

# Proposed Rules

Federal Register

Vol. 82, No. 118

Wednesday, June 21, 2017

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–2013–0091]

RIN 0579–AD88

### Importation of Fresh Pomegranate Fruit From Turkey Into the Continental United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation of commercial consignments into the continental United States of fresh pomegranate fruit from Turkey. As a condition of entry, fresh pomegranate fruit from Turkey would have to be produced in accordance with a systems approach that would include grove registration, sanitation, and pest control measures; packinghouse registration and procedures designed to exclude quarantine pests; cold treatment; and procedures for packing, storing, and shipping the pomegranate fruit. In addition, consignments would have to be accompanied by a phytosanitary certificate issued by the national plant

protection organization of Turkey. This proposed rule would allow for the importation of fresh pomegranates from Turkey into the continental United States while continuing to provide protection against the introduction of plant pests.

**DATES:** We will consider all comments that we receive on or before August 21, 2017.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0091>.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0091, 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-2013-0091> 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:** Mr. Tony Román, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, 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 319.56–77, 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 within the United States.

Currently, the regulations do not authorize the importation into the continental United States of fresh pomegranate fruit from Turkey. The Animal and Plant Health Inspection Service (APHIS) received a request from the national plant protection organization (NPPO) of Turkey to amend the regulations to allow the importation of commercially produced pomegranate fruit (*Punica granatum* L.) from Turkey into the continental United States. In evaluating Turkey’s request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and the 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*).

The PRA, titled “Importation of Fresh Fruit of Pomegranate, *Punica granatum* L., from Turkey into the Continental United States” (February 2011, updated October 2015), analyzes the potential pest risk associated with the importation of fresh pomegranates into the continental United States from Turkey. In the PRA, we identified nine quarantine pests that could likely follow the pathway of fresh pomegranates from Turkey into the United States:

## LIST OF QUARANTINE PESTS

Type	Organism	Taxonomy	Pest risk potential
Arthropods .....	<i>Ceratitis capitata</i> .....	Diptera: Tephritidae .....	High.
	<i>Cryptoblabes gnidiella</i> .....	Lepidoptera: Pyralidae .....	High.
	<i>Nipaecoccus viridis</i> .....	Hemiptera: Pseudococcidae .....	High.
	<i>Lobesia botrana</i> .....	Lepidoptera: Tortricidae .....	High.
	<i>Cacoecimorpha pronubana</i> .....	Lepidoptera: Tortricidae .....	Medium.
	<i>Tenuipalpus granati</i> .....	Acari: Tenuipalpidae .....	Medium.
	<i>Ceroplastes rusci</i> .....	Acari: Tenuipalpidae .....	Medium.
	<i>Oxycarenus hyalinipennis</i> .....	Hemiptera: Lygaeidae .....	Medium.
	<i>Cenopalpus pulcher</i> .....	Hemiptera: Coccidae .....	Medium.

A quarantine pest is defined in § 319.56–2 of the regulations as a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

Plant pest risk potentials associated with the importation of fresh pomegranate fruit from Turkey into the continental United States were derived by estimating the consequences and likelihood of introduction of each quarantine pest into the United States and ranking the pest risk potential as being high, medium, or low. As indicated in the above table, four of the quarantine pests are considered to have high pest risk potential, and five, medium pest risk potential.

Based on the findings of the PRA, APHIS has determined that measures beyond standard port-of-entry inspection would mitigate the risks posed by these quarantine pests. These measures are listed in the RMD and are used as the basis for the requirements included in this proposed rule. Therefore, we are proposing to amend the regulations to allow the importation of commercial consignments of fresh pomegranate fruit from Turkey into the continental United States subject to a systems approach. Requirements of the systems approach, which would be added to the regulations as a new § 319.56–78, are discussed in the following sections.

### General Requirements

General requirements for importing fresh pomegranate fruit from Turkey into the continental United States would be listed in proposed § 319.56–78(a)(1). The NPPO of Turkey would be required to provide an operational workplan to APHIS detailing systems approach activities, including inspections, monitoring, and related tasks that the NPPO of Turkey will carry out to meet the proposed requirements. An operational workplan is an agreement between APHIS' Plant Protection and Quarantine (PPQ) program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities, that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Operational workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is

responsible for dealing with those issues. If the operational workplan is approved, APHIS would be directly involved with the NPPO of Turkey in monitoring and auditing the systems approach implementation. In addition, the NPPO of Turkey would be required to enter into a trust fund agreement with APHIS in accordance with § 319.56–6 to cover our monitoring and auditing costs.

Proposed § 319.56–78(a)(2) would require that all places of production and packinghouses in Turkey participating in the program to export pomegranate fruit to the continental United States be registered with and approved by the NPPO of Turkey. Proposed § 319.56–78(a)(3) would require that the places of production meet the requirements of paragraphs (d) and (e). Under proposed § 319.56–78(a)(4), the fruit would have to be packed for export to the continental United States in a packinghouse that meets the requirements of paragraph (g). Proposed § 319.56–78(a)(5) would require that the place of production where the pomegranates were grown remain identifiable for each consignment when the fruit leaves the grove, at the packinghouse, and throughout the export process. Proposed § 319.56–78(a)(6) would require that the final release of the fruit into the continental United States be contingent upon compliance with required safeguards, treatments, and inspection included in the proposed section.

### Commercial Consignments

Proposed § 319.56–78(b) would require that fresh pomegranate fruit from Turkey be imported into the continental United States in commercial consignments only. 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 of the regulations, 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.

### Monitoring and Oversight

Under proposed § 319.56–78(c)(1), the NPPO of Turkey would be responsible for verifying that registered grove and packinghouse mitigation practices are

fulfilling all requirements under the systems approach. Details of systems approach requirements for the places of production and packinghouses would be included in the operational workplan.

APHIS may monitor and inspect the packinghouses and places of production. If APHIS or the NPPO of Turkey were to find that a place of production or a packinghouse was not in compliance with the regulations, pomegranates from that place of production or packinghouse would not be eligible for export to the United States until APHIS and the NPPO of Turkey conducted an investigation and implemented appropriate remedial actions.

Under proposed § 319.56–78(c)(2), any personnel hired to conduct inspections would have to be accredited and supervised by the NPPO of Turkey.

Proposed § 319.56–78(c)(3) would require that the NPPO of Turkey retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, upon request, provide them to APHIS for review. Forms and documents would be specified in the operational workplan.

### Grove Sanitation and Pest Control Measures

Under paragraph (d) of proposed § 319.56–78, the NPPO of Turkey would be responsible for ensuring that registered groves are practicing proper field sanitation, with places of production kept free of plant debris and fallen fruit. These sanitation measures are essential components of good agricultural practices and mainstays of commercial fruit production.

In addition, the NPPO of Turkey would be required under proposed § 319.56–78(e)(1) to issue pest control guidelines to growers that will mitigate risks posed by the quarantine pests listed in the PRA. Details of control measure requirements, including treatment with fungicides, insecticides, and other requirements, would be included in the operational workplan.

Although pomegranate fruit is not a primary host of *L. botrana*, we would require in proposed § 319.56–78(e)(2) that effective chemical control measures be used against infestations of this pest, as its larvae can feed and develop undetected within pomegranates. As noted above, detailed requirements for these measures would be included in the operational workplan.

### Post-Harvest Procedures

Specific post-harvest requirements listed in paragraph (f) of proposed

§ 319.56–78 and detailed in the operational workplan are intended to safeguard fruit after harvest. The pomegranates would have to be safeguarded by a pest-proof screen, plastic tarpaulin, or by some other pest-proof barrier while in transit to the packinghouse and while awaiting packing. Fruits destined for the continental United States would have to be stored separately from fruit destined for other countries or the domestic market.

### Packinghouse Requirements

Packinghouse requirements, listed in paragraph (g) of proposed § 319.56–78 and detailed in the operational workplan, are intended to prevent insect infestation of harvested fruit during processing and packing in registered packinghouses. Packinghouses in which pomegranates are packed for export to the continental United States would have to be able to exclude quarantine pests. During the time the packinghouse is used to pack and export pomegranates to the continental United States, the packinghouse would not be able to pack pomegranates destined for other countries or domestic markets.

Pomegranates would have to be visually inspected at the packinghouse in order to cull damaged and deformed fruit. The fruit would have to be washed, brushed, disinfested, and submerged in surfactant prior to cold treatment. During the time that a packinghouse is packing pomegranates for export to the continental United States, the packing lines would have to be cleared of all other articles and plant debris. Fruits destined for the United States must be stored in a compartment separate from any other fruits or plant articles as long as they remain at the packinghouse.

Boxes containing the packed pomegranate fruit would have to be marked with the identity of the packing facility and origin of the fruit and clearly marked as destined for export to the continental United States. Pomegranates would have to be packed within 24 hours of harvest into pest-proof cartons or containers or covered with pest-proof mesh or a plastic tarpaulin for transport to the continental United States. Fresh pomegranates for export to the continental United States would have to be held in a cold storage facility while awaiting export. If any fruit from unregistered production sites are stored in the same facility, the pomegranates would have to be stored in a separate compartment from that of other fruit. These safeguards would have to remain intact until arrival of the

consignment in the continental United States.

These packinghouse procedures, combined with proper grove sanitation as noted above, are effective at mitigating against several of the high- and medium-risk quarantine pests listed in the PRA. Symptoms of infestation by *C. gnidiella*, which include silk webbing around the crown of the pomegranate and frass caused by boring larvae, are clearly visible upon inspection. *N. viridis* infestations discolor and disfigure the fruit, making damage caused by this pest easily visible during culling operations. Infestations of *C. rusci* leave a sticky substance on affected pomegranates that serves as a medium for sooty molds, which are apparent on affected fruit. *C. pronubana* is another plant pest that leaves clearly visible damage, making it easy to cull during packinghouse procedures and easily detected upon inspection by the NPPO.

*C. pulcher* and *T. granati* are two surface pests of pomegranate. Submerging infested fruits in water with surfactant, followed by brushing and pressurized water spraying and inspection by the NPPO of Turkey, effectively mitigates these pests. *O. hyalinipennis* is a hitchhiker pest on pomegranate. Effective mitigation of this pest involves hand-picking and washing the pest from the fruit.

### Cold Treatment

Under proposed § 319.56–78(h), all shipments of fresh pomegranate fruit from Turkey to the continental United States would have to undergo cold treatment<sup>1</sup> for *C. capitata* in accordance with the requirements for conducting phytosanitary treatment referenced in 7 CFR part 305. This treatment would be performed in Turkey, in transit, or at the port of first arrival in the United States. APHIS would monitor the treatment program and would prescribe any necessary safeguards for unloading, handling, and transporting the fruit in preparation for cold treatment. The final release of the fruit for entry into the continental United States would be conditioned upon compliance with the proposed safeguards and treatment.

### Phytosanitary Inspection

Under proposed § 319.56–78(i), a sample of pomegranate fruit jointly agreed upon by APHIS and the NPPO of Turkey would have to be inspected in

Turkey by the NPPO of Turkey following post-harvest processing and prior to shipping. The sample would have to be visually inspected for the quarantine pests and a portion of the fruit would have to be cut open for additional inspection for internal pests. If any quarantine pests are found, the entire consignment of pomegranate fruit would be prohibited from importation into the continental United States. Details of inspection requirements would be included in the operational workplan.

APHIS would inspect consignments of fresh pomegranate fruit from Turkey at the U.S. port of entry after the required cold treatment. Fruit presented for inspection would have to be identified in the shipping documents accompanying each consignment of fruit that specify the place of production in which the fruit was produced and the packinghouse in which the fruit was processed. This identification would have to be maintained with the consignment until the fruit is released for entry into the continental United States.

### Phytosanitary Certificate

Under proposed § 319.56–78(j), each consignment of pomegranate fruit would have to be accompanied by a phytosanitary certificate issued by the NPPO of Turkey.

