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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2012-0076]

Plants for Planting Whose Importation is Not Authorized Pending Pest Risk Analysis; Notice of Availability of Data Sheets for Taxa of Plants for Planting that are Quarantine Pests or Hosts of Quarantine Pests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have determined that 22 taxa of plants for planting are quarantine pests and 37 taxa of plants for planting are hosts of 9 quarantine pests and therefore should be added to our lists of taxa of plants for planting whose importation is not authorized pending pest risk analysis. We have prepared data sheets that detail the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of quarantine pests. We are making these data sheets available to the public for review and comment.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0076-0001>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0076, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

The data sheets and any comments we receive may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0076> 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: Dr. Arnold Tschanz, Senior Regulatory Policy Specialist, Plants for Planting Policy, RPM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2179.

#### 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 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, this notice announces our determination that 22 taxa of plants for planting are quarantine pests and 37 taxa of plants for planting are hosts of 9 quarantine pests.

This notice also makes 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. The data sheets include references to the scientific evidence we used in making these determinations.

A complete list of the taxa of plants for planting that we have determined to be quarantine pests or hosts of quarantine pests, along with the data sheets supporting those determinations, may be viewed on the Regulations.gov Web site or in our reading room (see ADDRESSES above for a link to Regulations.gov and information on the location and hours of the reading

room). You may request paper copies of the list and data sheets by calling or writing to the person listed under FOR FURTHER INFORMATION CONTACT.

For taxa of plants for planting that are hosts of quarantine pests, the data sheets specify the countries from which the taxa's importation would not be authorized pending pest risk analysis. In many cases, the importation of the taxa would not be allowed from any country. In some cases, the taxa would be allowed to be imported from Canada. 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.

In a few cases, the taxa 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. We would like to clarify in this notice that we would exempt imports of taxa of plants for planting that are hosts of quarantine pests from the NAPPRA requirements when there is significant trade between the exporting country and the United States. 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. Generally, we would consider the importation from a country of 10 or more plants in each of the last 3 fiscal years to constitute significant trade in that taxon. However, we will also consider other data showing that there is significant trade in a taxon, even if it does not meet this standard.

After reviewing any comments we receive, we will announce our decision regarding the addition of the taxa described in the data sheets to the NAPPRA lists in a subsequent notice. If

the Administrator's determination that the taxa are quarantine pests or hosts of quarantine pests remains unchanged following our consideration of the comments, then we will add the taxa described in the data sheets to the appropriate NAPPRA list.

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.

Done in Washington, DC, this 30<sup>th</sup> day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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