

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS–2013–0016]

RIN 0579–AD81

#### Importation of Fresh Blueberry Fruit From Morocco Into the Continental United States

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh blueberry fruit from Morocco into the continental United States. As a condition of entry, the blueberries would have to be produced under a systems approach employing a combination of mitigation measures for two quarantine pests, *Ceratitis capitata* and *Monilinia fructigena*, and would have to be inspected prior to exportation from Morocco and found free of these pests. The blueberries would have to be imported in commercial consignments only and would have to be treated with one of two approved postharvest treatments to mitigate the risk of *C. capitata*. The blueberries would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that the conditions for importation have been met. This action would allow the importation of blueberries from Morocco while continuing to protect against the introduction of plant pests into the United States.

**DATES:** We will consider all comments that we receive on or before March 3, 2014.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/>

*#!documentDetail;D=APHIS-2013-0016-0001.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0016, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/> *#!docketDetail;D=APHIS-2013-0016* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothy Wayson, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2036.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–62, 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.

The national plant protection organization (NPPQ) of Morocco has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh blueberry fruit from Morocco to be imported into the continental United States.

As part of our evaluation of Morocco’s request, we prepared a pest risk assessment (PRA), titled “Importation of Fresh Fruit of Highbush Blueberry (*Vaccinium corymbosum* Linnaeus) and its hybrid varieties Southern Highbush Blueberry [*V. corymbosum* x *angustifolium* (*V. x atlanticum*) and *V. corymbosum* x *virgatum*] into the Continental United States from Morocco” (March 2012). The PRA evaluated the risks associated with the importation of blueberries into the continental United States from Morocco.

The PRA identified two pests of quarantine significance present in Morocco that could be introduced into the United States through the importation of blueberries: *Ceratitis capitata*, the Mediterranean fruit fly, and *Monilinia fructigena* Honey ex Whetzel, a fungus.

According to our PRA, both pests are rated high risk. Pests with high pest risk potential generally require measures in addition to inspection at the port of entry to mitigate risk. To recommend specific measures to mitigate the risk posed by the pests identified in the PRA, we prepared a risk management document (RMD). Copies of the PRA and RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the recommendations of the RMD, we are proposing to allow the importation of blueberries from Morocco into the continental United States only if they are produced in accordance with a systems approach. The systems approach we are proposing would require that blueberries be imported only under the conditions described below. These conditions would be added to the regulations in a new § 319.56–63.

Proposed paragraph (a) of § 319.56–63 would state that blueberries from Morocco may be imported in commercial consignments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Paragraph (b) would require blueberries to be grown at places of production that are registered with the

NPPO of Morocco. Registering places of production would allow APHIS and the NPPO of Morocco to trace back consignments of blueberries to the orchard of origin if a pest or disease of concern is detected after harvest.

*M. fructigena* is the most common cause of fruit rot in the fruit orchards in Europe and Asia, causing characteristic brown rot symptoms that can easily be identified during visual inspections. Therefore, paragraph (c) would require that, 30 days prior to harvest, blueberries be inspected in the field by the NPPO of Morocco for signs of *M. fructigena* infestation. If the fungal disease is detected, the NPPO of Morocco would have to notify APHIS, at which point APHIS will prohibit the importation of blueberries into the continental United States from the place of production for the remainder of the season. The place of production may resume shipments of blueberries to the United States in the next growing season if an investigation is conducted and APHIS and the NPPO of Morocco agree that appropriate remedial actions have been taken.

*C. capitata* produce oviposition scars in blueberries, but eggs are laid below the skin of the fruit and larvae are internal feeders; therefore, infested fruit may be overlooked during inspection. Thus, additional safeguards beyond field and packinghouse inspections would be necessary to prevent the pest from being introduced into the United States. The RMD discusses the use of two treatments to reduce the risk of *C. capitata* from blueberries from Morocco: Fumigation with methyl bromide according to treatment schedule T101-i-1-1 or cold treatment according to treatment schedule T107-a. Both are approved APHIS treatments for *C. capitata* in blueberries.

Accordingly, paragraph (d) would require that each consignment of blueberries be treated in accordance with 7 CFR part 305 for *C. capitata* with one of the two above-mentioned treatment methods. Within part 305, § 305.2 provides that approved treatment schedules are set out in the Plant Protection and Quarantine Treatment Manual, found online at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf). Treatments would also be conducted in accordance with the other requirements of part 305.

Paragraph (e) of § 319.56-63 would require each consignment of blueberries imported from Morocco into the continental United States to be accompanied by a phytosanitary certificate issued by the NPPO of Morocco with an additional declaration

stating that the requirements of § 319.56-63 have been met and the consignment has been inspected and found free of *M. fructigena*.

