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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2012-0076]

Plants for Planting Whose Importation is Not Authorized Pending Pest Risk Analysis; Notice of Addition of Taxa of Plants for Planting to List of Taxa Whose Importation is Not Authorized Pending Pest Risk Analysis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are adding 22 taxa of plants for planting that are quarantine pests and 34 taxa of plants for planting that are hosts of 8 quarantine pests to our lists of taxa of plants for planting whose importation is not authorized pending pest risk analysis. A previous notice made datasheets that detailed the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of quarantine pests available to the public for review and comment. This notice responds to the comments we received and makes available final versions of the datasheets, with changes in response to comments.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Indira Singh, Botanist, Plants for Planting Policy, IRM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2020 or Ms. Lydia Colon, Senior Regulatory Specialist, Plants for Planting Policy, IRM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2302.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in “Subpart--Plants for Planting” (7 CFR 319.37 through 319.37-14, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of plants for planting (including living plants, plant parts, seeds, and plant cuttings) to prevent the introduction of quarantine pests into the United States. *Quarantine pest* is defined in § 319.37-1 as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

The regulations in § 319.37-2a provide for the listing of plants for planting whose importation is not authorized pending pest risk analysis (NAPPRA) in order to prevent the introduction of quarantine pests into the United States. Those regulations establish two lists of taxa whose importation is NAPPRA: A list of taxa of plants for planting that are quarantine pests, and a list of taxa of plants for planting that are hosts of quarantine pests. For taxa of plants for planting that have been determined to be quarantine pests, the list includes the names of the taxa, which will be NAPPRA from all countries and regions. For taxa of plants for planting that are hosts of quarantine pests, the list includes the names of the taxa, the foreign places from which the taxa's importation is not authorized, and the quarantine pests of concern.

Paragraph (b) of § 319.37-2a describes the process for adding taxa to the NAPPRA lists. In accordance with that process, we published a notice¹ in the *Federal Register* on May 6, 2013 (78 FR 26316-26317, Docket No. APHIS-2012-0076) that announced our determination that 22 taxa of plants for planting are quarantine pests and 37 taxa of plants for planting are hosts of 9 quarantine pests. That notice also made available datasheets that detail the scientific evidence

¹ To view the notice, the datasheets, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0076>.

we evaluated in making the determination that the taxa are quarantine pests or hosts of a quarantine pest.

We solicited comments concerning the notice and the datasheets for 60 days ending July 5, 2013. We reopened and extended the deadline for comments until August 12, 2013, in a document published in the *Federal Register* on July 12, 2013 (78 FR 41908). We received 26 comments by that date. They were from producers, importers, industry groups, representatives of State and foreign governments, and private citizens. They are discussed below by topic.

General Comments

Sound Science

One commenter expressed concern regarding the quality of scientific literature used to justify the listing of taxa to the NAPPRA category, citing a perceived lack of original evidence and data. The commenter further stated that the Center for Plant Health Science Technology (CPHST) of APHIS' Plant Protection and Quarantine (PPQ) program must be involved in literature reviews and the process to remove taxa from the NAPPRA list.

The literature searches used to develop the NAPPRA datasheets are designed to determine whether the pest of concern qualifies as a quarantine pest, that damage to U.S. agriculture and/or the environment is likely from introduction of the quarantine pest, and that the hosts of the listed quarantine pest are natural hosts and not artificially or laboratory induced. The types of references used were defined in the original NAPPRA rule, and included such review articles as those produced by the European and Mediterranean Plant Protection Organization and the Weed Science Society of America, both well-respected pest description and management organizations. Review articles provide stakeholders with information to determine the damage potential of the pest, nomenclature, and its quarantine status. These reviews provide references

to scientific articles used to justify a taxon's inclusion on the NAPPRA list. All datasheets for NAPPRA listing are reviewed by qualified PPQ staff, including CPHST staff. CPHST staff have also been involved in the review of NAPPRA datasheets and will be involved in the event of removal of plant taxa from the NAPPRA category. Within CPHST, the science and technology division is responsible for conducting pest risk assessments (PRA). The purpose of the PRA is to determine the risk of quarantine pests following the pathway and to develop appropriate phytosanitary measures that reduce the pest risk to an acceptable level.

