# 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 Parts 305 and 319

**[Docket No. APHIS–2006–0040]**

### Importation of Fruit From Thailand

**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 into the United States of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand. As a condition of entry, these fruits would have to be grown in production areas that are registered with and monitored by the national plant protection organization of Thailand, treated with irradiation in Thailand at a dose of 400 gray for plant pests of the class Insecta, except pupae and adults of the order Leipdoptera, and subject to inspection. The fruits would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that the fruit had been treated with irradiation in Thailand. In the case of litchi, the additional declaration would also state that the fruit had been inspected and found to be free of *Peronophythora litchii*, a fungal pest of litchi. This action would allow for the importation of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand into the United States while continuing to provide protection against the introduction of quarantine pests into the United States.

**DATES:** We will consider all comments that we receive on or before September 25, 2006.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0040 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0040.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room 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) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1231; (301) 734–8758.

**SUPPLEMENTARY INFORMATION:**

## Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, 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 Thailand has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand to be imported into the United States. As part of our evaluation of that request, we have prepared pest lists for each of the six fruits and a risk management document that recommends risk mitigation measures to prevent the plant pests associated with each fruit from being introduced into the United States. Copies of the risk management document can 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 risk management document, APHIS has determined that measures beyond port-of-entry inspection are required to mitigate the plant pest risks associated with these six fruits. The primary measure that we are proposing to require to mitigate those risks is that these six fruits be imported into the United States after being treated in Thailand with irradiation in accordance with the irradiation treatment requirements located in § 305.31 of our regulations in 7 CFR part 305, ''Phytosanitary Treatments.'' These six fruits would be irradiated with an irradiation dose of 400 gray, a dose that is approved under § 305.31(a) to treat all plant pests of the class Insecta, except pupae and adults of the order Lepidoptera.

The regulations in § 305.31 contain extensive requirements for performing irradiation treatment at a facility in a foreign country. These requirements include:

- The operator of the irradiation facility must sign a compliance agreement with the Administrator of APHIS and the NPPO of the exporting country.
- The facility must be certified by APHIS as capable of administering the treatment and separating treated and untreated articles.
- Treatments must be monitored by an inspector.
- A preclearance workplan must be entered into by APHIS and the NPPO of the exporting country. In the case of fruits imported from Thailand, this workplan would include provisions for inspection of articles, which APHIS would perform before or after the treatment.

• The operator of the irradiation facility must enter into a trust fund agreement with APHIS to pay for the costs of monitoring and preclearance.

All six fruits would also have to be accompanied by a phytosanitary certificate containing an additional declaration that the required irradiation treatment had been performed in Thailand.

We have not prepared a comprehensive pest risk analysis for this proposed rule, as we normally do when determining whether to allow the importation of fruits or vegetables under the regulations. When we prepare a comprehensive pest risk analysis for a commodity, one part of the analysis examines in detail the likelihood that the plant pests for which the commodity could serve as a host would be introduced into the United States via the importation of that commodity, the likelihood that those pests would become established if they were introduced, and the damage that could result from their introduction or establishment. This helps us to determine which plant pests pose a risk that makes mitigation measures beyond port-of-entry inspection necessary. However, since irradiation at the 400 gray dose is approved to neutralize all plant pests of the order Insecta, except pupae and adults of the family Lepidoptera, we did not consider it necessary to undertake a detailed analysis of the risks posed by any plant pests that fall into the category, since the risks for all these pests would be mitigated through the irradiation treatment. For the plant pests that we identified that are not approved for treatment with the 400 gray dose, we have analyzed what specific mitigations may be necessary given the risks they pose and the likelihood that these risks would be effectively mitigated by inspection.

The other general requirement we would place on the importation of these six fruits is that the imported fruits would have to be grown in a production area that is registered with and monitored by the NPPO of Thailand. Growing under controlled agricultural practices results in fruit with fewer pests and thus would maximize the effectiveness of the irradiation treatment. In addition, while the irradiation regulations provide for inspections to occur before or after treatment, all fruit imported into the United States is subject to inspection at the port of entry; therefore, fruit imported from Thailand could be inspected at the port of entry if an inspector determines that such inspection is necessary.

