



BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2019-0049]

Import Requirements for the Importation of Fresh Blueberries from Chile 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 blueberries from Chile into the United States by removing the methyl bromide fumigation requirement for blueberries from Regions VIII and XVI of Chile. Based on the findings of our commodity import evaluation, which we made available to the public for review and comment through a previous notice, we have determined that the application of the designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests via the importation of blueberries from Chile.

DATES: Imports under the revised requirements may be authorized beginning **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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

SUPPLEMENTARY INFORMATION:

Background

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) 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 provides the requirements for authorizing the importation of fruits and vegetables into the United States, as well as revising existing requirements for 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 documentation and determination available for public comment.

In accordance with that process, we published a notice¹ in the *Federal Register* on March 31, 2020 (85 FR 17850-17851, Docket No. APHIS-2019-0049), in which we announced the availability, for review and comment, of a commodity import evaluation document (CIED) that evaluated the risks associated with the importation into the United States of blueberries from two

¹To view the notice, the CIED, and the comments we received, go to <https://www.regulations.gov/docket?D=APHIS-2019-0049>.

regions in Chile in which European grapevine moth (*Lobesia botrana*, EGVM) is known to exist, but in which the pest prevalence is low, without requiring fumigation with methyl bromide. The notice proposed to remove the methyl bromide fumigation requirement for blueberries from Regions VIII and XVI of Chile, under the provisions of a systems approach.

We solicited comments on the notice for 60 days ending June 1, 2020. We received 53 comments by that date. They were from growers, importers, buyers, ports, associations, and representatives of a foreign government. All but one of those comments were in favor of the proposal with no further questions. The remaining comment is discussed below.

In the initial notice, we proposed that the national plant protection organization (NPPO) of Chile would have to enter into an operational workplan with APHIS that details the activities and responsibilities that the NPPO would carry out in order to meet the requirements of the systems approach.

The commenter asked for further details on how the NPPO of Chile will ensure grower compliance with the operational workplan.

We also stated in the initial notice that all places of production would have to be registered with the NPPO of Chile. The NPPO of Chile will register a production site in Regions VIII or XVI for export without methyl bromide treatment only if it follows all regulatory steps and control measures required by Chile's National EGVM Control Program. The NPPO of Chile will monitor production sites for EGVM trap catches and immature stage finds, and will update the list of registered production sites as necessary based on the results of this monitoring. To further ensure grower compliance, the NPPO of Chile will inspect blueberries that have been packed for export for EGVM prior to export to the United States.

The commenter also requested confirmation that moth trapping and monitoring will be used and asked for further details on the levels of moth trapping and monitoring that growers will be required to undertake. The commenter asked that growers be required to place a minimum of one monitoring trap in each field planned for export, with any capture of EGVM in the traps triggering more detailed sampling. The commenter also asked for confirmation that monitoring will be undertaken by the NPPO of Chile.

EGVM trapping and control in each district in Regions VIII and XVI must follow the terms of the operational workplan, which currently align with guidelines for Chile's National EGVM Control Program. All blueberry production sites and grape production sites must be trapped at appropriate levels. The Chilean guidelines for trapping currently require one trap every 2.5 hectares, with at least two traps per field, and one trap in fields smaller than 2.5 hectares. In the event that Chile changes these guidelines, APHIS would continue to require the current trapping levels of one trap every 2.5 hectares, with at least two traps per field, and one trap in fields smaller than 2.5 hectares.

The NPPO of Chile will conduct all EGVM moth trapping. Any findings of EGVM would mean that any production within a 500-meter radius can only be exported with methyl bromide fumigation. Any production between 500 meters and 3,000 meters of an EGVM outbreak will be regulated for EGVM and can only export if the fields meet a pre-harvest fruit monitoring requirement, 1 to 30 days before harvest begins. This activity shall be performed by companies authorized by the NPPO of Chile. Any field with monitoring results including at least one finding of EGVM shall be stricken from access to the inspection system and their fruit must undergo a methyl bromide fumigation treatment to be exported to the United States.

The commenter also asked for further details on the process of reinstating production sites in the event that EGVM is found in a production site.

