



March 11, 2015

Administrator Kevin Shea  
Animal and Plant Health Inspection Service  
Docket No. APHIS-2010-0082,  
Regulatory Analysis and Development,  
PPD, APHIS Station 3A-03.8,  
4700 River Road, Unit 118  
Riverdale, MD 20737-1238

Dear Administrator Shea:

We write today on behalf of the U.S. Apple Association (USApple) and the Northwest Horticultural Council (NHC) to provide comments on the proposed rule entitled "Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables" included in Docket Number APHIS-2010-0082.

USApple is the national trade association representing all segments of the apple industry. Our members include 36 state apple associations representing apple growers throughout the country as well as packers, shippers, processors, importers, exporters, brokers and affiliated companies across the integrated marketing chain. Altogether, approximately 7,500 apple growers contribute more than \$2.7 billion annually to their local economies across 32 states. The NHC is a trade association founded in 1947 and based in Yakima, Washington. We represent on national and international policy issues the growers, packers, and shippers of deciduous tree fruits harvested in Idaho, Oregon, and Washington. The Pacific Northwest is responsible for over 50 percent of the apples, pears, and sweet cherries commercially produced each year in the United States.

One of our primary concerns regarding notice-based rulemaking addressed in the FR notice surrounds the timelines that have been proposed when allowing stakeholder review of complex documents such as pest lists and pest risk assessments. A 30 day review period is likely insufficient given that internal technical resources are limited for many specialty crop organizations. Reviewers must be gathered from industry member organizations, university faculty and other government agencies, generally people with very busy schedules. A 60- or 90-day review period is more reasonable for this purpose.

As noted in our comments of January 9, 2015, USDA APHIS PPQ has a history of evaluating efficacy of mitigation measures based on specific technical protocols and data-driven



decision-making. Measures such as verification of pest-free areas and specific stand-alone treatment protocols are clear examples where evaluation of the effectiveness of the measure is enabled by the data requirements necessitated under international protocols. Much of the information necessary to evaluate these discrete treatments is not only archived at PPQ but also available in referred scientific publications.

The proposal at hand substantially increases the types of measures, in an almost unlimited way, as part of systems approaches which could be used to import fruits and vegetables from anywhere in the world under notice-based rulemaking. The challenge, of course, is that the efficacy of these measures, alone and/or in aggregate, is likely not as effectively and comprehensively documented as fumigation, cold treatments or pest free areas. APHIS-2010-0082 refers to these as performance-based measures but it is unclear how a given performance standard is/would be set for systems approaches and where stakeholders would turn to understand how efficacy/performance was measured. It is proposed that the risk management document (RMD) would be the vehicle with which to detail and evaluate the potential effectiveness of the measures. However, while the RMD is a useful tool to understand the outline of the eventual work plan, RMD's we have reviewed in the past have not included all data required to allow stakeholders to evaluate efficacy. An example of this is the RMD for apples from China, in which fruit bagging is proposed as a mitigation step for internal feeders. The only data cited to document efficacy comes from a government database with restricted access, which is not the most transparent approach to documentation.

To reiterate, we have no objection to improving a regulatory process to facilitate trade so long as the process remains adequately protective of our plant resources and helps to expand exports of tree fruits. However, as noted above, we still have a number of technical and operational questions regarding the proposed rule, and are uncertain that a notice-based process would, in fact, facilitate the export of U.S. apples and other deciduous tree fruits to countries with historically restrictive import approval procedures.

It is our hope that the dialogue with stakeholders, begun earlier this year, will continue following the end of any comment period and prior to full implementation of this proposed rule.

Sincerely,



Jim Bair  
President and CEO  
U.S. Apple Association



Christian Schlect  
President  
Northwest Horticultural Council