Harmonization with Canada

Several commenters stated that the United States should seek greater harmonization with Canada in terms of regulated taxa and countries of origin for regulated taxa. One commenter stated this is especially important due to the possibility of transshipment when a taxon is prohibited from all places except Canada.

To the greatest extent possible, we are working towards harmonizing our NAPPRA listings with those of Canada. For example, APHIS exempts particular plant taxa from Canada from NAPPRA if Canada is free of the quarantine pest for which the plants are hosts and when Canada's import regulations are harmonized with those of the United States or when Canada has significant trade history with the United States in a particular taxa. However, some differences will probably always exist due to differences in national priorities and acceptable levels of protection with respect to certain pests. While transshipment remains a concern when an exporter is not truthful about the origin of the plant material being moved, third country plants that have entered Canada that are on the NAPPRA list of the United States are prohibited from ever being exported to the United States and vice versa. APHIS relies on the national plant

protection organization (NPPO) of Canada as well as other NPPOs to prevent unauthorized transshipments just as we rely on exporters to truthfully state the origin of shipments.

One commenter stated that, for many of the taxa listed in the May 2013 notice, the taxa originate in the United States and are grown in Canada. Therefore, the commenter stated that these plants should be eligible for re-export to the United States without the burden of a required PRA.

While taxa may have been exported only from the United States, there is the possibility that they may have been exposed to pests of concern by being comingled with other taxa of either Canadian origin or third country origin that have NAPPRA status for the United States. Therefore, we believe a PRA is necessary for such taxa before being re-exported to the United States.

Federal Orders

One commenter stated that a Federal order should not be used to list taxa on the NAPPRA list without first conducting a formal PRA.

When we find evidence that the importation of a taxon of plants for planting that is currently being imported poses a risk of introducing a quarantine pest, we restrict or prohibit its importation through the issuance of a Federal import quarantine order, also referred to as a Federal order. The information and restrictions in the Federal order for plants for planting are based on a technical evaluation document that contains the same information found in the NAPPRA datasheet. The Federal order is used to rapidly take action to prevent the introduction of a quarantine pest, and is generally followed by notice and an opportunity for public comment. If comments present information that leads us to determine that the importation of the taxon does

not pose a risk of introducing a quarantine pest into the United States, APHIS will rescind the Federal order and not add the taxon to the NAPPRA list.

Significant Trade

Certain taxa that are hosts of quarantine pests are exempt from NAPPRA listing when there is “significant trade” between the exporting country and the United States. We defined significant trade as the importation of 10 or more plants of a taxon in each of the previous 3 fiscal years. However, one commenter suggested that, due to ebbs and flows in importation, significant trade should instead be defined as the importation of 10 or more plants for 3 of the last 5 or 10 years. The commenter also suggested that plant taxa imported under a current Departmental permit or a controlled import permit (CIP) be either exempt from NAPPRA listing or count toward the 10 or more threshold for determining significant trade.

We are open to reconsidering how we define significant trade. However, if we were to consider the commenter’s suggestion for redefining significant trade as the importation of 10 or more plants for 3 out of 5 years, we would most likely also consider raising the base number of plants from 10 to a higher level to differentiate trade from random imports. Imports under a Departmental permit or CIP are not counted toward the 10 or more threshold for determining significant trade because these imports are generally prohibited taxa and are not available for general import. While these imports are likely to continue, they must adhere to additional conditions or mitigations to reduce pest risk.