The effectiveness of the irradiation treatment with regard to mitigating the risk associated with the importation of each of the six fruits proposed for importation is discussed in detail below, along with mitigations for the risks posed by pests not approved for treatment with irradiation.

*Litchi*

APHIS has identified 11 potential quarantine pests that could be introduced into the United States via the importation of litchi from Thailand, including 10 insect pests and 1 fungal pest. The pests are listed below, with order and family name following their scientific names in parentheses.

*Insect pests:*

*Bactrocera cucurbitae* (Diptera: Tephritidae).
*Bactrocera dorsalis* (Diptera: Tephritidae).
*Ceroplastes rubens* (Hemiptera/Homoptera: Coccidae).
*Coccus viridis* (Hemiptera/Homoptera: Coccidae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus lilacinus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Conopomorpha sinensis* (Lepidoptera: Gracillariidae).
*Cryptophlebia ombrodelta* (Lepidoptera: Tortricidae).
*Deudorix epijarbas* (Lepidoptera: Lycaenidae).

*Fungus:*

*Peronophythora litchii* (Pythiales: Pythiaceae).

Three of the insect pests of concern, *Conopomorpha sinensis, Cryptophlebia ombrodelta,* and *Deudorix epijarbas,* belong to the order Lepidoptera, and the 400 gray dose is not approved to treat pupae and adults of the order Lepidoptera. However, the life stages of concern for these pests are the eggs and the larvae, because the eggs and larvae of these species are internal feeders and thus difficult to detect through inspection; the 400 gray dose is approved to treat those stages of the life cycle for Lepidoptera pests. The pupae and adults of these species are external feeders, and we are confident that inspection can detect them.

The 400 gray dose is also approved to treat all the other insect pests in the list. However, the 400 gray dose is not approved to treat the fungal pest, *Peronophythora litchii.* This pest can cause litchi fruit to drop prematurely from their trees; fungicidal field treatments are typically applied to reduce premature fruit drop in commercial litchi production areas where *Peronophythora litchii* is present. To address the risk posed by this pest, we are proposing to require that litchi from Thailand be inspected and found to be free of *Peronophythora litchii.* We would also require that the phytosanitary certificate accompanying litchi from Thailand include an additional declaration to that effect.

We believe that most litchi fruit that are infected with *Peronophythora litchii* would be culled prior to importation into the United States; trained harvesters, packinghouse personnel, and plant quarantine inspectors can easily detect the distinctive symptoms of the disease on fruit. Litchi that are infected with *Peronophythora litchii* but are not symptomatic may not be culled, but the likelihood that *Peronophythora litchii* would then be introduced into the United States via the few fruit that may escape detection is very low, because the spores are transmitted by water. This means that for *Peronophythora litchii* to be introduced into the United States via an infected litchi fruit, the fruit would have to be incompletely consumed and discarded in a place where the pest could be transmitted to a litchi production area through moving water. Additionally, there is no record of interception of this disease on litchi imported into the United States from other countries in regions where this pathogen is present. Therefore, we believe that the requirement that litchi from Thailand be inspected for *Peronophythora litchii,* along with the additional declaration that would be required on the phytosanitary certificate accompanying the fruit, would adequately mitigate the risk posed by this pest.

*Longan*

APHIS has identified 11 potential quarantine pests that could be introduced into the United States via the importation of longan from Thailand, all of which are insect pests. The pests are listed below, with order and family name following their scientific names in parentheses.

*Bactrocera correcta* (Diptera: Tephritidae).
*Bactrocera dorsalis* (Diptera: Tephritidae).
*Ceroplastes rubens* (Hemiptera/Homoptera: Coccidae).
*Drepanococcus chiton* (Hemiptera/Homoptera: Coccidae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Maconellicoccus hirsutus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus lilacinus* (Hemiptera/Homoptera: Pseudococcidae).

*Planococcus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Conopomorpha sinensis* (Lepidoptera: Gracillariidae).
*Cryptophlebia ombrodelta* (Lepidoptera: Tortricidae).
*Deudorix epijarbas* (Lepidoptera: Lycaenidae).