If the NPPO of Chile finds that a place of production or packinghouse is not complying with the requirements of the systems approach, no blueberries from the place of production or packinghouse will be eligible for export to the United States until APHIS and the NPPO of Chile conduct an investigation and appropriate remedial actions have been implemented.

Under the terms of the operational workplan, we are specifying that if 10 or more EGVM moths are trapped within 1 year in any urban area in Region VIII or Region XVI, all blueberry production sites within 5 kilometers of that urban area may only ship blueberries to the United States if they are fumigated with methyl bromide, either in Chile or at the United States port of entry.

Reinstatement of export status for a production site (to be able to export blueberries without methyl bromide fumigation) suspended from the program for larval finds during export inspection requires 1 year with no more than 1 adult EGVM trapped, and no immature stages of EGVM found in the field or in packed out blueberries. This will require a rolling trap count for each export production site in Region VIII and Region XVI to be maintained by the NPPO of Chile.

Finally, the commenter noted that sulfur dioxide has been identified as a successful mitigant against EGVM, and requested that APHIS and the NPPO of Chile discuss the use of sulfur dioxide for imports of Chilean blueberries as a further safeguard against EGVM when the Environmental Protection Agency (EPA) approves sulfur dioxide for use as a pest mitigant for blueberries in the United States.

The EPA must thoroughly evaluate pesticides to ensure that they meet Federal safety standards to protect human health and the environment before approving them for use in the United States. APHIS cannot make any decisions regarding the use of sulfur dioxide prior to any such evaluation and approval.

Therefore, in accordance with the regulations in § 319.56-4(c)(3)(iii), we are announcing our decision to revise the requirements for the importation of blueberries from Chile by removing the methyl bromide requirement for blueberries grown in Regions VIII and XVI of Chile, subject to the following phytosanitary measures:

- The NPPO of Chile must enter into an operational workplan with APHIS that details the activities and responsibilities that the NPPO would carry out in order to meet the requirements of the systems approach. APHIS must approve the workplan prior to implementation of the systems approach.
- Places of production and packinghouses must be registered with and approved by the NPPO of Chile. Additionally, packinghouses must be pest-exclusionary.
- If the NPPO of Chile determines that a registered place of production or packinghouse is not complying with the provisions of the systems approach, no blueberries from the place of production or packinghouse are eligible for export into the United States until APHIS and the NPPO conduct an investigation and appropriate remedial actions have been implemented.
- The NPPO of Chile must demonstrate continued low pest prevalence for EGVM in Regions VIII and XVI through a national trapping program for EGVM. Trapping density and servicing, as well as thresholds for low pest prevalence, will be detailed in the operational workplan.

- If the place of production is within an area of Region VIII or XVI that is designated by the NPPO of Chile as a regulated area for EGVM, the place of production must have a field inspection by the NPPO within 2 weeks prior to harvest with no finds of immature EGVM based on a biometric sample of plants. Places of production in control areas for EGVM are not authorized to export blueberries to the United States under the terms of the systems approach and blueberries from such areas must be fumigated with methyl bromide in order to be exported to the United States.
- Packed blueberries must be inspected by the NPPO of Chile prior to export under the auspices of APHIS' preclearance program within Chile.
- Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO with an additional declaration that the blueberries were produced in an area of low pest prevalence for EGVM.
- Each shipment is subject to inspection for quarantine pests at the port of entry into the United States.
- If immature stages of EGVM are detected during field inspections or packinghouse inspections, or any life stage of EGVM is detected at a port of entry into the United States, the consignment may not be imported into the United States and the place of production will be suspended from the systems approach export program until reinstated. Blueberries from that place of production must be fumigated with methyl bromide in order to be exported to the United States until such reinstatement.

These revised conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <https://epermits.aphis.usda.gov/manual>). In addition to these specific measures, blueberries from Chile will be subject to the general requirements listed in § 319.56-3

that are applicable to the importation of all fruits and vegetables. Please note that, in order to accommodate the revisions of this notice and remove redundancies, we are also removing the citation to Federal Order DA-2018-40 in FAVIR.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the burden requirements included in this notice are covered under the Office of Management and Budget 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 5th day of October 2020.

Michael Watson,

Administrator,

Animal and Plant Health Inspection Service.

[FR Doc. 2020-22337 Filed: 10/7/2020 8:45 am; Publication Date: 10/8/2020]