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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2016-0034]

RIN 0579-AE33

Importation of Pummelo From Thailand Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow the importation of fresh pummelo fruit from Thailand into the continental United States. As a condition of entry, fresh pummelo fruit from Thailand would be subject to a systems approach that would include irradiation treatment, packinghouse processing requirements, and port of entry inspection. The fruit would also be required to be imported in commercial consignments and be accompanied by a phytosanitary certificate issued by the national plant protection organization of Thailand. This action would allow for the importation of fresh pummelo fruit from Thailand while continuing to provide protection against the introduction of plant pests into the continental United States.

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/#!docketDetail;D=APHIS-2016-0034>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2016-0034, 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-2016-0034> 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: Ms. Claudia A. Ferguson, M.S., Senior Regulatory Policy Coordinator, Imports, Regulations, and Manuals, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2352.

SUPPLEMENTARY INFORMATION

Background

Under the regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-82, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

The regulations currently do not authorize the importation of fresh pummelo fruit (*Citrus maxima* (Berm.) Merr.) from Thailand. The national plant protection organization (NPPO) of Thailand has requested that APHIS amend the regulations to allow the importation of

commercially produced fresh pummelo fruit from Thailand into the continental United States. In evaluating Thailand's request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and the RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov website (see ADDRESSES above for instructions for accessing Regulations.gov).

The PRA, titled "Importation of Fruit of Pummelo, *Citrus maxima* (Burm.) Merr., from Thailand into the Continental United States" (December 2017) analyzes the potential pest risk associated with the importation of fresh pummelo fruit into the continental United States from Thailand.

The PRA identifies 21 actionable pests that could be introduced into the United States in consignments of fresh pummelo fruit from Thailand. The pests listed in the PRA are as follows:

- *Bactrocera correcta* Bezzi, guava fruit fly;
- *Bactrocera cucurbitae* Coquillett, melon fruit fly;
- *Bactrocera dorsalis* Hendel, oriental fruit fly;
- *Bactrocera papayae* Drew & Hancock, Asian papaya fruit fly;
- *Bactrocera tau* Walker, a complex of fruit flies;
- *Ceroplastes rubens* Maskell, pink wax scale;
- *Citripestis sagittiferella* Moore, citrus fruit borer;
- *Eotetranychus cendanai* Rimando, citrus yellow mite;
- *Monacrostichus citricola* Bezzi, a fruit fly;
- *Nipaecoccus viridis* Newstead, spherical mealybug;
- *Paradrosophila punctipennis* Duda, a fruit fly;
- *Phyllosticta citriasiana* Wulandari, Crous & Gruyter, the causal agent for citrus tan spot;

- *Phyllosticta citricarpa*, the causal agent for citrus black spot;
- *Planococcus lilacinus* Cockerell, cacao mealybug;
- *Prays citri* Millière, citrus flower moth;
- *Prays endocarpa* Meyrick, citrus pock caterpillar;
- *Pseudococcus cryptus* Hempel, citriculus mealybug;
- *Rastrococcus spinosus* Robinson, Philippine mango mealybug;
- *Rastrococcus tropicasiaticus* Williams, a mealybug;
- *Schizotetranychus baltazari* Rimando, Bamboo spider mite; and
- *Xanthomonas citri* Gabriel et al. (XCC), the causal agent for citrus canker.

Based on the findings of the PRA, APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the risks posed by these pests. These measures are identified in the RMD and are used as the basis for the requirements included in this proposed rule. We are therefore proposing to allow the importation of fresh pummelo fruit from Thailand into the continental United States if it is produced and shipped in accordance with the systems approach as described below. The requirements of the systems approach would be added to the regulations as a new § 319.56-83.

Commercial Consignments

Only commercial consignments of fresh pummelo fruit from Thailand would be accepted for import into the continental United States. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, or is grown with little or no pest control. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having

been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packing, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Treatments

Under this proposed rule, fresh pummelo fruit from Thailand would be required to be treated with a minimum absorbed irradiation dose of 400 Gy in accordance with § 305.9 of the phytosanitary treatment regulations in 7 CFR part 305. This is the established generic dose for all insect pests except pupae and adults of the order Lepidoptera.

While it is true that three of the quarantine pests associated with fresh pummelo fruit from Thailand are Lepidopteran, irradiation in conjunction with other mitigations against Lepidopteran pests, can provide phytosanitary protection for several reasons:

- While the treatment is not lethal to pupae and adults of the order Lepidoptera, it is lethal to larvae. Larvae are of greatest phytosanitary concern given that they are internal feeders and may therefore be overlooked upon inspection.
- Irradiation tends to prevent normal adult emergence from the pupal stage.
- Irradiation also causes sterility in pupae and emerged adults, preventing further larval reproduction. Moreover, pupae and adult Lepidoptera are unlikely to be associated with fresh pummelo fruit.

The shipments of fresh pummelo fruit from Thailand would also have to meet all other relevant treatment requirements in part 305.

