of H. servicea elsewhere indicates it is likely to be potentially economically significant, thus qualifying as a quarantine pest. As the data sheet for H. servicea indicates, it is included on a list of potentially invasive garden plants in its native Australia. The European Plant Protection Organization categorizes it as an invasive alien plant in New Zealand and South

Africa. In New Zealand, it is listed among plants of concern on conservation land. In South Africa, it has proved highly invasive, is rated as a serious weed, and is categorized as a transformer and as a prohibited weed in the most invasive Category 1. We do not know exactly why U.S. nurseries only list this taxon sporadically, but substantial evidence indicates that the introduction of this taxon would have potential economic significance in the United States. For that reason, we are evaluating H. servicea for addition to the list of noxious weeds in 7 CFR part 360, meaning it is under consideration for official control. In addition, there is no evidence indicating that the taxon is widely distributed. Therefore, we are adding H. servicea to the NAPPRA list of quarantine pest plants.

Impatiens parviflora. One commenter stated that this plant is growing in California, without providing any references to support this assertion. Regardless of whether the taxon is present in the United States, we have no evidence indicating that it is widely distributed, and we are evaluating I. parviflora for addition to the list of noxious weeds in 7 CFR part 360, meaning it is under consideration for official control. Therefore, we are adding I. parviflora to the NAPPRA list of quarantine pest plants.

Limnobiium laevigatum. Two commenters stated that this taxon is present in California and listed for eradication by the State of California. One commenter stated that the taxon is a popular aquarium plant throughout the United States.

Although the taxon may be in trade, there is little information regarding the extent of that trade; its distribution as a naturalized plant is limited to California. For that reason, we have determined that L. laevigatum is not widely distributed within the United States. We are evaluating L. laevigatum for addition to the list of noxious weeds in 7 CFR part 360, meaning it

is under consideration for official control. Therefore, we are adding L. laevigatum to the NAPPRA list of quarantine pest plants.

Nymphoides cristata. One commenter stated that this taxon is a popular garden plant, widely available in the United States. The commenter also cited a tropical botanical garden in Florida that sells the plant.

The data sheet we prepared for this taxon indicated that it is present in Florida and South Carolina (meaning it is not widely distributed) and that it is under consideration for official control. Indeed, we are evaluating N. cristata for addition to the list of noxious weeds in 7 CFR part 360. Therefore, we are adding N. cristata to the NAPPRA list of quarantine pest plants.

Phyllanthus maderaspatensis. One commenter stated that this taxon is listed as threatened and endangered in Australia.⁹ The Australian Web page for this taxon indicated that its threats are competition from other summer-growing annuals, clearing of floodplain habitat, and roadside clearing. The commenter stated that the fact that P. maderaspatensis is listed as threatened and endangered in Australia makes it unlikely that the taxon is invasive in the United States.

The data sheet we prepared for P. maderaspatensis cited references indicating that the taxon is a weed of concern in its native area, southern Africa, and Sudan, in addition to Australia. Although the evidence the commenter cites tends to dispute those references, the evidence cited in the data sheet has led us to determine that it is necessary to evaluate P. maderaspatensis for addition to the list of noxious weeds in 7 CFR part 360. To prevent the introduction of P. maderaspatensis during our evaluation, we are adding P. maderaspatensis to the NAPPRA list

⁹ The link the commenter provided, <http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/profile.aspx?id=10623>, no longer works, but we found a cached version of the page at <http://web.archive.org/web/20090713032340/http://threatenedspecies.environment.nsw.gov.au/tsprofile/profile.aspx?id=10623>.

of quarantine pest plants. If the evaluation indicates that P. maderaspatensis is not a quarantine pest or a host of a quarantine pest, we will remove it from the NAPPRA list in accordance with § 319.37-2a(e).

Rhamnus alaternus. Three commenters presented evidence that this taxon is present in the United States. As we have determined that this taxon is widely distributed in the United States, we are no longer considering R. alaternus for addition to the NAPPRA list of quarantine pest plants.