One commenter stated that banning plants from a country with no scientific evidence that it harbors the quarantine pest of concern does not satisfy the APHIS requirement of “necessity” and that the datasheets used to place a taxon on the NAPPRA list must provide scientific evidence that the excluded countries are likely to harbor the pest. Several commenters stated that

certain taxa from specific countries should be exempted from NAPPRA listing because the pest of concern is not present in that country and/or the host plant has not been a source of pest introductions. Some commenters requested that, if exemption could not be accomplished, a more thorough review of the literature used to justify listing the taxa be undertaken.

Our policy in implementing the NAPPRA category is to prevent the importation of hosts from any country, regardless of current pest status, with the following exceptions: 1) Taxa of hosts of quarantine pests whose importation we proposed to allow to continue under a Federal order; 2) hosts of quarantine pests currently being imported from a country in which the pest is not present; and 3) taxa from countries with significant trade in those taxa with the United States. If a country has significant trade in a taxon that is a host of a quarantine pest, we undertake measures other than addition to the NAPPRA category to address the risk associated with that taxon when such measures are available. In general, it is appropriate to add hosts of quarantine pests from all countries to the NAPPRA category because pests can spread quickly from country to country through the movement of plants for planting, and the importation of plants for planting is a high-risk pathway for the introduction of quarantine pests. For taxa that have not previously been imported, we are following International Plant Protection Convention guidelines by requiring a PRA prior to the importation of a plant taxon from a new country or region. As mentioned previously, the datasheets used to justify adding a taxon to the NAPPRA category already include a literature review that establishes the scientific evidence that the taxon is either a quarantine pest or a host of a quarantine pest. The datasheets also take into account available import history as evidence of significant trade in the taxon between the exporting country and the United States in order to make NAPPRA policy decisions. A country may submit copies of issued phytosanitary certificates as evidence of significant import history to demonstrate that a

pest of concern is not present in that country and/or a taxon has not been a source of pest introductions.

Several commenters asked that certain taxa from specific countries be exempted from NAPPRA listing due to significant trade in those taxa between the exporting country and the United States or because the taxa are currently being imported under a Departmental permit or CIP.

If sufficient data can be provided for APHIS to verify that significant trade exists, we will consider amending the datasheet and publishing a *Federal Register* notice indicating the host plant may be imported from a particular country without being subject to a PRA. For example, based on additional information presented after the publication of the NAPPRA final notice published on April 18, 2013, we have determined that the import history for *Hibiscus* spp. from Denmark meets the threshold for significant trade. Based on comments received on the May 2013 notice, we have determined that *Annona*, *Camellia*, *Cercidiphyllum*, and *Pennisetum* spp. from Canada also meet the threshold for significant trade. Therefore, we are exempting *Hibiscus* spp. from Denmark and *Annona*, *Camellia*, *Cercidiphyllum*, and *Pennisetum* spp. from Canada from NAPPRA listing. The importation of taxa under a Departmental permit or CIP is not considered to be trade because the taxa are not subject to the same restrictions as commercial shipments of taxa.

One commenter stated that many of the listed taxa are produced under controlled conditions, including clean stock programs and rigorous phytosanitary conditions, and that it is in the interest of the producer/distributor to ensure that plants and seed are free of pests and diseases prior to export. Two commenters asked if there could be some way to continue

shipments of host taxa with the added assurance of a survey or testing regime to determine freedom from specific quarantine pests.

If an exporting country does not have enough of an import history with the United States to qualify for the significant trade exemption, they can request that a PRA be conducted that would identify possible pest and disease mitigations. Such mitigations may include clean stock programs or a rigorous surveillance regime.

Removal of Taxa

One commenter stated that data collection must be improved and that if a taxon is placed on the NAPPRA list as a result of faulty data, the error must be quickly and transparently corrected to prevent disruption to trade. The commenter further stated that a plant taxon must be removed from the NAPPRA category if a mitigation is presented that addresses the quarantine pest that justified the taxon's inclusion on the NAPPRA list. The commenter also asked for clarification on the process by which stakeholders may contact APHIS to remove a taxon erroneously added to the NAPPRA list.