Under the general conditions for the importation of fruits and vegetables in § 319.56-3, each consignment of blueberries would be subject to further inspection at the port of entry into the United States.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed 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 by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Morocco expects to export 360,000 pounds of fresh blueberries to the continental United States annually. This quantity is equivalent to about one-tenth of 1 percent of U.S. fresh blueberry supply, 2007-2011. Morocco is expected to export fresh blueberries to the continental United States in July and August. The U.S. blueberry season is from April to August. Even though the two seasons overlap and most, if not all, fresh blueberry producers in the United States are small entities, the relatively small quantity expected to be imported from Morocco would not significantly affect the U.S. market or prices.

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

#### **Executive Order 12988**

This proposed rule would allow fresh blueberry fruit to be imported into the continental United States from Morocco. If this proposed rule is adopted, State and local laws and regulations regarding blueberries imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would 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. If this

proposed rule is adopted, 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 proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2013-0016. Please send a copy of your comments to: (1) APHIS, using one of the methods described under **ADDRESSES** at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, Room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the fruits and vegetables regulations to allow the importation of fresh blueberry fruit from Morocco into the continental United States. As a condition of entry, the blueberries would have to be produced under a systems approach employing a combination of mitigation measures for two quarantine pests and would have to be inspected prior to exportation from Morocco and found free of these pests. The blueberries would have to be imported in commercial consignments only and would have to be treated with one of two approved postharvest treatments to mitigate the risk of *C. capitata*. The blueberries would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that the conditions for importation have been met. Implementing this rulemaking would require production site registration and the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average .55 hours per response.

*Respondents:* NPPO of Morocco, blueberry producers in Morocco, and U.S. importers.

*Estimated annual number of respondents:* 8.

*Estimated annual number of responses per respondent:* 3.

*Estimated annual number of responses:* 20.

*Estimated total annual burden on respondents:* 11 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

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

### Lists 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 proposing to amend 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 319.56-63 is added to read as follows:

#### § 319.56-63 Fresh blueberries from Morocco.

Fresh fruit of highbush blueberry (*Vaccinium corymbosum* L.) and its hybrid varieties southern highbush blueberry [*V. corymbosum* x *angustifolium* (*V. x atlanticum*) and *V. corymbosum* x *virgatum*] may be imported into the continental United States from Morocco only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Ceratitis capitata*, the Mediterranean fruit fly, and the fungus *Monilinia fructigena* Honey ex Whetzel.

(a) The blueberries may be imported in commercial consignments only.

(b) The blueberries must be grown at places of production that are registered with the national plant protection organization (NPPO) of Morocco.

(c) During the growing season, blueberries must be inspected in the field for signs of *M. fructigena* infestation 30 days prior to harvest. If the fungal disease is detected, the NPPO of Morocco must notify APHIS. APHIS will prohibit the importation of blueberries from Morocco into the continental United States from the place of production for the remainder of the growing season. The exportation of blueberries from the rejected place of production may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of Morocco agree that appropriate remedial actions have been taken.

(d) Each consignment of blueberries must be treated in accordance with 7 CFR part 305 for *C. capitata*.

(e) Each consignment of blueberries must be accompanied by a phytosanitary certificate issued by the NPPO of Morocco with an additional declaration stating that the conditions of this section have been met, and that the consignment has been inspected prior to export from Morocco and found free of *M. fructigena*.

Done in Washington, DC, this 20th day of December 2013.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2013-31144 Filed 12-30-13; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 319 and 340

[Docket No. APHIS-2008-0011]

RIN 0579-AD75

### Restructuring of Regulations on the Importation of Plants for Planting

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We are reopening the comment period for our proposed rule that would restructure the regulations governing the importation of plants for planting. We are requesting comments on our proposed framework for integrated pest risk management measures for plants for planting. We are especially interested in: The differences commenters perceive between International Standard for Phytosanitary Measures No. 36 and the North American Plant Protection Organization's Regional Standard for Phytosanitary Measures No. 24, and reasons to prefer one over the other as a basis for such measures; and how to address the risk posed when plant brokers purchase and move plants for planting after they leave their place of production and before they are exported to the United States. This action will allow interested persons additional time to prepare and submit comments on these topics.

**DATES:** The comment period for the proposed rule published April 25, 2013 (78 FR 24634) is reopened. We will consider all comments that we receive on or before January 30, 2014.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2008-0011-0001>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2008-0011, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0011> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal