



BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2019-0054]

Import Requirements for the Importation of Unshu Oranges From Japan Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to revise the import requirements for the importation of fresh Unshu oranges from Japan into the United States and to allow Unshu oranges from the island of Kyushu to be imported into any port of entry in the United States, excluding territories. We are also removing the fumigation requirement for Unshu oranges from the islands of Honshu and Shikoku. Based on the findings of our commodity import evaluations, which we made available to the public to review and comment through a previous notice, we have concluded 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 Unshu oranges into the United States from Japan, including the island of Kyushu.

DATES: The articles covered by this notice may be authorized for importation after [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Tony Roman, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2242.

## SUPPLEMENTARY INFORMATION:

Under the regulations in “Subpart L—Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) 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 notice-based process based on established performance standards for authorizing the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet in APHIS’ Fruits and Vegetables Import Requirements database, or FAVIR (<https://epermits.aphis.usda.gov/manual>). It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the *Federal Register* making its pest risk analysis and determination available for public comment.

In accordance with that process, we published a notice<sup>1</sup> in the *Federal Register* on September 23, 2019 (84 FR 49707-49708, Docket No. APHIS-2019-0054) announcing the availability, for review and comment, of commodity import evaluation documents (CIEDs) prepared relative to revising the conditions for the importation of fresh Unshu oranges from Japan into the United States and allowing Unshu oranges from Kyushu to be imported into any port of entry in the United States (excluding territories). The notice proposed to remove the

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<sup>1</sup> To view the notice, supporting documents, and the comments that we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0054>.

fumigation requirement for the importation of Unshu oranges to the United States from areas of production on the islands of Honshu and Shikoku in Japan and to expand the number of ports of entry authorized for importation of Unshu oranges from the island of Kyushu.

We solicited comments on the CIEDs for 60 days ending on November 22, 2019. We received six comments by that date. Two of these comments were sent by representatives of State government agricultural agencies, with the remainder submitted by the public. The comments are discussed below.

### General Comments

A commenter stated that the United States should focus more on addressing domestic citrus challenges, particularly with respect to Asian citrus psyllid.

Under its obligations as a cosignatory to the International Plant Protection Convention, APHIS is required to base its import requirements on an assessment of plant pest risk; for the reasons stated in the CIEDs, the initial notice, and this notice, we have determined that revisions to the import requirements for Unshu oranges from Japan are warranted to have these requirements be commensurate with respect to risk.

That being said, as a means to address domestic citrus challenges, APHIS has developed the Citrus Health Response Program (CHRP). The CHRP provides phytosanitary guidelines for nursery stock, fruit inspection, treatment, and certification. The CHRP also works closely with regulatory officials from citrus-producing States to identify and implement appropriate survey, diagnostic, and mitigation measures to reduce the spread of citrus canker, citrus greening, and other citrus diseases.

A commenter asked for assurances that citrus greening will not be transported with Unshu oranges from Japan into Hawaii under the proposed change to the import requirements.

Commercially grown and packaged fruit is an epidemiologically insignificant pathway for the transmission of citrus greening. Moreover, as part of the packinghouse procedures that will be detailed in an operational workplan entered into by APHIS and the national plant protection organization of Japan, Unshu oranges will be washed with sodium hypochlorite solution to mitigate the risk of Asian citrus psyllid, the primary vector of citrus greening.

The commenter added that if APHIS approves these new import requirements, then Hawaiian citrus growers should be allowed to import scion and propagative material to compete with imported fruit on a level playing field.

We are making no changes in response to the commenter. Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), we have the authority to prohibit or restrict the importation of plants and plant products only when necessary to prevent the introduction into or dissemination of plant pests or noxious weeds within the United States. Accordingly, any decisions made by APHIS regarding the movement of propagative materials into Hawaii would be based on phytosanitary safety considerations and not on economic effects.

Another commenter asked if APHIS had conducted research on new pests of concern, noting that the Unshu orange regulations are over 17 years old and that new actionable pests not known to occur in the United States or Hawaii may have emerged since the initial assessment.

No new actionable pests have been found in Japan since APHIS' initial assessment for Unshu orange from Japan. APHIS has maintained pest interception data on Unshu orange from Japan from 1984 to the present. The national plant protection organization (NPPO) of Japan also maintains a working relationship with APHIS to keep us informed of any actionable pest activity.

A commenter asked us to confirm that the regulation suggests that the same applications and risks used to prevent spread of citrus canker in the United States also apply to Japan.

We can confirm that, with respect to importation of citrus from Japan and other countries, APHIS applies pest mitigation measures that are equivalent to those mitigations used for movement of citrus within the United States.

