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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2018-0091]

Decision to Revise Import Requirements for the Importation of Fresh Citrus from South Africa 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 citrus (grapefruit, lemon, mandarin orange, sweet orange, tangelo, and Satsuma mandarin) fruit from South Africa into the United States. Based on the findings of a commodity import evaluation document (CIED), which we made available to the public for review and comment through a previous notice, we are removing restrictions on the ports of entry into which such citrus may be imported. This action will allow these citrus species to be imported into more ports in the United States without presenting a risk of introduction or dissemination of plant pests or noxious weeds.

DATES: The articles covered by this notification may be authorized for importation under the revised requirements after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Roman, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2242; Juan.A.Roman@usda.gov.

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 spreading 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, and it revises 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 their importation requirements, 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 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.

Citrus (grapefruit, lemon, mandarin orange, sweet orange, tangelo, and Satsuma mandarin) fruit from South Africa are currently listed in FAVIR as commodities authorized importation into the United States, subject to certain phytosanitary measures.

One of these phytosanitary measures requires citrus to be cold treated according to treatment schedule T107-e. This treatment schedule is listed in the Plant Protection and

Quarantine (PPQ) Treatment Manual as an effective mitigation for *Thaumatotibia leucotreta* (false codling moth, or FCM).¹

We implemented the current treatment schedule for FCM on South African citrus in 2013 on a provisional basis, provided that the citrus was only imported into the ports of Newark, NJ, Philadelphia, PA, and Wilmington, DE. We included these port restrictions because the national plant protection organization (NPPO) of South Africa requested T107-e as a less stringent alternative to the treatment schedule at the time, T107-k, and because the ports in question had cold treatment facilities should the revised treatment schedule have proven to be ineffective.

In 2014, we also added Houston, TX, as an authorized port. These port restrictions were also currently found in FAVIR.

Over the following 2 years, we conducted enhanced inspections for FCM on citrus from South Africa at the four authorized ports. During that time, South Africa imported more than 2,000 shipments of citrus into the United States with no detections of live FCM.

Based on these results, the NPPO of South Africa asked that we remove the port restrictions and authorize the importation of citrus from South Africa into all ports of entry within the United States.

In response to this request, we prepared a commodity import evaluation document (CIED) that recommends removing the port restrictions. Based on the recommendations of the CIED we published a notice² in the *Federal Register* on April 1, 2020 (85 FR 18185-18186,

¹ To view the manual, go to https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.

² To view the notice, the CIED, a description of the economic considerations associated with removing port restrictions, and the comments we received, go to <https://www.regulations.gov/docket?D=APHIS-2018-0091>.

Docket No. APHIS-2018-0091), announcing the availability of our CIED for public review and comment and proposing to remove these port restrictions.

We solicited comments on the CIED for 60 days, ending June 1, 2020. We received 19 comments by that date. They were from domestic citrus producers, other domestic producers, importers, wholesalers, a representative for South African citrus producers, port authorities, organizations representing citrus production in the States of Georgia and Florida, and the Georgia and Florida Departments of Agriculture. Of the 19 comments, 12 opposed the notice, 6 were supportive, and 1 took a neutral position.

Most comments favoring expanded port-of-entry importation were based on the following considerations: Cold treatment effectively kills pests, making infestation risk low; expanding ports of entry beyond present importation would get cold-treated South African citrus to U.S. customers near other ports faster, fresher; this change would also curb land freight traffic, congestion, and emissions, and address driver shortages; cargo economic activity and jobs would increase in other ports; shipping and distribution supply chains would increase efficiencies; and increased competition and service levels would benefit consumers.

Commenters against removing restricted ports of entry to South African citrus raised concerns and/or requested specific changes in mitigation measures regarding the importation of citrus from South Africa. We address first the issues commenters raised under topic headings that characterize the issues. We then address commenters' specific requested changes to the pest mitigation measures for the importation of citrus fruit from South Africa.

Comments Regarding the Scope of the Pilot Project

Four commenters objected to APHIS using a pilot project limited to four ports of entry over 2 years as a basis for allowing importation now to all other U.S. ports. The commenters

said this expansion, which they believed was based on limited and inadequate inspection results, increases cold treatment failure risk exponentially for multiple pests.

We understand the commenters' concerns but disagree that the pilot project was not sufficiently robust. The volume of South African citrus that entered the United States during the pilot period, 119,128 metric tons in 2,116 shipments, is not a small shipment volume. Indeed, because the total volume of South Africa citrus shipments is not expected to increase significantly as a result of the removal of port restrictions, the pilot project likely evaluated a similar volume of citrus to that which is expected to be imported into the United States as a result of this notice. Moreover, the commenters provided no scientific evidence to support concerns that South African citrus entry to multiple ports or reducing the cold treatment from 24 to 22 days increases cold treatment failure risk.