Senecio angulatus. One commenter presented evidence that this taxon is present in the United States, specifically that it is sold in California. We did not find any other indication that the taxon is present in the United States, indicating that it is not widely distributed. We are evaluating S. angulatus for addition to the list of noxious weeds in 7 CFR part 360, meaning that it is under official control. Therefore, we are adding S. angulatus to the NAPPRA list of quarantine pest plants.

Wikstroemia indica. One commenter stated that it might be best to find a way for researchers to import this plant, perhaps through a CIP, as it seems to be the hot item for antiviral research and a coumarin substitute.

We are adding W. indica to the NAPPRA list of quarantine pest plants. However, as the commenter suggests, researchers will be able to import it through a Departmental permit in accordance with § 319.37-2(c). If the CIP proposal is finalized, we will be able to make permits for research and development in this taxon more widely available.

Hosts of Quarantine Pests

Questions Regarding PRAs

In order to remove a taxon from the NAPPRA category, we will conduct a PRA for the taxon in accordance with paragraph (e) of § 319.37-2a. We received a few questions on the PRA process, all of which focused on the importation of taxa of plants for planting that we determine to be hosts of quarantine pests.

One commenter asked whether the PRAs will address only the pest for which the taxon was added to the NAPPRA category, or all quarantine pests associated with the taxon and the countries included in the PRA.

The PRAs will be comprehensive and analyze all quarantine pests associated with the taxon in the countries included in the PRA, so that we can address all the risks associated with the importation of the plant taxon.

One commenter asked whether we will consider proposals from foreign national plant protection organizations (NPPOs), accompanied by scientific and technical justifications, for the development of specific import requirements for NAPPRA-listed plants (e.g., systems approach, treatment, post-entry quarantine, etc.) prior to the initiation and completion of a PRA.

We would not authorize the importation of a NAPPRA-listed taxon prior to the completion of a PRA, except under Departmental permit (or CIP, if the proposed rule is finalized). However, any information an exporting country wishes to submit regarding potential mitigations for the pests associated with a taxon would be taken into account during the development of a PRA or the issuance of a Departmental permit or CIP.

One commenter asked about how we will prioritize PRAs, the type of information that will be required for the PRA process, timelines for completion of PRAs, and what actions, if any, can be taken by industry to facilitate the process.

PRAs will be prioritized based on whether we have received a request to conduct them. Requests to remove a taxon from the NAPPRA list must be made in accordance with § 319.5. This section, headed "Requirements for submitting requests to change the regulations in 7 CFR part 319," allows anyone to submit a request to change the regulations in 7 CFR part 319, but requires the submission of information from an NPPO before a PRA will be prepared.

We strive to complete all PRAs in a timely manner. However, the length of time it takes to complete a PRA is dependent on several factors, some of which are not in APHIS' control:

- The availability of data on the taxon;
- The timeliness with which the foreign NPPO responds to our requests for information; and
- Competition for APHIS' limited resources available for developing PRAs.

These factors mean that we cannot provide a timetable for preparation of a PRA in response to a request to remove a taxon from the NAPPRA category. However, if a foreign country wishes to be able to conduct trade in a taxon with the United States, we would expect that its NPPO would provide information to APHIS in a timely manner, thus helping to reduce the time necessary to complete the PRA. Industry could help foreign NPPOs by working with them to assemble and provide the necessary information.

Distribution of Quarantine Pests

In most cases, under the "Action under NAPPRA" heading in the data sheets, we proposed to add taxa that are hosts of quarantine pests to NAPPRA from all countries, rather than just the countries in which the quarantine pest of concern is known to be present.

We received several comments on this policy. One commenter asked whether the pest status of individual countries of origin would be taken into consideration, as designated by the NPPOs of those countries, in order to remove them from the NAPPRA list. Another commenter asked for clarification to be provided on the measures to be implemented in the case of countries where the listed pests are not known to be present.

Our policy in implementing the NAPPRA category is to prevent the importation of hosts from any country, regardless of current pest status, with the following exceptions:

- Taxa of hosts of quarantine pests whose importation we proposed to allow to continue under a Federal order, as described earlier in this document;
- Taxa of hosts of quarantine pests currently being imported from a country in which the pest is not present; and
- Certain taxa from Canada, when Canada is free of the quarantine pest for which the taxa are hosts and when Canada's import regulations and our restrictions specific to Canada ensure that the pest would not be introduced into the United States through the importation of the taxa from Canada.

In general, it is appropriate to add hosts of quarantine pests from all countries to the NAPPRA category because pests can spread quickly from country to country through the movement of plants for planting, and the importation of plants for planting is a high-risk pathway for the introduction of quarantine pests.

Another commenter asked how our policy of adding imports of taxa of hosts of quarantine pests from all countries to the NAPPRA list takes relevant IPPC guidelines into account.

As described above, when a taxon that is a host of a quarantine pest is currently being imported, we take measures other than addition to the NAPPRA category to address the risk associated with that taxon, when such measures are available. For taxa that have not previously been imported, we are following IPPC guidelines by requiring a PRA prior to the importation of a plant taxon from a new country or region.

Cut Flowers

Under the "Action under NAPPRA" heading, the data sheets for most of the hosts of quarantine pests indicated that the importation of cut flowers of those taxa would be NAPPRA. One commenter stated that cut flowers should be included in the NAPPRA category only where scientifically justified, as cut flowers are generally intended for consumption rather than for introduction into the environment and thus have historically, and correctly, been regarded as posing a level of risk different than that posed by plants for planting.

The commenter expressed specific concerns about including in the NAPPRA category cut flowers from CLB host taxa, one of which is the genus Rosa, which includes roses. The commenter asked that the action under NAPPRA be modified to be consistent with the Federal order, which prohibited cut rose imports only of stems greater than 10 millimeters (mm) in diameter from certain countries. The commenter also asked that we allow the importation of cut roses of any stem diameter from Canada, Denmark, France, Germany, Netherlands, and the United Kingdom. The commenter cited data from USDA's Foreign Agricultural Service

indicating that the total value of cut roses imported into the United States was over \$325 million and asked that the proposed action be amended to reflect existing trade patterns.

Another commenter agreed that stems 10 mm or smaller in diameter are not likely to transport viable individuals of CLB, but expressed concern regarding larger stems of roses intended for planting, even from the European Union; the commenter stated that the European Union lacks effective border controls and that CLB is established in Italy.

One commenter stated that CLB larvae are not found in host plant material smaller than 10 mm in diameter, meaning such material should be exempt from NAPPRA.

We agree that cut flowers are intended for consumption rather than for propagation. However, cut flowers can be used for propagation, and if so used can transmit quarantine pathogens. The definitions of plant and regulated article in § 319.37-1 allow us to regulate both articles intended for propagation and articles capable of propagation, as we determine to be necessary. Indeed, for taxa whose importation is prohibited under § 319.37-2(a) due to their potential to introduce plant pathogens, we have historically prohibited the importation of cut flowers of these taxa as well, when they are capable of propagation and a pathway for the introduction of the quarantine pest.

Nevertheless, the commenter is correct that it is important to evaluate whether cut flowers of a taxon of plants for planting are capable of introducing the pest in question before including them in the NAPPRA action for that taxon. We reexamined the taxa we had proposed to add to NAPPRA as hosts of quarantine pests and found that the insect quarantine pests (CLB; Rhynchophorus ferrugineus, the red palm weevil; and Rhynchophorus palmarum, the giant palm weevil) named in the NAPPRA data sheets are not likely to infest cut flowers of their host taxa.

In addition, cut flowers of hosts of the two palm weevils are not used for propagation and so do not present the same risks that cut flowers of other taxa might.

We are updating the "Action under NAPPRA" sections of the data sheets for CLB and the palm weevils to reflect the fact that cut flowers of taxa that are hosts of these pests will not be regulated under NAPPRA. However, the importation of cut flowers from hosts of all three of these quarantine pests is restricted in Federal orders, and those restrictions will remain in place. With respect to CLB, the Federal order for CLB exempts stems 10 mm and less in diameter from regulation, as noted earlier, and imposes production and certification requirements on larger stems and on other plants for planting from countries where CLB is known to occur (including the European Union).