Three of the insect pests of concern, *Conopomorpha sinensis, Cryptophlebia ombrodelta,* and *Deudorix epijarbas,* belong to the order Lepidoptera, and irradiation with a 400 gray dose is not approved to treat pupae and adults of the order Lepidoptera. However, as discussed earlier in this document with respect to litchi, the life stages of concern for these pests are the eggs and the larvae, and the 400 gray dose is approved to treat those stages of the life cycle for Lepidoptera pests.

The 400 gray dose is also approved to treat all the other insect pests in the list.

*Mango*

APHIS has identified 21 potential quarantine pests that could be introduced into the United States via the importation of mango from Thailand, including 20 insect pests and one fungal pest. The pests are listed below, with order and family name following their scientific names in parentheses.

*Insect pests:*
*Sternochetus frigidus* (Coleoptera: Curculionidae).
*Sternochetus mangiferae* (Coleoptera: Curculionidae).
*Sternochetus olivieri* (Coleoptera: Curculionidae).
*Bactrocera carambolae* (Diptera: Tephritidae).
*Bactrocera correcta* (Diptera: Tephritidae).
*Bactrocera cucurbitae* (Diptera: Tephritidae).
*Bactrocera dorsalis* (Diptera: Tephritidae).
*Bactrocera papayae* (Diptera: Tephritidae).
*Bactrocera tuberculata* (Diptera: Tephritidae).
*Bactrocera zonata (Diptera:* Tephritidae).
*Cereoplastes rubens* (Hemiptera/Homoptera: Coccidae).
*Coccus viridis* (Hemiptera/Homoptera: Coccidae).
*Aulacaspis tubercularis* (Hemiptera/Homoptera: Diaspididae).
*Pseudaonidia trilobitiformis* (Hemiptera/Homoptera: Diaspididae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Maconellicoccus hirsutus* (Hemiptera/Homoptera: Pseudococcidae).
*Nipaecoccus viridis* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus lilacinus* (Hemiptera/Homoptera: Pseudococcidae).
*Planacoccus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Rastrococcus spinosus* (Hemiptera/Homoptera: Pseudococcidae).

*Fungus:*
*Phomopsis mangiferae.*

Irradiation with a 400 gray dose is approved to treat all of the insect pests, but not the fungal plant pest *Phomopsis mangiferae.* We are not proposing to require any mitigation other than inspection for *Phomopsis mangiferae.* The symptoms of *Phomopsis mangiferae* on mangoes are likely to be detected at harvest and during packing and inspection; mangoes showing these symptoms would be culled as part of normal production practices. In some cases, latent infections may evade detection, and storing the fruit after the harvest in dark, cool, dry areas, which slows the expression of symptoms, may lead to increased numbers of infected fruit not being detected.

However, we believe that *Phomopsis mangiferae* is unlikely to be introduced into the United States via the importation of mangoes for consumption. The pest is specific to mangoes and is spread only via the seed of the mango. For the pest to spread, fungal spores from the seed must be dispersed at a time when susceptible tissue is available; thus, dispersal only occurs when infected seed is used in mango production. If infected fruit is consumed and the seed is discarded as waste, the infected fruit does not serve as a pathway for introduction. Discarded fruit could create a possible source of inoculum that could provide the means for introduction, but the likelihood that infected mangoes will reach these habitats is low because (1) the host range is limited to mango; (2) the portion of the total number of mango shipments from Thailand that is expected to be transported to mango-producing areas in California, Florida, Hawaii, or Texas is small; and (3) the likelihood of fruit being discarded in mango orchards at an appropriate time is likewise very low. For these reasons, we are not proposing any measures beyond inspection to mitigate the risk associated with this plant pest. This decision is consistent with the recommendations contained in pest risk analyses examining the importation of mangoes from Australia, India, and Pakistan, countries where *Phomopsis mangiferae* is also present.

*Mangosteen*

APHIS has identified 11 potential quarantine pests that could be introduced into the United States via the importation of mangosteen from Thailand, all of which are insect pests. The pests are listed below, with order and family name following their scientific names in parentheses.

*Bactrocera carambola* (Diptera: Tephritidae).
*Bactrocera dorsalis* (Diptera: Tephritidae).
*Bactrocera papayae* (Diptera: Tephritidae).
*Coccus viridis* (Hemiptera/Homoptera: Coccidae).
*Pseudaonidia trilobitiformis* (Hemiptera/Homoptera: Diaspididae).
*Cataenococcus hispidus* (Hemiptera/Homoptera: Pseudococcidae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Paracoccus interceptus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus lilacinus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Pseudococcus cryptus* (Hemiptera/Homoptera: Pseudococcidae).

Irradiation with a 400 gray dose is approved as a treatment for all of these pests.

*Pineapple*

APHIS has identified four potential quarantine pests that could be introduced into the United States via the importation of pineapple from Thailand, all of which are insect pests. The pests are listed below, with order and family name following their scientific names in parentheses.

*Coccus viridis* (Hemiptera/Homoptera: Coccidae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Frankliniella schultzei* (Thysanoptera: Thripidae).

Irradiation with a 400 gray dose is approved as a treatment for all of these pests.

*Rambutan*

APHIS has identified 10 potential quarantine pests that could be introduced into the United States via the importation of rambutan from Thailand, all of which are insect pests. The pests are listed below, with order and family name following their scientific names in parentheses.

*Bactrocera dorsalis* (Diptera:

Tephritidae).
*Bactrocera papayae* (Diptera: Tephritidae).
*Ceroplastes rubens* (Hemiptera/Homoptera: Coccidae).
*Cataenococcus hispidus* (Hemiptera/Homoptera: Pseudococcidae).
*Dysmicoccus neobrevipes* (Hemiptera/Homoptera: Pseudococcidae).
*Maconellicoccus hirsutus* (Hemiptera/Homoptera: Pseudococcidae).
*Paracoccus interceptus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus lilacinus* (Hemiptera/Homoptera: Pseudococcidae).
*Planococcus minor* (Hemiptera/Homoptera: Pseudococcidae).
*Conopomorpha cramerella* (Lepidoptera: Gracillariidae).

One of the insect pests of concern, *Conopomorpha cramerella,* belongs to the order Lepidoptera, and the 400 gray dose is not approved to treat pupae and adults of the order Lepidoptera. However, the life stages of concern for this pest are the eggs and the larvae, because the eggs and larvae of this species are internal feeders and thus difficult to detect through inspection; the 400 gray dose is approved to treat those stages of the life cycle for Lepidoptera pests. The pupae and adults of this species are external feeders, and we are confident that inspection can detect them.

The 400 gray dose is also approved to treat all the other insect pests in the list.

We are proposing to add a new § 319.56–2ss governing the conditions of entry of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand into the United States that would contain the growing, treatment, and phytosanitary certification requirements discussed in this proposal. We would also add an entry to the chart of commodities enterable from foreign localities in § 305.2(h)(2)(i) for each of the six fruits. These entries would indicate that irradiation for plant pests of the class Insecta, other than pupae and adults of the order Lepidoptera, is an approved treatment for each of the six fruits.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The 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 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the degree to which imported fruits from Thailand would be expected to displace fruits imported from other countries or fruits produced domestically.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation of plants, plant products, and other articles if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of plant pests and noxious weeds into the United States.

The proposed rule would amend the fruits and vegetables regulations to allow the importation into the United States of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand. As a condition of entry, these fruits would have to be grown in production areas that are registered with and monitored by the NPPO of Thailand, treated with irradiation in Thailand at a dose of 400 gray for plant pests of the class Insecta, except pupae and adults of the order Leipdoptera, and subject to inspection. The fruits would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that the fruit had been treated with irradiation in Thailand and, in the case of litchi, that the fruit had been inspected and found to be free of *Peronophythora litchii,* a fungal pest of litchi. This action would allow for the importation of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand into the United States while continuing to provide protection against the introduction of quarantine pests.

Although this is the first request APHIS has received concerning the importation of irradiated fruit, this change is not expected to have any significant effect on APHIS program operations since the relevant commodities are currently allowed to be imported into the United States from various other regions subject to different treatments. Additionally, current regulations already allow inspectors to order the treatment, destruction, or re-exportation of a consignment of fruit if, on inspection at the port of arrival, any actionable pest or pathogen is found and identified. The use of irradiation as a pest mitigation measure will provide an alternative to other mitigations such as methyl bromide fumigation.

*U.S. Production and Imports*

Historically, the continental United States has not produced the fruits covered in this proposed rule in any quantity, with the exception of mangoes and pineapples. Mangoes were produced in some quantity in Florida, but production has not been recorded since 1997. Mangoes are still produced in non-commercial quantities in South Florida along with approximately two dozen other minor tropical fruits. However, these fruits, including litchi, longan, and mango, are primarily destined for the local fresh market.

A record of the Hawaiian production of most of these fruits is kept by the Hawaii Field Office of the National Agricultural Statistics Service. The ''Hawaii Tropical Specialty Fruits'' report published by this office shows that Hawaii produces all of the fruits covered by the proposed rule; however, mangosteen production is included in the category ''Other'' to avoid disclosure of individual operations.[1] Production and price data for the Hawaiian fruit may be found in table 1. This table shows only production destined for the fresh market. Although Hawaii's production of pineapples for the fresh market has remained relatively stable over the last two decades, production intended for the processed market is merely 19 percent of what it was 20 years ago. Production of longan, litchi, mango, and rambutan is a fraction of pineapple production in Hawaii and is directed to local markets.

[1] This report can be accessed on the Internet at *http://www.nass.usda.gov/hi/fruit/tropfrt.pdf.*

TABLE 1.—PRODUCTION AND FARM PRICES OF TROPICAL FRUIT PRODUCED IN HAWAII FOR THE FRESH MARKET, 2000–2004 [1]

| Year | Longan | | Litchi | | Mango | | Rambutan | | Pineapple | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Production (1,000 lb) | Farm price ($ per 1b) | Production (1,000 lb) | Farm price ($ per lb) | Production (1,000 lb) | Farm price ($ per lb) | Production (1,000 lb) | Farm price ($ per lb) | Production (1,000 lb) | Farm price ($ per lb) |
| 2000 | 24 | 4.02 | (2) | (2) | 207 | 0.93 | 220 | 2.98 | 244,000 | 0.29 |
| 2001 | 37 | 3.05 | (2) | (2) | 242 | 0.86 | 205 | 3.01 | 220,000 | 0.31 |
| 2002 | 46 | 3.20 | 77 | 2.64 | 377 | 0.92 | 257 | 3.01 | 234,000 | 0.31 |
| 2003 | 114 | 3.33 | 88 | 2.84 | 481 | 0.86 | 306 | 2.73 | 260,000 | 0.30 |
| 2004 | 125 | 3.40 | 94 | 2.45 | 380 | 0.92 | 275 | 2.57 | 198,000 | 0.32 |

[1] Mangosteen production is included in a residual category to avoid disclosure of individual operations.
[2] Data not shown separately to avoid disclosure of individual operations.
Source: USDA, National Agricultural Statistics Service (NASS), Hawaii Field Office, ''Hawaii Tropical Specialty Fruits,'' October 19, 2005.

Based on available data, imports of mangoes and pineapples far exceed domestic production (table 2). Furthermore, it appears that imports do not compete with domestic production. In the case of litchis, longans, mangoes, mangosteens, and rambutans, it appears that domestic production is sold mainly in the local fresh market. However, it is difficult to draw conclusions regarding competition from litchi, longan, and rambutan imports due to lack of available data. Pineapples, on the other hand, seem more widely distributed, but their production has remained fairly consistent over the years despite increased imports from abroad. This information would indicate a lack of competition between domestic production and foreign imports.