The identification of trade that was not recorded in our import databases is one of the purposes of publishing proposed NAPPRA candidates in the Federal Register for public comment. This information is utilized to make adjustments to host/country combinations placed on NAPPRA. If a taxon has been determined to have been added to the NAPPRA list erroneously, stakeholders may submit evidence in support of that conclusion during the NAPPRA notice's comment period. They may also submit that information to the program contact(s) listed in the Federal Register notice. As stated previously, a PRA may be conducted to identify possible pest and disease mitigations for a taxon that has been determined to be the host of a quarantine pest. Under these mitigations, a taxon may be imported into the United States.

Precautionary Principle

One commenter stated that APHIS should avoid the “precautionary principle,” which the commenter described as prohibiting the broad importation of taxa until proof of no or low risk is determined. The commenter cites the prohibition of all species of a plant genus when only a subset or a single species of that genus has been found to be associated with a pathogen.

When a plant is added to the NAPPRA list, a datasheet is prepared containing scientific evidence that the plant is a host of a plant pest or pathogen of quarantine significance, or that the plant itself is a pest of quarantine significance. It has been APHIS’ policy to regulate hosts of quarantine pests at the genus level for decades. When a new species is identified as a host, additional scientific studies will often identify other host species within that genus. Therefore, regulating all species within the genus is the preferred course of action until a PRA is conducted. As noted previously, we are not prohibiting the importation of taxa on the NAPPRA list indefinitely. NAPPRA listing only requires that a PRA be conducted to remove host plants from NAPPRA listing and to ensure that all quarantine pests that may follow that pathway are appropriately mitigated prior to importation.

Partnership with Industry

One commenter stated that APHIS must include industry in the NAPPRA process in order for the process to be successful. However, the commenter also stated that industry does not have the capacity to review the literature sources used to justify a taxon’s inclusion on the NAPPRA list and should not be required to do so. One commenter stated that they would like the opportunity to work on joint pest risk assessments with APHIS to increase the ability to respond to pest threats.

APHIS has always welcomed industry cooperation in its programs and would especially welcome the expertise, knowledge, and overseas experience of industry members in identifying quarantine pests, their distribution, natural hosts, and potential mitigations that would allow for the continued importation of hosts from established trading partners. APHIS does not require stakeholders to review literature sources. However, if contradictory scientific information is known but not considered in the data sheet, then this information should be presented as a public comment. If a stakeholder does not have access to the sources cited in the literature review, copies can be made available upon request. We release draft PRAs on the APHIS Web site for stakeholder consultation prior to their publication.

Timeline of PRAs

Two commenters expressed concern about the amount of time it takes to complete a PRA, stating that this results in taxa being prohibited unnecessarily and that APHIS should look for better and faster ways of conducting PRAs. One commenter stated that requiring a PRA is likely to be expensive to the exporting industry as well as causing a significant time delay.

We strive to complete all PRAs in a timely manner. However, the length of time it takes to complete a PRA is dependent on several factors, some of which are not in APHIS' control:

- The availability of data on the taxon;
- The timeliness with which the foreign NPPO responds to our requests for information;
and
- The prioritization of APHIS' limited resources available for developing PRAs.

If a foreign country wishes to be able to conduct trade in a taxon with the United States, we would expect that its NPPO would provide information to APHIS in a timely manner, thus helping to reduce the time necessary to complete the PRA and any expenses resulting from a

delay. Industry could help foreign NPPOs by working with them to assemble and provide the necessary information. We do not anticipate that requiring a PRA would result in significant expense to the exporting industry, as we do not require the importer to pay money to complete a PRA. In addition, importers that have established a history of significant trade in a taxon will be able to continue importing that taxon without interruption.

Plants for Planting Regulations Overhaul

One commenter asked why we took public comment on the taxa listed in the May 2013 notice because these taxa will be included in a future comprehensive revision to the plants for planting regulations (§§ 319.37 through 319.37-14) where public comment will also be solicited.