Citing pest risks to domestic citrus production, one commenter opposed ending the use of methyl bromide fumigation on Unshu oranges from Japan but provided no details. Another commenter asked what types of pesticides Japan plans to use to replace methyl bromide.

We have determined that methyl bromide fumigation is no longer necessary as a pest mitigation measure for importation of Unshu oranges from Japan into the United States. No pesticides are intended to be used as a replacement for methyl bromide. The only phytosanitary treatment that the Unshu oranges will receive is washing at the packinghouse with a solution of sodium hypochlorite. If pests are found in the future during phytosanitary inspections in Japan or at ports of entry into the United States, the shipments will be treated in accordance with 7 CFR part 305.

A commenter asked that APHIS clarify in § 319.28(b) all areas of Japan that are allowed to ship Unshu oranges and suggested listing the prefectures for Kyushu included among these areas. The commenter also asked APHIS to clarify in § 319.28(b) that any territorial destinations are not included for import, noting that the notice is confusing and Guam was not included. The commenter also noted that the docket background clearly states “ports of entry in the United States (excluding territories)”.

The commenter is referring to a subpart that was removed from the regulations by a final rule published in the *Federal Register* on September 14, 2018 (83 FR 46627-46639, Docket No.

APHIS-2010-0084). As a result of that rule, import requirements for Unshu oranges from Japan are now solely found in FAVIR. The restriction regarding importing Unshu oranges from Japan to U.S. territories in FAVIR is unambiguous.

A commenter stated that the current rule says “Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only) that have not been fumigated in accordance with part 305 of this chapter may not be imported into American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.” The commenter stated that it was only logical to mention “not been fumigated” if it was also true that Unshu would be enterable to citrus growing States if they were fumigated. Otherwise, the rule would have simply stated “Unshu oranges are prohibited from the Kyushu Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga into citrus growing States Arizona, California, Florida, Hawaii, Louisiana, or Texas.”

We are making no changes in response to the commenter. We are unclear as to the commenter’s reference to the “current rule.” The prohibitions mentioned by the commenter are actually derived from an earlier version of 7 CFR part 319. The commenter seems to be stating that the import restriction in this outdated version could be reworded to communicate the same point in fewer words. As noted above, FAVIR contains current import requirements. It indicates that oranges originating in Kyushu are only admissible into States other than Arizona, California, Florida, Hawaii, and Texas, and fumigation is not required. It also indicates that Unshu oranges are prohibited entry into the territories of American Samoa, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

## Comments Related to the CIEDs

### *Bactrocera tsuneonis*

A commenter suggested that APHIS confirm continuance of the *Bactrocera tsuneonis* trapping protocol suspension of shipping from Kyushu Island until negative trapping shows the problem has been resolved. The commenter added that longstanding trapping data does not in itself justify removal of the trapping safeguards and suggested that the current trapping standards could be optional if *B. tsuneonis* was no longer known to occur based on standard APHIS criteria for generational eradication for the species, or if other efficacious practices replace past ones and are required for all exported Unshu oranges.

We can confirm that trapping will continue for *B. tsuneonis* in Japan even after removal of the mandatory fumigation requirement.

A commenter expressed concern about the risk that *B. tsuneonis* poses to California's citrus industry because a male trapping lure does not exist, making it necessary to use protein-based lures, which are less efficacious. The commenter added that standard culling and packing procedures are not likely to remove all infested fruit because fruit fly larvae are internal feeders. Another commenter agreed, stating that allowing shipments of Unshu oranges to enter the United States without undertaking mitigation measures for *B. tsuneonis* could devastate the Florida citrus industry.

Since 2016, Japan has been conducting trapping on Kyushu Island in accordance with these trapping protocols with no interceptions of *B. tsuneonis* to date. We acknowledge that Japan has been trapping for *B. tsuneonis* with a protein-based trap, and also agree that a male trapping lure for *B. tsuneonis* would be more efficient than a protein-based trap, but disagree that protein-based traps are ineffective at detecting populations of *B. tsuneonis*. In the

absence of a species-specific male lure, protein baits may be used reliably to trap for fruit flies; the absence of the lure is accounted for by adjusting the trapping protocol itself, such as by increasing trap density and servicing. This approach is evidenced in the trapping protocols used extensively throughout Central and South America for *Anastrepha* spp.

The same commenter added that while fruit fly detection trapping is done in Japan with APHIS-approved methods, we provided no trapping details with the proposal, nor did we provide information on the planned response if fruit flies are detected.

