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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2013-0018]

RIN 0579-AD80

Importation of Mangoes From Jamaica Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of fruits and vegetables to allow the importation of mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes must be produced in accordance with a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and must be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes must be imported in commercial consignments only and be treated to mitigate the risk of fruit flies. The mangoes must also be accompanied by a phytosanitary certificate. This action will allow the importation of mangoes from Jamaica while continuing to protect against the introduction of plant pests into the United States.

EFFECTIVE DATE: [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

## SUPPLEMENTARY INFORMATION:

### Background

The regulations in "Subpart–Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-70, referred to below as the regulations) prohibit or restrict 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 that are new to or not widely distributed within the United States.

On April 15, 2014, we published in the Federal Register (79 FR 21153-21156, Docket No. APHIS-2013-0018) a proposal<sup>1</sup> to amend the regulations to allow the importation of mangoes from Jamaica into the continental United States. We prepared a pest risk assessment (PRA), titled “Importation of Mango Fruit, Mangifera indica, from Jamaica into the Continental United States” (March 2013). The PRA evaluated the risks associated with the importation of mangoes into the continental United States from Jamaica. Based on the information contained in the PRA, we determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by the quarantine pests. To recommend specific measures to mitigate those risks, we prepared a risk management document (RMD).

Based on the RMD, we proposed to require the mangoes to be produced under a systems approach employing a combination of mitigation measures for five quarantine pests (Anastrepha obliqua, Anastrepha suspensa, Coccus moestus, Phomopsis mangiferae, and Xanthomonas campestris pv. mangiferaeindicae) and inspected prior to exportation from Jamaica and found free of those pests. We proposed to require the mangoes to be imported in commercial consignments only and to be treated in accordance with 7 CFR part 305 to mitigate the risk of

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<sup>1</sup> To view the proposed rule, PRA, RMD, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018>.

Anastrepha spp. fruit fly. We also proposed to require the mangoes to be accompanied by a phytosanitary certificate with an additional declaration.

We solicited comments concerning the proposed rule for 60 days ending June 16, 2014. We received four comments by that date, all from private citizens. Three of the comments we received were in support of the proposed rule; however, one commenter raised several concerns that are addressed below.

The commenter stated that the mitigation measures seemed adequate for detecting pests on the surface of the mangoes but that stricter measures would need to be in place to detect eggs and larvae inside the fruit. The commenter suggested that we consider additional safeguards to detect internal pests, particularly to mitigate the risk of fruit flies.

As stated earlier, the systems approach requires that mangoes be treated in accordance with 7 CFR part 305. Specifically, mangoes are treated with either a hot water dip treatment or by irradiation using 150 Gy as the minimum absorbed dose. These mitigation options have proven to be effective against all stages of the fruit flies including eggs and larvae.

The commenter questioned whether or not inspection of mangoes alone is enough to detect P. mangiferae and X. campestris pv. Mangiferaeindicae.

P. mangiferae and X. campestris pv. Mangiferaeindicae are surface pathogens with the former penetrating no deeper than 10-20 mm from the surface. Both cause symptoms that are easily discernable, making inspections an effective tool to detect them. However, as an additional precaution, we are requiring that unless the mangoes originate from orchards that are inspected and found free of the pathogens, they must be subjected to either a pre-harvest or post-harvest application of a fungicide. These measures are consistent with those currently used to

import mangoes from other countries; therefore, we are confident they are adequate to reduce the risks associated with the importation of mangoes from Jamaica.

The commenter asked why the importation of mangoes from Jamaica was necessary when the amount of mangoes estimated to be imported is low (less than 0.08 percent of U.S. mango imports).

This action is the result of a market access request made by Jamaica in 2009. It is our responsibility to consider these requests and analyze the potential pest risks associated with the commodity. If our findings suggest that the pest risks can be effectively mitigated then we will proceed with the rulemaking process to grant the requesting country's request.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Note: In our April 2014 proposed rule, we proposed to add the conditions governing the importation of mangoes from Jamaica as § 319.56-67. In this final rule, those conditions are added as § 319.56-71.

#### Executive Order 12866 and Regulatory Flexibility Act

This final 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

This final rule is in response to a request from Jamaica to be allowed to export fresh mangoes to the continental United States. The annual quantity that Jamaica expects to export to the United States, 261 metric tons, represents less than 0.08 percent of U.S. mango imports (349,692 metric tons in 2012, primarily from Mexico, Peru, Ecuador, Brazil, and Guatemala). While mangoes are grown in Florida and Hawaii, and in smaller quantities in California and Texas, U.S. annual production totals only about 3,000 metric tons.

Most if not all U.S. mango farms and wholesalers are small entities. However, given the small quantity expected to be imported from Jamaica relative to current imports, the rule will not have a significant impact on U.S. mango producers. Moreover, the Jamaican mango season, March to July, only partially overlaps with that of the United States (Florida's season is May to September). U.S. importers may benefit marginally in having Jamaica as another source of fresh mangoes.

There are no recordkeeping or other compliance costs associated with the rule for U.S. entities, other than the import documentation normally required.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule allows mangoes to be imported into the continental United States from Jamaica. State and local laws and regulations regarding mangoes imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and 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. 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.), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579-0419, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the Federal Register providing notice of what action we plan to take.

#### 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 rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### List 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 amending 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 319.56-71 is added to read as follows:

§ 319.56-71 Mangoes from Jamaica.

Mangoes (Mangifera indica) may be imported into the continental United States from Jamaica only under the following conditions:

(a) General requirements. (1) The national plant protection organization (NPPO) of Jamaica must provide an operational workplan to APHIS that details the activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of this section.

(2) The mangoes must be grown at places of production that are registered with the NPPO of Jamaica and that meet the specifications detailed in the workplan. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

(3) The mangoes may be imported in commercial consignments only.

(b) Treatment. The mangoes must be treated for Anastrepha spp. fruit flies in accordance with part 305 of this chapter.

(c) Packaging. The mangoes must be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other

injurious insect pests. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States.

(d) Inspection. The mangoes must be inspected by the NPPO of Jamaica and found free of Coccus moestus.

(e) Plant pathogens. The risks presented by Phomopsis mangiferae and Xanthomonas campestris pv. mangiferaeindicae must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum pre- or post-harvest fungicidal application; or

(2) The mangoes are inspected prior to export from Jamaica and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

(f) Phytosanitary certificate. Each consignment of fruit must be inspected by the NPPO of Jamaica and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica with one of the following additional declarations.

(1) For mangoes that were subject to treatment for Anastrepha spp. fruit flies in Jamaica, the additional declaration must state that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for Anastrepha spp. fruit flies; that the mangoes were inspected and found free of C. moestus; and that the mangoes were either treated with a pre- or post-harvest fungicidal application or they were inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

(2) If the mangoes are to be treated for Anastrepha spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found



free of C. moestus and were either treated with a pre- or post-harvest fungicidal application or inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

(Approved by the Office of Management and Budget under control number 0579-0419)

Done in Washington, DC, this 12<sup>th</sup> day of September 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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