TABLE 2.—U.S. IMPORTS OF MANGO, MANGOSTEEN, AND PINEAPPLE, 2000–2004

| | Mango | Mangosteen [1] | Pineapple |
|---|---|---|---|
| | 1,000 lb | | |
| 2000 | 528,868 | 40 | [2] 711,292 |
| 2001 | 541,329 | 226 | [2] 715,651 |
| 2002 | [3] 587,048 | 137 | 894,446 |
| 2003 | 613,816 | 136 | 1,050,855 |
| 2004 | 609,237 | 104 | 1,126,672 |

[1] Statistics include guavas and mangosteens. Source: Global Trade Atlas.
[2] Includes fresh and frozen. Source: ERS Fruit and Tree Nut Yearbook.
[3] Statistics include guavas and mangos. Source: Economic Research Service (ERS) Fruit and Tree Nut Yearbook.

*Thai Production and Exports*

Thailand is the leading producer of pineapple in the world. Much of its production is geared toward international markets, although the majority of this is not fresh production. Over the 5-year period 2000–2004, only 0.27 percent of the country's fresh production was exported, as seen in table 3. Similarly, during that same period, Thailand produced a significant amount of mangoes, but only 0.82 percent of that mango production was exported for the fresh market.

TABLE 3.—THAI PRODUCTION AND EXPORTS OF MANGO AND PINEAPPLE, 2000–2004

| | Mango | | | Pineapple | | |
|---|---|---|---|---|---|---|
| | Production | Exports | Exports as percentage of production | Production | Exports | Exports as percentage of production |
| | (metric tons) | | | (metric tons) | | |
| 2000 | 1,633,479 | 8,755 | 0.54 | 2,248,375 | 4,995 | 0.22 |
| 2001 | 1,700,000 | 10,829 | 0.64 | 2,078,286 | 6,471 | 0.31 |
| 2002 | 1,700,000 | 8,736 | 0.51 | 1,738,833 | 4,561 | 0.26 |
| 2003 | 1,700,000 | 8,098 | 0.48 | 1,899,424 | 4,874 | 0.26 |
| 2004 | 1,700,000 | 33,097 | 1.95 | 1,997,000 | 5,736 | 0.29 |

Source: FAOSTAT data, 2006.

Thailand also produces longan, litchi, mangosteen, and rambutan. Production data for each of these come from Thailand's Office of Agriculture Economics (OAE). Table 4 shows that production of rambutan far exceeded that of longan and mangosteen. Farm prices, on the other hand, were much higher for longan and mangosteen. In economic terms, this result is not surprising since higher levels of supply foster lower prices. Production and price data on litchis were not available.

TABLE 4.—THAI PRODUCTION AND PRICE OF LONGAN, MANGOSTEEN, AND RAMBUTAN, 2000–2004

| | Longan | | Mangosteen | | Rambutan | |
|---|---|---|---|---|---|---|
| | Production (metric tons) | Farm price ($ per kg) | Production (metric tons) | Farm price ($ per kg) | Production (metric tons) | Farm price ($ per kg) |
| 1999 | 63,900 | 0.76 | 160,800 | 0.66 | 601,000 | 0.41 |
| 2000 | 417,300 | 0.65 | 168,200 | 0.60 | 618,000 | 0.33 |
| 2001 | 250,100 | 0.63 | 197,200 | 0.51 | 617,000 | 0.25 |
| 2002 | 420,300 | 0.28 | 244,900 | 0.44 | 619,000 | 0.15 |
| 2003 | 396,700 | 0.38 | 203,800 | 0.65 | 651,000 | 0.19 |

Source: OAE, 2006.

According to a press release of the Thai Minister of Agriculture and Cooperatives posted on the Web site of the National Bureau of Agricultural Commodity and Food Standards in Thailand, that country is capable of producing approximately 5 million metric tons (MT) of the fruits that this proposed rule would allow to be imported into the United States. This production may be divided as follows: 80,000 MT of litchi, 200,000 MT of mangosteen, 500,000 MT of rambutan, 500,000 to 700,000 MT of longan, 1.8 million MT of mango, and 2 million MT of pineapple. Given the production data reported by the OAE, these production values seem reasonable. However, only a fraction of this is likely to be exported to the United States, given historical export data as well as the fact that the existing irradiation facility would not be able to accommodate these estimated volumes of fruit. Since a new facility would not be constructed until regulations were in place, it is not likely that Thailand would be able to treat and ship volumes of this magnitude over the next few years.

*Effects on Small Entities*

The proposed rule may affect domestic producers of the six tropical fruits, as well as firms that import these commodities. It is likely that the entities affected would be small according to Small Business Administration (SBA) guidelines. A discussion of these impacts follows.

Affected U.S. tropical fruit producers are expected to be small based on 2002 Census of Agriculture data and SBA guidelines for entities in the farm category ''Other Noncitrus Fruit Farming'' (North American Industry Classification System [NAICS] code 111339). The SBA classifies producers in this farm category with total annual sales of not more than $750,000 as small entities. APHIS does not have information on the size distribution of the relevant producers, but according to 2002 Census data, there were a total of 2,128,892 farms in the United States in 2002.[2] Of this number, approximately 97 percent had annual sales in 2002 of less than $500,000, which is well below the SBA's small entity threshold of $750,000 for commodity farms.[3] This indicates that the majority of farms are considered small by SBA standards, and it is reasonable to assume that most of the 623 mango and 34 pineapple farms[4] that may be affected by this rule would also qualify as small. In the case of fresh fruit and vegetable wholesalers, establishments in the category ''Fresh Fruit and Vegetable Merchant Wholesalers'' (NAICS 424480) with not more than 100 employees are considered small by SBA standards. In 2002, there were a total of 5,397 fresh fruit and vegetable wholesale trade firms in the United States.[5] Of these firms, 4,644 firms operated for the entire year. Of those firms that were in operation the entire year, 4,436 or 95.5 percent employed fewer than 100 employees and were, therefore, considered small by SBA standards. Thus, domestic producers and importers that may be affected by the proposed rule are predominantly small entities.

Based on the data available to APHIS, it does not appear that domestic production of litchi, longan, mango, mangosteen, pineapple, and rambutan competes with imports of these fruits. Domestic production is generally destined for the local fresh market. Thus, the imports from Thailand are unlikely to substantially affect these markets. Additionally, imports from Thailand are not likely to increase the overall level of imports. It is more reasonable to assume that they would substitute for imports from other countries, given that demand for these specialty fruits is likely satiated at current levels. APHIS welcomes public comment on these potential effects.

Domestic import firms may benefit from more open trade with Thailand, with more import opportunities available to them because of the additional source of these tropical specialty fruit. In any case, it is not likely that the effects of importing litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand would have large repercussions for either domestic producers or importers of these tropical fruit.

*Significant Alternatives to Rule*

In June 2005, officials from Thailand and the United States met in Bangkok to consider mitigations on the six Thai commodities. Several options were considered at that meeting. Cold treatment was recognized as a potential treatment for litchi and longan, but additional research would have to be conducted to ensure this treatment would be effective in killing all Lepidoptera of concern. Vapor heat treatment was also considered. This could be used for treating mangosteen, pineapple, and rambutan. However, this treatment affects the quality of commodities and was thus dismissed as a viable alternative. The use of a systems approach was also mentioned. This may be a potential alternative for mangosteen and pineapple. However, the Thai Department of Agriculture did not have a formal proposal on the use of a systems approach. Irradiation was the fourth alternative considered. A generic dose of 400 gray would work for all six commodities. Additionally, irradiation was the only option identified to be effective for mango due to the presence of mango seed and flesh weevils. Thus, irradiation was chosen as the most effective option.

This proposed rule contains certain reporting and recordkeeping requirements (see ''Paperwork Reduction Act'' below).

**Executive Order 12988**

This proposed rule would allow litchi, longan, mango, mangosteen,

[2] This number represents the total number of farms in the United States, including farms producing litchi, longan, mango, mangosteen, pineapple, and rambutan.

[3] Source: SBA and *2002 Census of Agriculture.*

[4] There are no data available on the number of litchi, longan, mangosteen, or rambutan farms in operation.

[5] Source: SBA and *2002 Economic Census.*

pineapple, and rambutan to be imported into the United States from Thailand. If this proposed rule is adopted, State and local laws and regulations regarding litchi, longan, mango, mangosteen, pineapple, and rambutan 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.