Under an operational workplan entered into by the NPPO of Japan and APHIS, trapping protocols and other pest mitigation are agreed upon and documented in detail. In the event of an infestation, shipment of consignments would be halted from the infested areas until the infestation is eradicated and APHIS determines that risk mitigations for resumption of shipments will be adequate.

#### External Feeders

A commenter noted that the small number of pest interceptions does not seem like a solid argument against the risk posed by external pests on Unshu oranges. As the economic assessment indicates, the commenter opined, small amounts of this fruit were exported to the United States, so it would be expected that the number of interceptions would also be small.

We disagree with the commenter's premise that the amount of Unshu orange imported into the United States from Japan is proportional to the number of pest interceptions. While the volume of Unshu oranges imported from Japan into the United States has decreased in recent years, import volume has not always been as low. Additionally, APHIS has only detected plant pests on Unshu oranges from Japan 45 times since 1984, regardless of volume of imports in a particular year. This indicates the efficacy of mitigations agreed to between APHIS and the

NPPO of Japan, and we do not expect this to change substantially if shipments of fruit are increased. Nonetheless, APHIS does not expect shipments of Unshu orange from Japan to increase significantly as a result of this change to the import requirements.

A commenter agreed that external pests targeted by fumigation could be detected during inspection but stated that inspection should not be the sole mitigation measure. On this point, the commenter noted that post-harvest washing and waxing can reduce the risk of external pests but that APHIS failed to provide information regarding post-harvest handling procedures of Unshu oranges.

As part of the packinghouse procedures, Unshu oranges will be dipped and washed with approved disinfectants to mitigate for surface feeders. Fruit will also be subject to a phytosanitary inspection before entering the United States.

A commenter stated that it is not possible to assess the risk posed by unidentified mealybugs and suggested that further identification is needed to assess species-specific risk.

If mealybugs are detected on Unshu oranges destined for importation into the United States during a phytosanitary inspection, they are subject to fumigation, regardless of species. Identification of species is not required for this mitigation.

A commenter disagreed with discontinuing use of methyl bromide for Unshu oranges from the islands of Honshu or Shikoku because of concerns over two species of mites, *Eotetranychus asiaticus* and *Eotetranychus kankitus*, and a fruit fly, *Bactrocera tsuneonis*. The commenter noted that, despite our statement that these pests are surface feeders and could be detected during phytosanitary inspections, the small mites could easily be missed in a visual inspection.

We have determined that a visual inspection, combined with other requirements detailed in the operational workplan, including packinghouse washing with a solution of sodium hypochlorite, sufficiently mitigates mites and other surface feeders. Additionally, as we discussed earlier in this document, Japan has not detected *B. tsunehis* since 2016. Any detections of mites or fruit flies on Unshu oranges from Japan are treated in accordance with 7 CFR part 305.

A commenter questioned whether mitigations were necessary for mites, as they are already addressed by a fruit scrubbing and washing requirement in a 2013 risk analysis. The analysis includes packinghouse washing and scrubbing procedures, disinfection, chemical treatment, and fruit waxing. The commenter asked if these protocols were required or suggested by APHIS.

Post-harvest/packinghouse protocols, which include washing and disinfection of fruit to mitigate mites and other surface feeders, will be included in the operational workplan.

Therefore, in accordance with § 319.56-4(c)(4)(ii) of the regulations, we are announcing our decision to revise the requirements for the importation of Unshu oranges from Japan by removing the methyl bromide requirement for Unshu oranges from the islands of Honshu and Shikoku and allowing Unshu oranges from the island of Kyushu to be imported into any port of entry in the United States, excluding territories. The revised conditions are as follows:

- The oranges must be commercial consignments. In order to be considered commercially produced, the oranges must be washed and disinfected in accordance with an operational workplan agreed to by APHIS and the NPPO of Japan.

- Each consignment must be accompanied by a phytosanitary certificate with an additional declaration that the oranges were packed and produced in accordance with the requirements authorized under 7 CFR 319.56-4.
- Each consignment must be free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.
- Shipments are prohibited entry into any U.S. territory.
- Each shipment is subject to inspection at the port of entry into the United States.
- Each shipment must be imported under an import permit issued by APHIS.

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

#### Paperwork Reduction Act

In accordance with Section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection activities included in this notice are approved by the Office of Management and Budget under control number 0579-0049.

#### 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 notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851-2483.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 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 29th day of January 2020 .

Michael Watson

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020-01981 Filed: 1/30/2020 8:45 am; Publication Date: 1/31/2020]