The revision to the plants for planting regulations is merely a restructuring of the current regulations by moving specific restrictions on the importation of taxa to the Plants for Planting Manual. It also adds a framework for integrated pest management measures. However, that revision does not change any specific restrictions on the movement of taxa on the NAPPRA list. Therefore, it is more appropriate to address public comments regarding the May 2013 NAPPRA notice in this document.

Potential Economic Effects

Several commenters expressed concern that the addition of taxa to the NAPPRA lists could have a negative impact on the U.S. industry by making it difficult to access new plant varieties.

The fundamental underlying principle of NAPPRA is to safeguard U.S. agriculture with the least possible effect on trade. While there is the possibility that the addition of taxa to the NAPPRA lists may make it more difficult to access new plant varieties, the negative impact that it could have on U.S. industry is outweighed by the devastating effect the introduction of

quarantine pests into the United States could have on U.S. agriculture. Taxa added to the NAPPRA list are only prohibited entry to the United States if they are determined to be quarantine pests or until a PRA is conducted that has identified appropriate mitigation measures to prevent the introduction of quarantine pests for which they are hosts. In addition, an importer may apply for a CIP to import small quantities of a prohibited or restricted taxon for developmental purposes.

Specific Comments

We made available datasheets detailing the scientific evidence we considered in making the determination that 22 taxa of plants for planting are quarantine pests and 37 are hosts of 9 quarantine pests. The comments are discussed below by taxon.

Abies, Larix, Picea, and Pinus. One commenter asked why the importation of *Abies, Larix, Picea, and Pinus* is restricted only for those plants imported from Europe and Japan when these genera, which are hosts of *Dendroctonus micans*, are being imported from other countries where *D. micans* is known to occur.

While the commenter is correct that *Abies, Larix, Picea, and Pinus* spp. were not included on the NAPPRA list in the May 2013 notice, this is because those genera were already prohibited entry in either the April 2013 NAPPRA notice or in previous rulemaking. The regulations currently prohibit the importation of *Abies* spp. from all countries except Canada, while *Larix, Picea, and Pinus* spp. were added to the NAPPRA list in the April 2013 NAPPRA notice. Therefore, it was not necessary to relist *Abies, Larix, Picea, and Pinus* spp. in the May 2013 NAPPRA notice.

Callistephus. One commenter stated that chrysanthemum stem necrosis virus (CSNV) is not likely to enter the United States from Canada on *Callistephus* plants because Canada is free

of the pathogen; imports of *Callistephus* plants to Canada are only from the United States, which is free of the pathogen; and propagation is via seed, which is not known to carry the pathogen.

In the May 2013 NAPPRA notice, we added *Callistephus*, *Chrysanthemum*, and *Eustoma* spp. to the NAPPRA list because they have been proven to be hosts for CSNV. Due to additional information received since publication of the previous notice, we have decided to remove all three genera from the NAPPRA list while we conduct a commodity import evaluation document (CIED) for *Chrysanthemum*. We will address CSNV in that CIED and release the results of the analysis when it is complete.

Camellia. One commenter stated that the pest datasheets supporting the listing of *Camellia* under NAPPRA are problematic because they base that rationale on one paper and a British PRA, both of which do not provide adequate scientific justification that *Camellia* is a host of *Phytophthora kernoviae*.

The paper referred to by the commenter was written by Dr. Clive Brasier, a well-known and respected authority on the genus *Phytophthora* who also discovered and named the new taxon *P. kernoviae*. Based on this expertise, we consider this reference scientifically adequate. The datasheet does not cite the PRA mentioned by the commenter as a reference documenting *Camellia* as a host for *P. kernoviae*. *Camellia* is already listed as NAPPRA from all countries, except Canada, for citrus longhorned beetle (*Anoplophora chinensis*, CLB) and is also regulated for *P. ramorum*. Therefore, removing *Camellia* from the NAPPRA list as a host of *P. kernoviae* would not remove this taxon from the NAPPRA list.