### Executive Orders 12866 and 13771 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. Further, because this proposed rule is not significant, it does not trigger the requirements of Executive Order 13771.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the [Regulations.gov](http://www.Regulations.gov) Web site (see **ADDRESSES** above for instructions for accessing [Regulations.gov](http://www.Regulations.gov)).

APHIS is proposing to allow the importation of pomegranate from Turkey into the continental United States. Pomegranate fruit is not currently permitted to enter the United States from Turkey due to nine quarantine pests. This regulatory change proposes risk mitigation options, including the application of APHIS-approved treatment and post-harvest

<sup>1</sup> Treatment schedules are listed in the PPQ Treatment Manual, located on the Internet 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). Cold treatment schedule T107–a is located in Chapter 5, Treatment Schedules.

procedures, which would make pomegranates from Turkey eligible for entry into the United States.

The conditions under which APHIS is proposing to allow the importation of pomegranate from Turkey include: Only commercial shipments of pomegranates may be imported; all growers must be registered with the NPPO of Turkey; the pomegranates must undergo cold treatment in Turkey, in transit, or on first arrival in the United States; and prescribed practices for harvesting, packing, cleaning, and storage must be followed. Control measures in the field and packinghouse must be followed, which may include fungicide, insecticide, and disinfestation treatments.

If 100 percent of Turkey's exports at 2008 levels were diverted to the United States, this would have equaled about 6.5 percent of domestic production. If the other imports are assumed to be pomegranates and included as part of the total domestic market, then 100 percent of Turkey's exports would equal about 9 percent of the market. It is very unlikely that Turkey would be willing or able to divert 100 percent of its exports to the U.S. market given its close proximity to its existing export markets, but in the event that it did, this quantity would still be unlikely to have a significant impact on the existing U.S. market.

Based on our review of available information, APHIS does not expect the proposed rule to have a significant economic impact on small entities. We welcome the submission of comments and additional data regarding the potential economic effects of this proposed action.

#### *Executive Order 12988*

This proposed rule would allow fresh pomegranates to be imported into the continental United States from Turkey, subject to a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh pomegranates imported under this rule would be preempted while the fruit is in foreign commerce. Fresh pomegranates 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.*), reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to [oira\\_submissions@omb.eop.gov](mailto:oira_submissions@omb.eop.gov), Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2013-0091. Please send a copy of your comments to the USDA using one of the methods described under **ADDRESSES** at the beginning of this document.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of fresh pomegranates from Turkey into the continental United States subject to a systems approach. As a condition of entry, pomegranates from Turkey would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments; registration of production sites and packinghouses; grove sanitation and pest control practices; washing, brushing, and treatment with surface disinfectant; and inspection for quarantine pests by the NPPO of Turkey.

Pomegranates from Turkey would also be required to be accompanied by a phytosanitary certificate. This action would allow for the importation of pomegranates from Turkey into the United States while continuing to provide protection against the introduction of quarantine pests.

Allowing fresh pomegranates to be imported into the continental United States from Turkey will require information collection activities, including phytosanitary certificates, production site and packinghouse registration, training, box marking, recordkeeping, an operational workplan, and a trust fund agreement.

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 0.00206 hours per response.

*Respondents:* NPPO of Turkey and pomegranate producers.

*Estimated annual number of respondents:* 39.

*Estimated annual number of responses per respondent:* 96,104.

*Estimated annual number of responses:* 3,748,079.

*Estimated total annual burden on respondents:* 7,726 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.)

A copy of the information collection may be viewed on the *Regulations.gov* Web site or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

#### *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 Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483.

#### **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 propose 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 319.56–78 is added to read as follows:

### § 319.56–78 Fresh pomegranates from Turkey

Fresh pomegranates (*Punica granatum* L.) may be imported into the continental United States from Turkey only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Cacoecimorpha pronubana*, *Cenopalpus pulcher*, *Ceratitis capitata*, *Ceroplastes rusci*, *Cryptoblabes gnidiella*, *Lobesia botrana*, *Nipaecoccus viridis*, *Oxycaenus hyalinipennis*, and *Tenuipalpus granati*.

(a) *General requirements.* (1) The national plant protection organization (NPPO) of Turkey must provide an operational workplan to APHIS that details the pest mitigations and other specific requirements that the NPPO of Turkey will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. APHIS will be directly involved with the NPPO of Turkey in monitoring and auditing implementation of the systems approach. The NPPO of Turkey must also enter into a trust fund agreement with APHIS in accordance with § 319.56–6.

(2) All places of production and packinghouses that participate in the export program must be approved by and registered with the NPPO of Turkey.

(3) The fruit must be grown at places of production that meet the requirements of paragraphs (d) and (e) of this section.

(4) The fruit must be packed for export to the continental United States in a packinghouse that meets the requirements of paragraph (g) of this section.

(5) The place of production where the pomegranates were grown must remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process.

(6) Release of the fruit into the continental United States will be contingent upon compliance with the safeguarding, treatment, and inspection requirements of this section.

(b) *Commercial consignments.* Pomegranates from Turkey may be imported to the continental United States in commercial consignments only.

(c) *Monitoring and oversight.* (1) The NPPO of Turkey must verify that the registered groves and packinghouses are complying with the requirements of this section. Details of systems approach requirements for the places of production and packinghouses are included in the operational workplan. APHIS may monitor the registered places of production and packinghouses. If APHIS or the NPPO of Turkey finds that a place of production or packinghouse is not complying with the requirements of this section, no pomegranates from the place of production or packinghouse will be eligible for export to the continental United States until APHIS and the NPPO of Turkey conduct an investigation and implement appropriate remedial actions.

(2) Any personnel conducting inspections must be accredited and supervised by the NPPO of Turkey.

(3) The NPPO of Turkey must retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS for review. Forms and documents are specified in the operational workplan.

(d) *Grove sanitation.* The NPPO of Turkey must ensure that registered groves are practicing proper field sanitation, with places of production kept free of plant debris and fallen fruit. Pomegranate fruit and plant debris that has fallen from the trees at each place of production must be removed and properly disposed of.

(e) *Pest control measures.* (1) The NPPO of Turkey must issue pest control guidelines to growers that will mitigate risks posed by the quarantine pests listed in this section. Details of control measure requirements, including treatment with fungicides, insecticides, and other requirements, are included in the operational workplan.

(2) The NPPO of Turkey must ensure that registered growers are using chemical control measures in the groves that effectively mitigate the risk of *L. botrana*.

(f) *Post-harvest procedures.* The pomegranates must be safeguarded by a pest-proof screen, plastic tarpaulin, or by some other pest-proof barrier while in transit to the packinghouse and while awaiting packing. Fruits destined for the continental United States must be stored separately from fruit destined for other countries or the domestic market.

Details of post-harvest requirements are included in the operational workplan.

(g) *Packinghouse requirements.* (1) Packing of pomegranates for export to the continental United States must be conducted within a packinghouse registered and approved by the NPPO of Turkey. Packinghouses in which pomegranates are packed for export to the continental United States must be able to exclude quarantine pests. During the time the packinghouse is used to pack and export pomegranates to the continental United States, the packinghouse must not pack pomegranates destined to other countries or domestic markets.

(2) Pomegranates must be visually inspected at the packinghouse in order to cull damaged and deformed fruit. The fruit must be washed, brushed, disinfested, and submerged in surfactant prior to cold treatment. During the time that a packinghouse is packing pomegranates for export to the continental United States, the packing lines must be cleared of all other articles and plant debris and the pomegranates must be stored in a compartment separate from any other fruits or plant articles as long as they remain at the packinghouse.

(3) Boxes containing the packed pomegranate fruit must be marked with the identity of the packing facility and origin of the fruit and clearly marked as destined for export to the continental United States. Pomegranates must be packed within 24 hours of harvest into pest-proof cartons or containers or covered with pest-proof mesh or a plastic tarpaulin for transport to the continental United States. Fresh pomegranates for export to the continental United States must be held in a cold storage facility while awaiting export. If any fruit from unregistered production sites are stored in the same facility, the pomegranates must be stored in a separate compartment from that of other fruit. These safeguards must remain intact until arrival of the consignment in the continental United States.