Packinghouse Procedures

Those plant pests associated with the importation pathway for fresh pummelo fruit from Thailand that are non-Insecta (*XCC*, *P. citriasiana*, and *P. citricarpa*), Insecta but not neutralized by irradiation (*E. cendanai* and *S. baltazari*), and the pupae and adult forms of lepidoptera (*C. sagittiferella*, *P. citri*, and *P. endocarpa*), require the application of additional mitigations. Prior to packing, the fresh pummelo fruit would have to be washed, brushed, and disinfested. The fresh pummelo fruit would also be required to be submerged in a surfactant, treated for *XCC* with an APHIS-approved surface disinfectant, and treated for *P. citriasiana* and *P. citricarpa* with an APHIS-approved fungicide. These packinghouse processing requirements will ensure that all pests of concern not mitigated by irradiation are removed from the importation pathway.

Phytosanitary Certificate

A phytosanitary certificate issued by the NPPO of Thailand would have to accompany each consignment of fresh pummelo fruit. If the fresh pummelo fruit was irradiated in Thailand, the fresh pummelo fruit would have to be jointly inspected by APHIS and the NPPO of Thailand, and the phytosanitary certificate would have to contain additional declarations attesting to this joint inspection and to the irradiation of the fresh pummelo fruit in Thailand. If the fresh pummelo fruit will be irradiated upon arrival in the United States, these additional declarations would not be needed.

The phytosanitary certificate ensures the fresh pummelo fruit was inspected by the NPPO of Thailand, and certifies that the fresh pummelo fruit meets our requirements for export to the continental United States. Additional declarations provide assurances regarding joint inspection and proper administration of irradiation treatment.

Port of Entry Inspection

Shipments of fresh pummelo fruit from Thailand would be subject to inspection at the port of entry. This will provide an additional layer of phytosanitary protection in order to prevent the dissemination of plant pests into the continental United States.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov website (see ADDRESSES above for instructions for accessing Regulations.gov).

Pummelo is a relatively minor citrus fruit for which there is limited information. There are no official statistics on the volume or value of pummelos produced or consumed in the United States. Agricultural statistics for California report that the area planted in pummelo and hybrid groves in 2016 totaled 1,587 acres. California production that year totaled 540,000 boxes, or about 19,595 metric tons, and had a farm gate value of \$9.04 million. The expected volume of imports from Thailand would be the equivalent of about 1 percent of California's pummelo production. Unofficially, there are about 100 pummelo growers in California. The majority of these producers likely operate as small entities, given that this is true for producers of citrus fruit generally.

Information on pummelo production in Arizona, Florida, or Texas is not available. U.S. import and export data specific to pummelo are also not available because pummelo is grouped with grapefruit in Department of Commerce trade statistics (Harmonized Tariff Schedule 080540).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Executive Order 12988

This proposed rule would allow fresh pummelo fruit to be imported into the continental United States from Thailand under a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh pummelo fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to oir-submissions@omb.eop.gov, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2016-0034. Please send a copy of your comments to the USDA using one of the methods described under ADDRESSES at the beginning of this document.

APHIS is proposing to amend the regulations to allow the importation of fresh pummelo fruit from Thailand into the continental United States. As a condition of entry, fresh pummelo fruit from Thailand would be subject to a systems approach that would include irradiation treatment, packinghouse processing requirements, and port of entry inspection. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the NPPO of Thailand. This action would allow for the importation of fresh pummelo fruit from Thailand while continuing to provide protection against the introduction of plant pests into the continental United States.

Implementing this information collection will require respondents to complete phytosanitary certificates and port of entry inspections.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.67 hours per response.

Respondents: Foreign businesses and the NPPO of Thailand.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 18.

Estimated annual number of responses: 36.

Estimated total annual burden on respondents: 24 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

A copy of the information collection may be viewed on the Regulations.gov website or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading ADDRESSES at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection

Coordinator, at (301) 851-2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483.

Lists of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56-83 is added to read as follows:

§ 319.56-83 Pummelo from Thailand.

Fresh pummelo fruit (*Citrus maxima* (Burm.) Merr.) (Rutaceae) may be imported into the continental United States from Thailand under the following conditions:

(a) *Commercial consignments.* The fresh pummelo fruit must be shipped in commercial consignments only.

(b) *Irradiation treatment.* The fresh pummelo fruit must be treated with irradiation in accordance with part 305 of this chapter.

(c) *Packinghouse procedures.* Prior to packing, the fresh pummelo fruit must be washed, brushed, disinfested, submerged in surfactant, treated for *Xanthomonas citri* Gabriel *et al.* with an APHIS-approved surface disinfectant, and treated for *Phyllosticta citriasiana* and *Phyllosticta citricarpa* with an APHIS-approved fungicide.

(d) *Phytosanitary certificate.* Each shipment of fresh pummelo fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Thailand. If the fresh pummelo fruit was irradiated in Thailand, each consignment of fruit must be inspected jointly in Thailand by APHIS and the NPPO of Thailand, and the phytosanitary certificate must contain an additional declaration attesting to irradiation of the fresh pummelo fruit in accordance with part 305 of this chapter. If the fresh pummelo fruit will be irradiated upon arrival into the continental United States, joint inspection in Thailand and an additional declaration on the phytosanitary certificate are not required.

(e) *Port of entry inspection.* Consignments of fresh pummelo fruit from Thailand are subject to inspection at ports of entry in the continental United States.

Done in Washington, DC, this 23rd day of March 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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