Cercidiphyllum. One commenter asked why importations of *Cercidiphyllum* from the Netherlands are not listed as NAPPRA. The commenter stated that Asian longhorned beetle (*Anoplophora glabripennis*, ALB) has been discovered there and that plants from the

Netherlands are high risk due to that country's practices of importing large plants in soil and consolidating plants.

Based upon significant import history, *Cercidiphyllum* from the Netherlands is excluded from the NAPPRA list. However, a Federal order published on May 9, 2013, and effective on May 20, 2013 (DA-2013-18) established mitigations for countries, including the Netherlands, where ALB and CLB are present. *Cercidiphyllum* from the Netherlands is enterable into the United States only under the conditions of the CLB/ALB Federal order.

Chrysanthemum. Several commenters objected to the temporary hold on importations of *Chrysanthemum* plants for planting from all countries except Canada. In particular, the commenters objected to the hold on importations of *Chrysanthemum* from the Netherlands due to the presence in that country of CSNV. One commenter stated that a hold on imports of *Chrysanthemum* should not be applied to countries where the distribution of CSNV is unknown. Two commenters stated that the screening and certification process for CSNV in the Netherlands is sufficient to detect the pathogen and that CSNV has either not been found within mother plants from production areas within the country or that CSNV is not present within the European Union, of which the Netherlands is a part. Therefore, the commenters state that the risk of introducing CSNV to the United States via *Chrysanthemum* breeding stock from the Netherlands is minimal and that *Chrysanthemum* growers within the United States will be harmed by not having access to new cultivars. One commenter stated that free trade and competition will be harmed, leading to a monopoly that will eventually harm the flower industry.

We agree with many of the commenters on the need to look at the *Chrysanthemum* regulations in general. As stated previously, we are therefore removing *Chrysanthemum* from

the NAPPRA list and conducting a CIED for *Chrysanthemum*. CSNV disease will be addressed in that evaluation. We will release the results of that analysis when it is completed.

On August 3, 2012, APHIS published an advanced notice of proposed rulemaking² in the *Federal Register* to solicit public comment on whether and how we should amend our process for responding to domestic chrysanthemum white rust (CWR) outbreaks and the importation of plant material that is a host of CWR. One commenter stated that we should let this process continue before taking further regulatory action. The commenter also stated that, if this is not possible, the NAPPRA provisions should only be applied to chrysanthemum imports from Brazil, Iran, and Japan for the immediate future. The commenter further stated that excluding cut flowers from the NAPPRA restrictions is not based on sound science because cut flowers can also be hosts for CSNV.

The CIED we are conducting for chrysanthemum will also address CWR.

One commenter asked that the genus *Chrysanthemum* be included on the NAPPRA list and a PRA conducted to assess the risk of introducing CSNV on chrysanthemum cuttings.

As mentioned above, we are removing *Chrysanthemum* from the NAPPRA list while we conduct a CIED. The CIED will address CSNV.

One commenter asked that APHIS provide advance notice to industry when new regulations are approved in order to minimize trade disruptions for chrysanthemum growers.

Any changes to our regulations regarding *Chrysanthemum* as a result of the CIED will be communicated to the industry prior to going into effect.

Eucalyptus. One commenter asked that the ban on eucalyptus plants from Australia be lifted, but did not present any evidence for why the ban is unfounded.

² <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0001>

We are not making any changes based on this comment.

Fagus and *Ilex*. In the datasheets accompanying the May 2013 NAPPRA notice, we inadvertently omitted the Netherlands from the list of countries authorized to export *Fagus* and *Ilex* species. Those omissions have been corrected.

Hedera. One commenter asked for a more thorough review of the literature justifying the NAPPRA listing of the genus *Hedera*. The commenter stated that there appears to be no scientific justification for listing *Hedera* as a natural host of *P. kernoviae* other than a statement that stem necrosis has been observed. Two commenters stated that *Hedera* spp. have been imported from Denmark and the Netherlands without pest problems and that this should preclude NAPPRA listing of *Hedera* due to its presence in trade.