Finally, the commenters failed to take into consideration that the other existing conditions for importation of citrus fruit from South Africa would remain. Other existing requirements that will remain unchanged as a result of this notice include surveillance and monitoring at South African production sites for quarantine pests, inspection in South Africa of shipments intended for export to the United States and issuance of a phytosanitary certificate by the NPPO of South Africa or APHIS preclearance inspection in South Africa, and inspection at all U.S. ports of entry.

Comments Regarding Possible Introduction of Other Moth Species

Four commenters expressed concerns that other moth species could also follow the pathway on the importation of citrus from South Africa and have no known traps, no lures for surveillance, and no post-harvest treatments to mitigate shipping risks. They also said some

traps for these moths are not available in the United States and stated that the pests feed on or inside fruit while on the tree.

The commenters failed to take into consideration the lengthy history of safe importation of citrus from South Africa. In 1997, APHIS established the current regulatory framework for the importation of citrus from South Africa, apart from the port restrictions mentioned earlier in this document (62 FR 593-597, Docket No. 95-098-3). In the past 23 years of citrus importation from South Africa into the United States (well before the 2-year pilot project), APHIS has not intercepted any moth species in commercial shipments of South African citrus other than FCM. As with the previous commenters, these commenters also failed to consider other requirements for the importation of citrus from South Africa that would remain unchanged as a result of this notice and that have a mitigative effect on the likelihood of other quarantine species of moth being introduced into the United States. These include place-of-production monitoring and surveillance for quarantine pests, issuance of a phytosanitary certificate by the NPPO of South Africa or APHIS preclearance inspection, and the cold treatment itself.

Comments Regarding FCM Detections in South African Citrus at European Union Ports

One commenter stated that European Union (EU) ports intercepted FCM 12 times and other pests and diseases 5 times in South African citrus shipments in 2019, and that these detections came after the 2-year U.S. pilot project.

The EU does not require South African citrus to be cold-treated for FCM. The disease that the EU intercepted was citrus black spot (CBS). While the EU takes action against CBS interceptions, APHIS has determined that fresh fruit is not an epidemiologically significant pathway for the introduction and establishment of CBS.

Comments Regarding Other Fruit Fly Risks

Five commenters cited fruit fly risks as of even greater concern than FCM in expanded South African citrus port access. Commenters were concerned that the Natal fruit fly (*Ceratitis rosa*) showed less susceptibility to cold treatment, that both the Natal fruit fly and Marula fruit fly (*Ceratitis cosyra*) had been detected in South African citrus crops and intercepted in shipments destined for Europe, and that an Oriental fruit fly (*Bactrocera dorsalis*) outbreak had occurred in South Africa at the time APHIS prepared its CIED. Commenters from Florida also stated that the Oriental fruit fly necessitated Florida's two largest eradication efforts (2015, 2018).

As indicated in the PPQ Treatment Manual, schedule T107-e mitigates risks that Natal and Oriental fruit flies pose. Marula fruit fly is admittedly not mitigated by this treatment schedule. However, while a major pest of mangoes, it does not attack citrus (except for sour orange), according to the *Crop Pest Compendium* (CABI, 2020). Sour orange is not a citrus variety authorized importation into the United States from South Africa.

Moreover, the Oriental fruit fly is not widespread in South Africa, and it is only present in the Northeastern region of that nation, which is outside of areas where South Africa grows citrus for export.

Finally, no live fruit flies have ever been intercepted in the past 23 years of commercial citrus shipments from South Africa to the United States. This is indicative of the efficacy of the mitigation structure for citrus fruit from South Africa.

Comments Regarding Mite Risk with Expanded Citrus Imports

Three commenters raised concerns that mite and disease introduction and transmission could become even greater than FCM with South African citrus port restrictions lifted. The

commenters stated that oriental red mite and mite-vectorred citrus leprosis virus, both found in South Africa and detected in 17 orchards in 2018, could spread rapidly on introduction to Florida. They noted both can survive cold treatment and that they exploit calices and stems in shipment. The commenters stated that they believe sieves for mite washes that inspectors use at ports of entry are the wrong sizes to detect immature mite species.

Oriental red mite (*Eutetranychus orientalis*) is indeed present in South Africa. However, port restrictions based on the use of cold treatment schedule T107-e are not the mitigation APHIS employs for Oriental red mite. Instead, we require washing, brushing, and waxing of fruit at the packinghouse processing stage of production. Consignments that are not washed, brushed, and waxed in such a manner are not considered commercial consignments. This remains part of the systems approach for South African citrus imports to the United States. These measures are efficacious in removing Oriental red mite from the pathway prior to shipment throughout all the pests' life stages. Finally, Oriental red mite does not vector citrus leprosis virus.