(h) *Treatment for C. capitata.* All pomegranate fruit for export from Turkey to the continental United States must be cold treated for *C. capitata* in accordance with the requirements for conducting phytosanitary treatment in part 305 of this chapter. The cold treatment may be performed in Turkey, in transit, or at the port of first arrival in the continental United States.

(i) *Phytosanitary inspection.* (1) A sample of pomegranate fruit jointly agreed upon by APHIS and the NPPO of Turkey must be inspected in Turkey by the NPPO of Turkey following post-

harvest processing and prior to shipping. The sample must be visually inspected and a portion of the fruit must be cut open and inspected for quarantine pests. If any quarantine pests are found, the entire consignment of pomegranate fruit will be prohibited from importation into the continental United States. Details of inspection requirements are included in the operational workplan.

(2) Fruit presented for inspection at a U.S. port of entry must be identified in the shipping documents accompanying each lot of fruit that specify the place of production in which the fruit was produced and the packinghouse in which the fruit was processed. This identification must be maintained until the fruit is released for entry into the continental United States.

(j) *Phytosanitary certificate*. Each consignment of pomegranate fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Turkey.

Done in Washington, DC, this 16th day of June 2017.

**Jere L. Dick,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2017-12943 Filed 6-20-17; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2015-0072]

**RIN 0579-AE23**

### Importation of Tree Tomatoes From Ecuador Into the Continental United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruit and vegetable regulations to allow the importation of tree tomatoes from Ecuador into the continental United States. As a condition of entry, the tree tomatoes would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments, registration and monitoring of places of production, field monitoring and pest-control practices, trapping, and inspection for quarantine pests by the national plant protection organization of Ecuador. This action would allow the importation of

tree tomatoes from Ecuador 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 August 21, 2017.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0072>.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2015-0072, 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-2015-0072> 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. Claudia Ferguson, M.S., Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations, and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737-1231; (301) 851-2352.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–77, 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 (NPPO) of Ecuador has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow tree tomatoes from Ecuador to be imported into the continental United States.

In evaluating Ecuador’s request, we prepared a pest risk assessment (PRA) and 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*).

The PRA, titled “Importation of fresh tree tomato (*Solanum betaceum* Cavanilles) from Ecuador into the continental United States” (September 2013), analyzes the potential pest risk associated with the importation of tree tomatoes into the continental United States from Ecuador. The PRA identified four pests of quarantine significance present in Ecuador that could be introduced into the continental United States through the importation of tree tomatoes. They are:

##### *Fruit Flies:*

- South American fruit fly (*Anastrepha fraterculus*)
- Mediterranean fruit fly (*Ceratitis capitata*)

##### *Moth:*

- Tomato fruit borer (*Neoleucinodes elegantalis*)

##### *Virus:*

- Tamarillo mosaic virus

The PRA derives plant pest risk potential for these pests by estimating the likelihood of the introduction of each pest into the continental United States through the importation of tree tomatoes from Ecuador.

The PRA considers two pests to have high pest risk potential (*A. fraterculus* and *C. capitata*), and two to have medium risk potential (*N. elegantalis* and Tamarillo mosaic virus). Based on the findings of the PRA, APHIS has determined that measures beyond standard port-of-entry inspection are necessary to mitigate the risk associated with the importation of tree tomatoes from Ecuador into the continental United States. These measures are listed in the RMD and are used as the basis for the requirements of this proposed rule.

Therefore, we are proposing to amend the regulations to allow the importation of commercial consignments of tree tomatoes from Ecuador into the continental United States, subject to a systems approach. Requirements of the systems approach, which would be added to the regulations as new § 319.56–78, are discussed in the following sections.

### Proposed Systems Approach

#### *General Requirements*

Proposed paragraph (a) of § 319.56–78 would set forth general requirements for the NPPO of Ecuador and for growers and packers producing the tree tomatoes for export to the continental United States.

Paragraph (a)(1) would require the NPPO of Ecuador to provide an operational workplan to APHIS that