

After harvest, the national plant protection organization of China or officials authorized by the national plant protection organization of China would have to inspect the pears for signs of pest infestation and would have to allow APHIS to monitor the inspections. The national plant protection organization of China would be responsible for immediately notifying APHIS of any quarantine pests found during the post-harvest inspection or at any other time.

If any of the quarantine pests listed above are detected during the post-harvest inspection, APHIS could reject the lot or consignment and could prohibit the importation of fragrant pears into the United States, as described above.

In addition, APHIS could reject an individual lot or consignment upon detection of large pear borer (*Numonia piovorella*), pear curculio (*Rhynchites fovepessin*), and Japanese apple curculio (*R. heros*). These pests are readily identifiable as they cause significant and characteristic damage to infested fruit. Therefore, post-harvest inspection is adequate mitigation for these pests.

The fragrant pears would have to be packed in insect-proof containers that are labeled in accordance with § 319.56–2(g), which requires that each box of fruit imported into the United States be clearly labeled with: (1) The name of the orchard or grove of origin, or the name of the grower; (2) the name of the municipality and State in which it was produced; and (3) the type and amount of fruit it contains. The fragrant pears would have to be held in a cold storage facility while awaiting export. In order to prevent fragrant pears intended for export to the United States from being commingled with any other fruit, we would require that if fruit from unregistered production sites are stored in the same facility, the fragrant pears would have to be isolated from that other fruit.

In addition, fragrant pears would have to be safeguarded to prevent pest infestation during transport to the United States. To facilitate compliance with the regulations, fragrant pears could only be imported under a permit issued by APHIS. In addition, each shipment of pears would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of China stating that the conditions of the regulations

have been met and that the shipment has been inspected and found free of quarantine pests.

We believe that the proposed requirements described above are sufficient and necessary to prevent the introduction into the United States and the dissemination within the United States of a plant pest or noxious weed.

#### **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.

We are proposing to amend the fruits and vegetables regulations to allow the importation of fragrant pears from China under certain conditions. This action would allow fragrant pears to be imported from China while continuing to provide protection against the introduction of plant pests into the United States.

This analysis examines whether the regulations might have a significant economic impact on a substantial number of small entities, as required by the Regulatory Flexibility Act. There are three reasons why we believe this will not be the case. First, the risk of quarantine pests being introduced into the United States via this pathway is extremely low. Second, fragrant pears are not produced in the United States and fragrant pear import levels are expected to be low relative to domestic availability. In addition, our analysis suggests that Ya pear (*Pyrus bretschneideri*) imports from China do not substitute for domestically produced pears; therefore, profit losses, if any, for domestic pear producers are expected to be extremely low, at least over the next several years. Third, allowing the importation of a pear variety that is not produced domestically will lead to gains for small importers and pear consumers in the United States.

#### **Pear Production and Pest Risks**

Fragrant pears are grown in an area surrounding Korla, a city in Xinjiang Province, which makes up the northwest corner of China, and are not grown anywhere else in the world. The production area, which is west of the Gobi Desert and just north of the Taklamakan Desert, experiences extremely hot summers, cold winters,

and very little rainfall, and is geographically as well as culturally isolated. In addition, while agricultural commodities are exported from the region, there is little if any incoming trade. As a result, the potential for pests of quarantine significance being introduced into the area is extremely low. Furthermore, in the unlikely event a pest was introduced, climatic conditions and production practices would significantly reduce the likelihood of establishment.

Approximately 15,000 hectares are devoted to fragrant pear production in Xinjiang Province, yielding roughly 90,718 metric tons per year, of which 10 percent is exported. We expect that exports to the United States would come mainly from the farm units known as Regiments 28, 29, 30, 33, and Shayi Dong Farms, although additional quantities could come from Regiments 31 and 32. The land belongs to the government, and the proper maintenance of every orchard is under the direct supervision of China's Administration of Plant Quarantine (AQSIQ), which stations one supervisor to each regiment in the export area. The AQSIQ supervisor is in contact with the growers on a weekly basis and directs the work of several survey teams.<sup>2</sup> The survey teams are in the orchards every day and are responsible for maintaining traps, extension work, fruit cutting and inspection, checking to see that orchards are maintained properly, participating in annual pest surveys, and checking on other crops. If it is determined that an orchard is not being managed properly, AQSIQ assigns it to another grower.

#### **Benefits and Costs**

Because pest risks associated with this pathway are extremely low, we expect regulatory costs associated with quarantine pest introductions to be negligible. In addition, because fragrant pears are not produced in the United States and because quantities designated for export are expected to be low, at least during the next several years, we do not expect fragrant pears to compete with domestically produced pears over the short run. However, imports of fragrant pears from China may increase over time, as has been the case for U.S. Ya pear imports and Canadian Ya and fragrant pear imports from China (table 1).

<sup>2</sup> There are approximately 5,166 hectares of agricultural production, 3,000 growers, and 66 survey teams in Regiments 28, 29, 30, 33, and Shayi

Dong Farms, for an average 1.72 hectares per grower and 79 hectares per survey team. Most of Regiment 30, however, is devoted to wheat and rice

production. Each fragrant pear grower manages about 1 hectare.