Two other mite species, *Brevipalpus californicus* and *B. phoenicis*, are present in South Africa and have been reported as vectors of citrus leprosis virus. However, only *B. phoenicis* has been proven to be a vector. Moreover, as with *E. orientalis*, cold treatment is not used as a mitigation for the mites. The primary mitigation for these two species of mites on citrus is packinghouse processing with washing, brushing, and waxing, which are efficacious at removing all life stages of the mites from citrus.

Finally, no mites have ever been intercepted in commercial shipments of South African citrus, and citrus fruit itself is not an epidemiologically significant pathway for the transmission of citrus leprosis virus, in the absence of mite vectors.

Comments Regarding Surveillance for and Eradication of Fruit Flies

Six commenters maintained that the fruit fly species found in South Africa are polyphagous and attack nearly all dooryard fruits and some vegetables. The commenters stated that South African fruit fly species do not respond to any lures used domestically in the States of Florida or California.

These commenters' concerns pertain to perceived difficulties in surveillance, control, and eradication in the event fruit fly species ever were to be introduced into the United States through the importation of citrus from South Africa. However, live fruit flies have never been detected in South African commercial citrus shipments at U.S. ports of entry under the current regulatory framework, which, as noted above, was in place in 1997. The absence of detections of live fruit flies at ports of entry over a 23-year period is a reliable indicator of the efficacy of the current systems approach.

APHIS also respectfully disagrees with the commenters' characterization of traps and lures for the species in question. All of the fruit fly species in South Africa respond to lures commonly used by APHIS and the State departments of agriculture. The Mediterranean fruit fly and Natal fruit fly respond to tri-medlure, and the Oriental fruit fly responds to methyl eugenol-based lures³. As noted earlier in this document, Marula fruit fly does not attack commercial citrus apart from sour orange (CABI, 2020). However, it can be trapped with standard protein baits in multi-lure traps commonly used in Florida and California.

³ See IAEA *Trapping Manual for Area-Wide Fruit Fly Programmes*, <http://www-naweb.iaea.org/nafa/ipc/public/FruitFlyTrapping.pdf>.

Comments Regarding Perceived Pest Identification Weaknesses

One commenter stated that U.S. port-of-entry identification technology is poor and that species identification of most intercepted larvae is not known.

We disagree. In recent years, APHIS has invested significant resources in molecular diagnostic technology, which allows APHIS to identify almost any interception in commercial fruit commodities to the species level. In instances in which this is not possible, and only a genus level identification can occur, if one of the species in the genus is of quarantine significance, the shipment is nonetheless refused entry and must be treated, re-exported, or destroyed.

Comments Regarding Cold Treatment Efficacy

Six commenters stated that cold treatment is not an inerrant mitigation measure for moths, fruit flies, mites, and viruses. As evidence of the limitations of cold treatment, they stated that Mediterranean fruit flies or larvae have been found in cold-treated Moroccan and Peruvian fruit imports.

These commenters erroneously assumed that cold treatment was the only mitigation we were proposing for South African citrus fruit. This is not the case. As discussed previously in this document, there are many mitigations in place, including surveillance and monitoring at places of production; washing, brushing, and waxing of fruit during packinghouse processing; phytosanitary inspection by the NPPO of South Africa or APHIS preclearance inspection; and port-of-entry inspection in the United States.

The detection of fruit flies on clementines from Morocco was determined to be the result of failure to pre-cool the fruit adequately prior to applying cold treatment. We also determined that this pre-cooling failure was, in turn, due to uniquely inhospitable climatic conditions in the

area of Morocco surrounding the pre-cooling facility, a desert where daytime temperatures during the summer months routinely exceed 90 °F. We addressed this failure by revising the operational workplan that Morocco had entered into with APHIS to specify additional pre-cooling and temperature reading procedures at pre-cooling facilities.

The fruit fly larvae intercepted on citrus from Peru were moribund based on the morphological characteristics of the larvae found. As a precaution, APHIS rejected the shipment, investigated the interception, and sent warning letters to the exporting country. This is not indicative of a larger failure in APHIS' cold treatment procedures that would be applicable to the importation of citrus fruit from South Africa.

Comments Regarding Perceived Inspection Deficiencies

Two commenters stated that external inspection and fruit cutting for detection at ports of entry are unreliable measures for screening fruit fly larvae; mites, they stated, also readily escape detection during inspection. Growers also said that they have little confidence inspection at a greatly expanded number of ports will prevent pest introduction.

External inspection and fruit cutting procedures at ports of entry are based on sampling algorithms intended to detect a 2 percent or greater infestation rate in the shipment with 95 percent confidence. This longstanding inspection protocol, when coupled with other pest-specific provisions of a systems approach, is very reliable in detecting quarantine pests on imported shipments of fruits and vegetables.

