BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0112]

Notice of Decision to Authorize Importation of Fresh Litchi From the Republic of South Africa 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 of fresh litchi from the Republic of South Africa into the continental United States. Based on the findings in a pest risk analysis, which we made available to the public for review and comment through a previous notice, we believe 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 litchi from the Republic of South Africa.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734-4394.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ‘‘Subpart--Fruits and Vegetables’’ (7 CFR 319.56-1 through 319.56-54, 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 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 authorize the 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[1] in the Federal Register on February 2, 2011 (76 FR 5779-5780, Docket No. APHIS-2010-0112), in which we announced the availability, for review and comment, of a PRA that evaluates the risks associated with the importation into the continental United States of fresh litchi (Litchi chinensis) from the Republic of South Africa. We solicited comments on the notice for 60 days ending on April 4, 2011. We received six comments by that date, from a State agriculture agency, produce importers, a foreign agricultural research institute, and foreign produce growers. Three commenters

[1] To view the notice, the PRA, and the comments we received, go to http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0112.

supported the importation of litchi from South Africa into the United States. The remaining comments are discussed below by topic.

Some comments concerned the pests identified as being associated with litchi from South Africa in the PRA. One commenter stated that the pest Cryptophlebia peltastica is seldom found in consignments of fresh litchi and the mitigation measures recommended for this pest in the risk management document (RMD) are unnecessarily strict. Another commenter stated that, although C. peltastica may develop in fruit, there are indications that the pupae only develop in fruit stored for a long period after harvest. This commenter described the results of surveys showing no interception of C. peltastica and Thaumatotibia leucotreta pupae in samples of litchi taken over the course of two growing seasons.

Because C. peltastica and T. leucotreta are present in South Africa and are known pests of litchi, APHIS must verify that the litchi imported into the United States is free of these pests, particularly as the irradiation treatment we proposed to require is not approved to neutralize pupae and adults of these pests. Inspection is a sufficient mitigation for T. leucotreta pupae and adults. However, we have determined, based on published reports cited in the RMD, that, standard commercial culling alone (e.g. culling, packing, and sanitation) would not be sufficient to mitigate the risk of C. peltastica because the larvae may pupate inside the fruit. C. peltastica larvae produce visible holes on the fruit skin, leaving brown frass on the surface, which are easily detectable during inspection. Accordingly, the mitigation for pupae of this internal pest is the sampling, cutting, and inspection of the litchi by the national plant protection organization (NPPO) of South Africa.

However, we appreciate being made aware of the survey activities that discount the notion that under natural conditions this fruit serves as a pathway for C. peltastica pupae. After

we have additional evidence from inspections and have had the opportunity to review the data concerning the interception of C. peltastica on litchi from South Africa, we will adjust the inspection requirements if we determine such an action to be warranted.

Some comments concerned the proposed treatment of litchi fruit from South Africa. One commenter stated that more research is needed on the irradiation doses required to mitigate the risk associated with C. peltastica, and that the circumstantial evidence, as noted in the RMD, suggests that doses well below 400 Gy are likely to be sufficient to control all stages of this pest.

Although some circumstantial evidence suggests doses below 400 Gy are likely to be sufficient to control all life stages of the pest C. peltastica, the dose sufficient to mitigate the risk associated with any pupae, and specifically C. peltastica pupae, has not been established. The lowest effective dose must be determined by scientific evidence before that dose can be used as a mitigation. We will continue to review the scientific research in this field and will update our approved doses if warranted.

One commenter stated that, because litchi fruit infested with C. peltastica is removed during processing in South Africa, irradiation treatment with additional inspection for C. peltastica pupae by APHIS inspectors is redundant. The commenter recommended that the preclearance inspection be conducted by the NPPO of South Africa or be removed from the requirements.

When a commodity is irradiated in a foreign country, APHIS inspectors are required to perform certain tasks in the exporting country as specified in the irradiation facility preclearance workplan. APHIS involvement in the exporting country includes monitoring the treatment and verifying the facility's compliance with the standard operating procedures required under the irradiation operational workplan. Meanwhile, the NPPO of the exporting country is responsible

for monitoring, safeguarding, and conducting phytosanitary and pre-export inspection to certify the shipment is free of pests of concern, including pests that are not mitigated by the irradiation.

To avoid the treatment of products that would ultimately be rejected due to the presence of pests not mitigated by irradiation, APHIS performs its preclearance inspection prior to the commodity being irradiated and rejects lots containing pests not mitigated by irradiation before any treatment is applied. Because the inspections performed in South Africa by APHIS and the NPPO of South Africa have different purposes, both are necessary to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of litchi from South Africa.

One commenter recommended adoption of an alternative treatment efficacy approach for pest risk management. Another commenter described a potential method for researching the feasibility of cold treatment of litchi infested with C. peltastica and T. leucotreta. While these proposals are interesting, they are outside the scope of this action.

One commenter stated that the risk of introducing C. peltastica into the United States and the consequences of this introduction were overestimated in the PRA. This commenter also noted some typographical errors in the PRA.

Although specific information on the reproductive capacity of C. peltastica was not available, we reviewed reproductive information about similar species C. illepida and C. ombrodelta. The discussion of the dispersal potential for and economic impact of C. peltastica in the PRA was revised to include this additional information, which did not result in a change to the risk rating for C. peltastica.

We have also amended the RMD published with the previous notice to clarify the phytosanitary certificate and additional declaration requirements for litchi from South Africa.

The revised PRA is available from the person listed under FOR FURTHER INFORMATION CONTACT or from the Regulations.gov Web site (see footnote 1).

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 litchi from the Republic of South Africa subject to the following phytosanitary measures:

- The litchi may be imported into the continental United States in commercial consignments only.
- Each consignment must be inspected by the NPPO of the Republic of South Africa using a sampling procedure mutually agreed upon by APHIS and the NPPO. A representative sample of fruit must be drawn from each lot, cut open, inspected, and found free from any pupae of C. peltastica.
- The litchi must be irradiated in accordance with 7 CFR part 305 with a minimum absorbed dose of 400 Gy.
- If the irradiation treatment is applied outside the United States, each consignment of fruit must be jointly inspected by APHIS and the NPPO of the Republic of South Africa and accompanied by a phytosanitary certificate certifying that the fruit received the required irradiation treatment with an additional declaration stating that the consignment was inspected and found free of C. peltastica.
- If the irradiation treatment is to be applied upon arrival in the United States, each consignment of fruit must be inspected by the NPPO of the Republic of South Africa prior to departure and accompanied by a phytosanitary certificate with an additional declaration stating that the consignment was inspected and found free of C. peltastica.

These 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, litchi from the Republic of South Africa will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables. Further, for fruits and vegetables requiring treatment as a condition of entry, the phytosanitary treatments regulations in 7 CFR part 305 contain administrative and procedural requirements that must be observed in connection with the application and certification of specific treatments.

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 19th day of December 2011 .

_____

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011-33203 Filed 12/27/2011 at 8:45 am; Publication Date: 12/28/2011]