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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2013-0095]

Notice of Availability of a Treatment Evaluation Document for Methyl Bromide Treatment for Kumquat

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that we have determined that it is necessary to immediately add to the Plant Protection and Quarantine Treatment Manual a treatment schedule for methyl bromide fumigation of kumquats to control certain fruit flies. We have prepared a treatment evaluation document that describes the new treatment schedule and explains why we have determined that it is effective at neutralizing fruit flies. We are making this treatment evaluation document 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-2013-0095-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2013-0095, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0095> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist with Regulations, Permits and Manuals, PPQ, APHIS, 4700 River Road Unit 135, Riverdale, MD 20737-1236; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.¹ Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when

¹ The Treatment Manual is available at http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1). They are:

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s).
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used.
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in a commodity or commodities may be adversely impacted unless the new treatment schedule is approved for use.
- The use of a treatment schedule is no longer authorized by the U.S. Environmental Protection Agency or by any other Federal entity.

We have determined that a new methyl bromide fumigation treatment schedule to control the fruit flies Ceratitis capitata and Anastrepha fraterculus on kumquat (Fortunella japonica) is effective, and we have determined that ongoing trade in kumquat will be adversely impacted unless the new treatment is approved for use.

On July 10, 2013, we published in the Federal Register (78 FR 41259-41265, Docket No. APHIS-2011-0060) a rule² to amend the regulations to allow the importation of several species of fresh citrus and Citrus hybrids (“citrus fruit”), including kumquat, from Uruguay into the continental United States under certain conditions. Under § 319.56-59, citrus fruit other than lemons must be treated in accordance with part 305, and lemons may be imported without treatment if harvested green between May 15 and August 31; otherwise, lemons must be treated as well.

² To view the rule and supporting documents, including the environmental assessment, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0060>.

Currently, there are cold treatment schedules listed in the PPQ Treatment Manual to mitigate the risk of fruit flies on many citrus varieties, but there is currently no treatment available for kumquat from Uruguay.

Therefore, in accordance with § 305.3(b)(2), we have determined that it is necessary to immediately add a new treatment schedule for kumquat in the PPQ Treatment Manual. Based on existing treatments of several citrus commodities to control C. capitata and A. fraterculus, we are adding a new treatment schedule, T101-n-3, to treat kumquat for C. capitata and A. fraterculus when imported into the United States from countries that are authorized to export kumquat to the United States. The addition of the methyl bromide treatment for kumquat will ensure adequate quarantine security from fruit flies, and resolve the inconsistency inherent in § 319.56-59 that lists kumquat as a fruit that may be imported into the continental United States if treated in accordance with part 305 for C. capitata and A. fraterculus.

This treatment schedule will be listed in a separate section of the PPQ Treatment Manual, which will indicate that T101-n-3 was added through the immediate process described in § 305.3(b) and that is subject to change or removal based on public comment.

The reasons for this revision are described in a treatment evaluation document (TED) we have prepared to support this action. The TED may be viewed on the Regulations.gov Web site or in our reading room. You may also request paper copies of the TED by calling or writing to the person listed under FOR FURTHER INFORMATION CONTACT.

We are also announcing that we have prepared a finding of no significant impact (FONSI) for this action. The FONSI, which is based on the environmental assessment (EA) prepared for the rulemaking that led to our July 2013 final rule, documents our conclusion that the importation of kumquats from Uruguay under the conditions prescribed in our July 2013 final

rule, including treatment in accordance with the PPQ Treatment Manual, will not have a significant impact on the quality of the human environment.

The EA and FONSI were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

After reviewing the comments we receive, we will announce our decision regarding the new treatment schedule that is described in the TED in a subsequent notice, in accordance with paragraph (b)(3) of § 305.3. If we do not receive any comments, or the comments we receive do not change our determination that the treatment is effective, we will affirm the treatment schedule's addition to the PPQ Treatment Manual and make available a new version of the PPQ Treatment Manual in which T101-n-3 is listed in the main body of the manual. If we receive comments that lead us to determine that T101-n-3 needs to be changed or removed, we will make available a new version of the PPQ Treatment Manual that reflects the changes to or the removal of treatment schedule T101-n-3.

Authority: 7 U.S.C. 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 23rd day of January 2014 .

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

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