The other quarantine pests addressed in the data sheets are all pathogens, and cut flowers from any of the host taxa can serve as a pathway for the introduction of the quarantine pest and can be used for planting. For that reason, we are adding cut flowers of those taxa (as well as all other plant parts other than seed) to the NAPPRA category.

We are not, however, exempting any plant material less than 10 mm in diameter from a CLB host taxon from the NAPPRA category. Such plants are likely intended for propagation, and in order to authorize their importation from a new source we would need to conduct a PRA to analyze all the relevant risks associated with their importation.

Seed

Two commenters stated that seed should be allowed to be imported if the taxon is a host of a quarantine pest (rather than a quarantine pest itself), the quarantine pest is an insect, and the insect's egg-laying habits are not associated with the plant's fruit or seed.

One commenter expressed concern that our proposed addition of taxa such as Solanum spp. and Capsicum spp. to the NAPPRA list of hosts of quarantine pests would be a problem for growers in Guam who import seed from tropical areas in Asia.

Two commenters expressed specific concern about the designation of Rubus spp. as a host of CLB and stated that, since CLB does not target seeds, seeds of Rubus spp. could be exempted from NAPPRA restrictions.

We have recognized that seed poses different risks than other plant parts. In the May 2011 final rule, we stated that we would continue to allow the importation of seed from taxa that were added to the NAPPRA list of hosts of quarantine pests, unless there was evidence that the quarantine pest could be introduced via seed. The "Action under NAPPRA" sections for all of the taxa that we determined to be hosts of quarantine pests (including Rubus spp., Solanum spp., and Capsicum spp.) indicated that seed would continue to be allowed to be imported.

One commenter stated that we should take into account the size of the importation, as small lots of seed are of a decidedly lower order of risk than bulk commercial shipments of plants or seed.

We agree that the risk of introducing a quarantine pest through imported plants for planting increases with the size of the shipment. However, for plants for planting that are themselves quarantine pests, a single seed could be enough to introduce the quarantine pest and allow it to establish. That is why, for quarantine pest plants, the importation of seed of those taxa is NAPPRA. In addition, in the regulations allowing the importation of small lots of seed without a phytosanitary certificate in § 319.37-4(d), we do not allow the importation of small lots of seed from taxa whose seed is listed as NAPPRA.

Tissue Culture and Roots

One commenter stated that tissue-cultured plants from taxa listed as NAPPRA should be allowed to be imported, as scientific evidence indicates that pests would not accompany tissue-cultured material.

Two commenters stated that the importation of in vitro tissue cultures of Rubus spp. should be allowed under the conditions currently in place in the Federal order for CLB. These commenters also stated that roots and root segments of Rubus spp. should be exempt from NAPPRA.

While properly tissue-cultured plants are pest-free, plants that are infested with disease prior to tissue culture are likely to be infested when the plant comes out of tissue culture as well. Plants that are added to the NAPPRA list as hosts of an insect quarantine pest may be free of that pest, but there may be other plant pests for which tissue culturing is not an adequate mitigation, or for which there may be special requirements for tissue culturing. In order to fully consider whether tissue culture is an adequate mitigation for all the pests associated with a taxon of plants for planting, we would need to conduct a PRA. Therefore, we cannot allow the importation of tissue cultures of plant taxa listed as NAPPRA. Similarly, roots may be hosts for additional pests for which we would need to conduct a PRA, and we cannot allow the importation of roots from plant taxa listed as NAPPRA.

For Rubus spp. specifically, the only countries with which the United States has had significant trade over the past few years in any kind of plants for planting are Canada and the United Kingdom. As noted earlier, both of these countries are now excluded from the NAPPRA action for Rubus spp., and importation of Rubus spp. from these countries, including tissue

culture, will continue to be regulated by the Federal order for CLB and, in the plants for planting regulations, paragraphs (e) and (f) of § 319.37-5.

