



This document is scheduled to be published in the Federal Register on 01/19/2017 and available online at <https://federalregister.gov/d/2017-01267>, and on [FDsys.gov](http://FDsys.gov)

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2016-0032]

Notice of Decision to Authorize the Importation of Fresh Star Apple Fruit From Vietnam Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation into the continental United States of fresh star apple fruit from Vietnam. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh star apple fruit from Vietnam.

DATES: Effective [Insert date of publication in the Federal Register].

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

## SUPPLEMENTARY INFORMATION:

Under the regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-76, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the Federal Register announcing the availability of the PRA that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the PRA; (2) the comments on the PRA revealed that no changes to the PRA were necessary; or (3) changes to the PRA were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice<sup>1</sup> in the Federal Register on July 19, 2016 (81 FR 46886, Docket No. APHIS-2016-0032), in which we announced the availability, for review and comment, of a PRA that evaluated the risks associated with the importation into the continental United States of fresh star apple fruit (Chrysophyllum cainito) from Vietnam. The PRA consisted of a risk assessment identifying pests of quarantine significance that could

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<sup>1</sup>To view the notice, the comments received, and the PRA, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0032>.

follow the pathway of importation of fresh star apple fruit from Vietnam into the continental United States and a risk management document identifying phytosanitary measures to be applied to that commodity to mitigate the pest risk.

We solicited comments on the notice for 60 days ending September 19, 2016. We received one comment by that date, from a manufacturing company.

One measure identified in the PRA is that all consignments of fresh star fruit from Vietnam imported into the continental United States will be required to be treated with irradiation prior to arrival in the United States. The commenter argued that the fresh star fruit should also be allowed to be treated after its arrival in the United States.

While it is true that the phytosanitary treatment regulations in 7 CFR 305.9(a)(1) state that, where certified irradiation facilities are available, an approved irradiation treatment may be conducted for any imported regulated article either prior to shipment to the United States or in the United States, this is a general statement of the types of treatment APHIS deems allowable. The particulars of any treatment are examined on an individual basis as part of a country's market access request. In their request, the national plant protection organization (NPPO) of Vietnam specifically stipulated that fresh star fruit be subject to a pre-clearance program within Vietnam. In considering this request, APHIS determined that Vietnam possesses sufficient infrastructure to meet an in-country treatment requirement.

The PRA also indicates that the fruit must be individually wrapped in plastic prior to shipment to reduce the risk of post-treatment reinfestation. The commenter observed that the PRA does not specify why fruits will be required to be packaged in this manner rather than

using insect-proof cartons as described in 7 CFR 305.9(f)(2)(i)(A). The commenter argued that the fresh star fruit should be packed in insect-proof cartons rather than individually wrapped in keeping with the regulations.

Individually wrapping fruit is an effective phytosanitary mitigation measure, which takes the place of insect-proof cartons. This measure was specifically proposed by the NPPO of Vietnam in its market access request. Its phytosanitary efficacy was considered as part of the PRA conducted by APHIS. We determined that such individual wrapping provides equal phytosanitary protection to insect-proofing cartons and pallets.

Therefore, in accordance with the regulations in § 319.56-4(c)(2)(ii), we are announcing our decision to authorize the importation into the continental United States of fresh star apple fruit from Vietnam subject to the following phytosanitary measures:

- The fresh star apple fruit must be imported as commercial consignments only;
- Each consignment of fresh star apple fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Vietnam;
- Each consignment of fresh star apple fruit must be treated in accordance with 7 CFR part 305; and
- Each consignment of fresh star apple fruit is subject to inspection upon arrival at the port of entry to the United States.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <https://www.aphis.usda.gov/favir/>). In addition to these specific measures, fresh star apple fruit from Vietnam will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables.

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 12<sup>th</sup> day of January 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017-01267 Filed: 1/18/2017 8:45 am; Publication Date: 1/19/2017]