We would be happy to review any additional literature sources or other scientific information presented by the commenters to support their objection to listing *Hedera*. However, *Hedera* was added to the NAPPRA list via the NAPPRA notice published in April 2013 and is currently regulated under NAPPRA as a host of CLB. It is only authorized for importation into the United States from certain countries. We inadvertently omitted one of those countries, Kenya, from the list of countries authorized for importation in the datasheets made available with the May 2013 NAPPRA notice. We are correcting that omission in this notice.

Pennisetum. One commenter stated that exports of *Pennisetum* spp. from Canada should be exempt from NAPPRA restrictions for Indian peanut clump and peanut clump viruses because Canada is free from these pathogens of concern, all propagative material imported from Canada originates either in Canada or the United States, and there has been ongoing trade of *Pennisetum* spp. between the United States and Canada for several years.

Based upon significant trade history documented by the NPPO of Canada since publication of the May 2013 NAPPRA notice, we have determined *Pennisetum* from Canada meets the threshold to be considered exempt from NAPPRA listing. As with *Pennisetum*, additional documentation from the NPPO of Canada has also confirmed significant trade history in *Annona*, *Camellia*, and *Cercidiphyllum* spp. between Canada and the United States. Therefore, these genera from Canada will also be exempt from NAPPRA listing.

Vaccinium. Several commenters expressed concern regarding the addition of the genus *Vaccinium* to the NAPPRA list. One commenter stated that the NAPPRA listing of *Vaccinium* from all countries except Canada and Australia would create a competitive disadvantage for U.S. growers who would be unable to access the latest *Vaccinium* varieties. One commenter stated that, since *Vaccinium* spp. are already subject to a quarantine period of two growing seasons following importation, imports of *Vaccinium* spp. should only be excluded from countries where *P. kernoviae* is known to occur. The commenter requested that, if *Vaccinium* cannot be excluded from the NAPPRA listing, small quantities be allowed to be imported for evaluation and plant breeding purposes under a CIP stating the plants will be maintained under quarantine and tested for the presence of *P. kernoviae* in cooperation with USDA inspectors.

Vaccinium spp. are not consistently being exported from any country except Canada and Australia. Therefore, we do not believe adding *Vaccinium* to the NAPPRA list for all countries except Canada and Australia would negatively impact U.S. growers. However, we are not indefinitely prohibiting *Vaccinium* spp. or any other host taxon from importation through NAPPRA. Host taxa (genus or species) listed as NAPPRA only require a PRA before trade in those taxa can be initiated to ensure that all quarantine pests of the host that may follow this pathway are appropriately mitigated. An importer may also apply for a CIP to import small

quantities of a prohibited or restricted taxon for experimental or developmental purposes provided that adequate pest mitigation measures can be identified and implemented.

Two commenters stated that APHIS should remove *Vaccinium* from the NAPPRA list as a host of *P. kernoviae* because the data sheet used to add *Vaccinium* to the NAPPRA list does not provide evidence that the entire genus is a host of the pathogen. The commenters stated that the pathogen justifying the prohibition of *Vaccinium* spp., *P. kernoviae*, has only been associated with a single *Vaccinium* species, *V. myrtillus* (bilberry), and that the pathogen has only been found in the United Kingdom, Ireland, and New Zealand. Therefore, only bilberry from those countries should be added to the NAPPRA list.

As stated previously, APHIS' policy is to regulate hosts of quarantine pests at the genus level. This is because many pests or pathogens are not specific to one particular species within a taxon. When a new host species is identified as a host, additional scientific studies will often identify other host species within that genus. Therefore, regulating all species within the genus is the preferred course of action until a PRA is conducted. Only countries where significant trade with the United States in *Vaccinium* spp. has been established will be exempt from NAPPRA listing.

Quarantine Pests

One commenter asked for clarification of a statement made in the datasheet for *Moniliophthora perniciosa* that “geographical variations within the pathogen impact resistance.” The commenter asked whether this means there are geographical variations in the virulence of the pathogen.