**National Environmental Policy Act**

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing 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.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

**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–2006–0040. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, 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.

The proposed rule would allow the importation of litchi, longan, mango, mangosteen, pineapple, and rambutan from Thailand. This change would necessitate the use of certain information collection activities, including 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 0.159375 hours per response.

*Respondents:* Importers of Thai fruit and national plant protection organizations.

*Estimated annual number of respondents:* 10.

*Estimated annual number of responses per respondent:* 32.

*Estimated annual number of responses:* 320.

*Estimated total annual burden on respondents:* 51 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) 734–7477.

**Government Paperwork Elimination Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

**List of Subjects**

*7 CFR Part 305*

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

*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 parts 305 and 319 as follows:

## PART 305—PHYTOSANITARY TREATMENTS

1. The authority citation for part 305 would continue to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 305.2, the table in paragraph (h)(2)(i) would be amended by adding, under Thailand, new entries for litchi, longan, mango, mangosteen, pineapple, and rambutan to read as follows:

**§ 305.2 Approved treatments.**

* * * * *

(h) * * *

(2) * * *

(i) * * *

| Location | Commodity | Pest | Treatment schedule |
|---|---|---|---|
| * * * * * * * | | | |
| Thailand | | | |
| * * * * * * * | | | |
| | Litchi | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| | Longan | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| | Mango | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| | Mangosteen | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| | Pineapple | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| | Rambutan | Plant pests of the class Insecta except pupae and adults of the order Lepidoptera. | IR |
| * * * * * * * | | | |

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## PART 319—OREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue 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.

4. A new § 319.56–2ss would be added as follows:

**§ 319.56–2ss Administrative instructions: Conditions governing the entry of certain fruits from Thailand.**

Litchi (*Litchi chinensis*), longan (*Dimocarpus longan*), mango (*Mangifera indica*), mangosteen (*Garcinia mangoestana* L.), pineapple (*Ananas comosus*) and rambutan (*Nephelium lappaceum* L.) may be imported into the United States from Thailand only under the following conditions:

(a) *Growing conditions.* Litchi, longan, mango, mangosteen, pineapple, and rambutan must be grown in a production area that is registered with and monitored by the national plant protection organization of Thailand.

(b) *Treatment.* Litchi, longan, mango, mangosteen, pineapple, and rambutan must be treated for plant pests of the class Insecta, except pupae and adults of the order Lepidoptera, with irradiation in accordance with § 305.31 of this chapter. Treatment must be conducted in Thailand prior to importation of the fruits into the United States.

(c) *Phytosanitary certificates.* (1) Litchi must be accompanied by a phytosanitary certificate with an additional declaration stating that the litchi were treated with irradiation as described in paragraph (b) of this section and that the litchi have been inspected and found to be free of *Peronophythora litchi.*

(2) Longan, mango, mangosteen, pineapple, and rambutan must be accompanied by a phytosanitary certificate with an additional declaration stating that the longan, mango, mangosteen, pineapple, or rambutan were treated with irradiation as described in paragraph (b) of this section.

Done in Washington, DC, this 20th day of July 2006.

**Kevin Shea,**

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

[FR Doc. E6–11941 Filed 7–25–06; 8:45 am]

**BILLING CODE 3410–34–P**

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Part 703

**RIN 3133–AD27**

## Permissible Investments for Federal Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** NCUA is proposing to amend its investment rules to allow federal credit unions to enter into investment repurchase transactions in which the instrument consists of first-lien mortgage notes. The proposed amendment establishes a credit concentration limit, minimum credit rating, requirement for an independent assessment of market value, a maximum term, and custodial requirements for the transactions.

**DATES:** Comments must be received on or before September 25, 2006.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov*. Include ''[Your name] Comments on Parts 703 and 704 Permissible Investments for Federal Credit Unions'' in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

*Public Inspection:* All public comments are available on the agency's Web site at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6540 or send an e-mail to *OGCMail@ncua.gov*.

**FOR FURTHER INFORMATION CONTACT:**