Mites, as noted previously in this document, are removed from the pathway by the required packinghouse procedures of washing, brushing, and waxing the citrus fruit prior to export.

Comments Regarding Consistency with the APHIS Mission and Strategic Plan

One commenter stated that multiple pests that show resistance to cold treatment could evade mitigation measures and inspection and harm U.S. fruit and vegetable production in temperate climate States. The commenter opined that this contradicts both APHIS' mission to safeguard domestic agriculture from exotic pests and diseases and its Strategic Plan to protect the health and value of U.S. agriculture, natural, and other resources.

The commenter is correct that some of the quarantine pests of citrus that exist in South Africa are not mitigated by cold treatment; however, we did not say they were. As noted previously in this document, APHIS employs multiple mitigation measures to address the plant pest risk associated with the importation of citrus from South Africa.

We disagree that this is inconsistent with APHIS' mission under its statutory authorities. Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), restrictions or prohibitions that APHIS places on the importation of a fruit or vegetable must have the intent of preventing the introduction or dissemination of a plant pest or noxious weed within the United States, which the requirements for the importation of citrus from South Africa do. Moreover, as noted previously, the only quarantine pests intercepted on citrus from South Africa at ports of entry within the United States have been the two detections of FCM, both of which occurred more than 15 years ago. For this reason, we also consider the requirements to be consistent with APHIS' stated goals in our Strategic Plan.

Comments Requesting Changes to the Mitigation Structure for the Importation of Citrus Fruit from South Africa

Restrict Ports of Entry

Eight commenters asked that APHIS limit South African citrus importation to northern climate ports of entry, and/or those ports above the 39th parallel and away from the southeast commodity-growing region.

Additionally, one of these commenters asked that port of entry restrictions especially exclude ports where pest introductions threaten tomato production, specifically Florida, Georgia, and South Carolina ports of entry. Another commenter asked exclusion of ports affecting peach production in Georgia, especially excluding the Port of Savannah, and a third asked exclusion of the citrus imports from Florida ports of entry.

For the reasons already stated in initial notice of this action, the CIED, and this final notice, APHIS does not consider these additional mitigations to be warranted. As noted previously, there are already in place multiple, other requirements for the importation of citrus from South Africa into the United States, and APHIS has no indication that these other requirements are ineffective.

Existing conditions for South African citrus imports at all ports of entry will remain unchanged as a result of this notice. These include surveillance and monitoring at South African production sites for quarantine pests, inspection in South Africa of shipments intended for export to the United States, issuance of a phytosanitary certificate by the NPPO of South Africa or APHIS preclearance inspection in South Africa, and inspection at all U.S. ports of entry.

Couple Cold Treatment with Additional Requirements

Three commenters asked that cold treatment be employed to eliminate pests with “multiple” (unspecified) additional mitigation methods.

As noted previously, additional mitigations are currently in place and will remain unchanged as a result of this notice, which merely lifts one of these mitigations, that is port restrictions.

Make Technological Improvements and Stronger Knowledge Base Prerequisites

Three commenters asked for more effective technology that identifies fruit fly larvae and species in infested fruit, also better knowledge of introduction pressure from South African imported fruits and vegetables, before expanded port permissions are granted, especially citrus importation to Florida ports of entry.

This request is unwarranted since South African citrus has been imported into the United States with almost no interceptions, and no detections of fruit fly larvae in 23 years. Moreover, as noted previously in this document, diagnostic technologies the commenters requested already exist and are being deployed. Molecular technology already allows APHIS to identify almost any fruit fly larval interception in commercial fruit commodities. Finally, APHIS’ preclearance personnel are stationed in South Africa and routinely monitor pest populations and pest pressures.

Adjust Sieve Size for Mite Wash Detection

One commenter suggested that inspection at U.S. ports of entry must adjust the size of sieves for mite washes to detect immature mite species before South African citrus importation is allowed to expand to all U.S. ports of entry.

As noted above, washing, brushing, and waxing of citrus fruit at packinghouses is demonstrated to remove mites from the pathway on the importation of citrus to the United States. Accordingly, additional inspection tools for mites at ports of entry are not warranted.

Comments Regarding Economic Cost Considerations

We received multiple comments on the economic effects assessment (EEA) that accompanied the initial notice. We address these in a revised EEA that accompanies this document (See footnote 2).

Therefore, in accordance with § 319.56-4(c)(4)(ii) of the regulations, we are announcing our decision to remove restrictions on the ports of entry into which South African citrus (grapefruit, lemon, mandarin orange, sweet orange, tangelo, and Satsuma mandarin) fruit may be imported into the United States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this notice are covered under the Office of Management and Budget (OMB) 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 30th day of October 2020. .

Michael Watson,

Acting Administrator,

Animal and Plant Health Inspection Service.