Harmonization with Canada

Under the "Action under NAPPRA" heading of the data sheets for taxa that we determined to be hosts of quarantine pests, we stated for some taxa that we would continue to allow the importation of the taxon from Canada. We stated in the initial notice that we would allow such importation when Canada is free of the quarantine pest for which the taxa are hosts and when Canada's import regulations and our restrictions specific to Canada ensure that the pest would not be introduced into the United States through the importation of the taxa from Canada.

One commenter, the NPPO of Canada, asked us to allow the continued importation from Canada of several taxa that are hosts of quarantine pests in addition to those specified in the initial data sheets. Specifically, the NPPO of Canada asked that we allow the continued importation of hosts of CLB, the red palm weevil, the giant palm weevil, and the pests Bursaphelenchus cocophilus, Ceratocystis manginecans, Pseudomonas syringae pv. actinidae, and Xanthomonas axonopodis pv. punica. The NPPO of Canada stated that these pests are not present in Canada and that hosts of these pests are imported into Canada primarily or solely from the United States. Furthermore, the commenter stated, the NPPO of Canada intends to put in place restrictions on the importation of hosts of these pests from other countries that are equivalent to the restrictions we proposed to implement through adding those host taxa to the NAPPRA category.

We agree with this commenter with respect to hosts of CLB. Most host taxa of CLB are commonly cultivated in Canada, and Canada has put in place restrictions on the importation of all CLB host taxa from other countries. As noted earlier in this document, the data sheet for

CLB has been updated to indicate that the importation of hosts of this pest from Canada is not restricted under NAPPRA.

With respect to the hosts of the rest of the pests the commenter named, Canada has not yet implemented regulations that are equivalent to adding the host taxa to the NAPPRA category. In addition, it is unlikely that hosts of these pests would be cultivated in Canada, as the pests affect tropical plants, specifically kiwi, mango, palm, and pomegranate plants. Therefore, plants of these taxa that are present in Canada would likely have been imported; if they were imported from an area other than the United States, they could pose a risk of introducing a quarantine pest into the United States, should they be re-exported to the United States. Accordingly, we will continue to include Canada in the list of countries from which the importation of hosts of the red palm weevil, the giant palm weevil, Bursaphelenchus cocophilus, Ceratocystis manginecans, Pseudomonas syringae pv. actinidae, and Xanthomonas axonopodis pv. punica is NAPPRA.

If Canada successfully imposes equivalent import restrictions on hosts of these pests in the future, we will reevaluate our decisions.

CLB

One commenter, representing the European Union, noted that 72 taxa of plants for planting were designated as hosts of CLB and thus potential additions to the NAPPRA category, but the pests and pest risks associated with these taxa are well known, since the pest of concern has already been identified. The commenter asked us to clarify the need for strengthening the import requirements for these taxa from the European Union.

We have identified the taxa listed in the CLB data sheet as hosts of a quarantine pest. This indicates that further analysis is necessary before allowing their importation. While one pest is sufficient for adding a taxon to NAPPRA, there may be other quarantine pests associated

with the taxa in various areas of the world where the plant may be grown. In order to authorize the importation of these host taxa when we do not have any information about importation of the taxon from a country, we would need to develop a PRA that determines all the pests associated with the taxon in a specific country or area and identifies an appropriate risk mitigation strategy for all those pests. (It is extremely likely that most of the taxa of plants for planting identified as hosts of CLB are also hosts to other quarantine pests, for which we may or may not have practical mitigations.) In the meantime, we are being consistent with IPPC guidelines by not allowing the importation of the host taxa from areas from which they have not recently been imported without a PRA. As discussed earlier, importation of CLB host taxa from areas that have previously exported those taxa to the United States will continue to be regulated by the CLB Federal order.

The commenter asked us to share our technical documentation on the host range of CLB as well as any data on interceptions of CLB in plants from the European Union.