Evidence does seem to suggest that the pathogen may be more virulent in some regions than in others. A PRA conducted for a host taxon from a country where *M. perniciosa* is present

would provide more information regarding virulence as well as any possible mitigations related to that information.

One commenter stated that *Monochamus alternatus* is also present in Korea, Vietnam, Laos, Taiwan, and Hong Kong and asked why host taxa from those countries, specifically *Acer* and *Cryptomeria*, were not included on the NAPPRA list.

Acer is already listed on the NAPPRA list for all countries except Canada, the Netherlands, and New Zealand, and *Cryptomeria* is already listed on the NAPPRA list for all countries except Canada. These additions were made in the April 2013 NAPPRA notice.

Phytophthora kernoviae. One commenter asked that exemption from NAPPRA listing be considered for tissue culture when testing is conducted that shows freedom from specific pests. The commenter cited a study suggesting that it is possible to test tissue cultures for the presence of *P. kernoviae*.

While properly tissue-cultured plants are pest-free, plants that are infected with disease prior to tissue culture are likely to be infected when the plant comes out of tissue culture as well. Plants that are added to the NAPPRA list may be hosts of quarantine plant pests for which tissue culturing is not an adequate mitigation, or for which there may be special requirements for tissue culturing. In order to fully consider whether tissue culture is an adequate mitigation for all the pests associated with a taxon of plants for planting, we would need to conduct a PRA. Therefore, we cannot exempt the importation of tissue cultures of plant taxa listed as NAPPRA.

One commenter stated that restricting the importation of host plant taxa based on the occurrence of *P. kernoviae* in only one location in England does not warrant restrictions on the importation of host taxa from all countries.

As mentioned in the datasheet made available with the May 6, 2013, NAPPRA notice, *P. kernoviae* has been found in Ireland and New Zealand as well as in England. This may be evidence of the spread of the pest through the global movement of plants. This, coupled with the number of confirmed hosts and the lack of specific control measures available for the disease, led us to add host taxa from all countries without significant trade in those host taxa to the NAPPRA list. When requested, a PRA will help determine the risk of this pest on host material from a country without a history of significant trade.

ALB and CLB

Two commenters stated that host taxa of ALB and CLB should be exempted from NAPPRA listing when host plants and cuttings are less than 10 mm in diameter, a size that is not susceptible to ALB and CLB infestation. One commenter stated that this exemption should also apply to host plants and cuttings when imported from countries where ALB and CLB are not present.

We have used the biology of the pest to institute sufficient phytosanitary measures to mitigate the risk for taxa that are being traded in significant amounts from countries where we have import history to determine the presence of other quarantine pests. We are not, however, exempting any plant material less than 10mm in diameter from an ALB or CLB host taxon from the NAPPRA category, as NAPPRA listing does not address mitigation measures for pests. In order to authorize the importation of plant material from a new source, we would need to conduct a PRA to analyze all the relevant risks associated with their importation. A PRA is required to determine all quarantine pests that would follow that host pathway and to determine appropriate phytosanitary measures, including size exemptions, for all pests of concern.

Summary of Changes

Therefore, in accordance with the regulations in § 319.37-2a(b)(2), we are adding 22 taxa of plants for planting that are quarantine pests and 34 taxa of plants for planting that are hosts of 8 quarantine pests to the list of taxa whose importation is NAPPRA. These taxa include all taxa listed in the May 2013 notice except for *Callistephus*, *Chrysanthemum*, and *Eustoma* spp., which we are removing from the NAPPRA list. A complete list of taxa added to the NAPPRA list and the restrictions placed on their importation can be found at the address in footnote 1 of this document or on the PPQ Web site at http://www.aphis.usda.gov/import_export/plants/plant_imports/Q37/nappra/index.shtml. We are also exempting *Hibiscus* spp. from Denmark and *Annona*, *Camellia*, *Cercidiphyllum*, and *Pennisetum* spp. from Canada from NAPPRA listing.

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 13th day of June 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

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