The technical documentation on the host range of CLB is presented in the CLB data sheet. We do not have interception data for CLB from the European Union, for two reasons. First, except for the specific countries from which imports of certain CLB host taxa will continue to be allowed, as described in the amended data sheet available with this final notice, the countries in the European Union have not exported significant quantities of CLB host taxa to the United States. Second, CLB is an internal borer, and such pests are not readily apparent through the visual inspection we conduct at plant inspection stations, which makes it all the more important to develop other means to combat this and any other quarantine pests associated with the CLB host taxa, through the PRA process. As discussed earlier, the importation of CLB host taxa has been subject to mitigations against the introduction of CLB that are set out in a Federal

order, and any importation of CLB host taxa that continues after the publication of this notice will occur under the same mitigations.

The data sheet for CLB listed CLB as present in the European Union, among other areas. The commenter stated that most European Union Member States can claim that CLB is not known to occur, based on several years of mandatory annual surveillance. The commenter stated that areas where CLB is established have been demarcated officially, and measures are imposed to ensure that no infested material can leave these areas. The commenter further stated that there are no indications that CLB is present outside demarcated areas, with the exception of isolated findings that can be traced back to imports. The commenter concluded that the entire European Union should not be listed as an area where CLB is present.

As stated in this document, unless we have had significant trade in CLB host taxa with a country, imports of CLB host taxa from all countries will be NAPPRA. As previously established, the countries that comprise the European Union have not exported significant quantities of CLB host taxa to the United States, with limited exceptions as described in the data sheets. Therefore, it does not matter whether CLB is present in the entire European Union or in certain areas for the purposes of this action.

With respect to the assertions made by the commenter, we note that, in the European Union, CLB has been found in the environment surrounding nursery areas, suggesting that infested host material was moved into previously uninfested areas, and may also have moved out of those areas. This would indicate some potential deficiencies in the European Union's regulatory program for this pest. We would undertake a detailed review of the European Union's program for CLB if the European Union requests that we conduct a PRA to allow the importation of CLB host taxa into the United States.

One commenter requested clarification regarding the rationale for adding Chaenomeles spp., Cydonia spp., Malus spp., Prunus spp., and Pyrus spp. to the NAPPRA category as hosts of CLB. The commenter stated that our previously established import restrictions for fruit tree propagative material into North America require certification for specific pests of concern, and prohibit importation from non-approved sources. The commenter stated that these measures should mitigate the risk for most pests of potential concern. Another commenter similarly stated that many of the pest species for which taxa were proposed to be listed in the NAPPRA category are already regulated by the United States, including CLB.

We believe the measures the commenter cited are those in paragraphs (b) and (j) of § 319.37-5. These measures specifically address pathogens that may be associated with these genera of fruit trees. They do not provide any protection against CLB. In addition, they do not address other insect or pathogen pests that may be associated with these genera. In order to comprehensively address the risk associated with the importation of these taxa, we need to complete a PRA.

Several commenters expressed concern regarding the potential impact on the bonsai trade of listing Pinus spp. and Rhododendron spp. as NAPPRA. This trade has been regulated under paragraph (q) of § 319.37-5, which prescribes conditions for the importation of artificially dwarfed plants that are designed to prevent the introduction of insect pests into the United States. Some bonsai are also imported under a bonsai pilot program in which the bonsai are grown for a period of time in postentry quarantine under conditions equivalent to those in § 319.37-5(q).

The commenters stated that the importation of Pinus spp. and Rhododendron spp. as bonsai, particularly from Japan but also from China and Taiwan, is an important business for them, with investments made in production facilities in Japan and postentry quarantine facilities

in the United States and per-tree values of \$50,000 or more. The commenters also stated that bonsai are subject to intense monitoring from agricultural officials and have had no pest problems.

Based on these comments, we re-examined our import records to determine whether there was significant trade in Pinus spp. and Rhododendron spp. from any country we had proposed to list as NAPPRA for those taxa. As noted earlier in this document under the heading "Potential Economic Effects," we determined that there had been significant trade with Japan (although not China or Taiwan). As the conditions in § 319.37-5(q) and in the bonsai pilot program have been successful at mitigating the risk of introducing other quarantine pests into the United States, and as the Federal order for CLB will continue to govern the importation of Pinus spp. and Rhododendron spp. from Japan, we do not believe excluding Japan from the NAPPRA action for these taxa will increase the risk of introducing quarantine pests into the United States.

Noting that the importation of bonsai is regulated under § 319.37-5(q), one commenter suggested we should continue to allow the importation of any taxon that is to be listed in NAPPRA as a host of a quarantine pest if the taxon is produced in accordance with a USDA-approved systems approach.

The conditions in § 319.37-5(q) were developed to address the risk posed by longhorned beetles, including CLB, in artificially dwarfed plants. However, those conditions apply only to artificially dwarfed plants; it is necessary to restrict the importation of all plants that are hosts of CLB in order to address the risk of introducing CLB. Appropriate conditions for the importation of those host plants can be determined through the PRA process. There may be other quarantine pests associated with a taxon besides the pest or pests addressed by a systems approach and the

pest for which the taxon was added to the NAPPRA category. Conducting a PRA will allow us to identify all quarantine pests associated with a taxon and develop appropriate mitigations.

As discussed earlier, in cases where we have experience with importing artificially dwarfed plants under § 319.37-5(q) and the CLB Federal order and have found, through inspection, that they are generally pest-free, we have allowed that trade to continue under the conditions of the Federal order.

One commenter, a company primarily focused on the establishment and management of short rotation plantations of hybrid poplar in North America, Europe, Asia, and South America, expressed concern about the listing of Populus, the genus containing poplar species, as NAPPRA. The commenter stated that its breeding and hybridization work takes place in Oregon, meaning the commenter needs to import plant material in the form of soil-free cuttings, seed, and pollen from various countries. The commenter stated that it has followed all regulations for importing plants for planting in the past, and such importations have not resulted in the introduction of any pests to the United States.

The importation of seed of Populus spp. will continue to be allowed. While pollen may not be a pathway for CLB, we need to evaluate all the quarantine pests associated with this taxon besides CLB as well, as there have not been significant imports of Populus spp. pollen or other plant parts into the United States. Soil-free unrooted cuttings, meanwhile, could easily serve as a pathway for CLB depending on size, and we would need to analyze CLB and any other pests associated with Populus spp. through the PRA process before allowing the importation of such plants for planting, as there have not been significant imports of Populus spp. from any country except Canada.

One commenter stated a desire to establish a pest-free area for CLB and the Asian longhorned beetle (Anaplophora glabripennis, ALB) in Netherlands to allow the importation of fruit trees from that country.

As described in the CLB data sheet that accompanied the July 2011 notice, Malus spp. and Prunus spp., the two principal genera of fruit trees, from Netherlands will be allowed to be imported under the current regulations for their importation in § 319.37-5(b) and under the conditions of the Federal order. The Federal order includes requirements for production in a pest-free area, pest-free place of production, or pest-free production site for CLB and ALB. We fully support the establishment of pest-free areas in exporting countries, but it is the responsibility of the exporting country's NPPO and local growers to establish and maintain these pest-free areas.

Lachneulla willkommii

One commenter expressed surprise that we had excluded Canada from NAPPRA in the data sheet listing hosts of the pest Lachneulla willkommii, since, as the commenter stated, L. willkommii is present in Nova Scotia and New Brunswick.

Both Canada and the United States have designated areas under quarantine for this pest. We recognize Canada's quarantine, and Canada recognizes ours. There is no need for further restrictions.

Therefore, in accordance with the regulations in § 319.37-2a(b)(2), we are adding 31 taxa of plants for planting that are quarantine pests and 107 taxa of plants for planting that are hosts of 13 quarantine pests to the list of taxa whose importation is NAPPRA. A complete list of those

taxa and the restrictions placed on their importation can be found at the address in footnote 1 of this document or on the Plant Protection and Quarantine Web page at

http://www.aphis.usda.gov/import_export/plants/plant_imports/Q37/nappra/index.shtml.

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.

Done in Washington, DC, this 15th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013-09147 Filed 04/17/2013 at 8:45 am; Publication Date: 04/18/2013]