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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02–084–2]

Removal of Cold Treatment Requirement for Ya Pears Imported From Hebei Province in China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are removing the cold treatment requirement for Ya pears imported from Hebei Province in the People's Republic of China. The cold treatment requirement had been imposed to ensure that Ya pears did not introduce the Oriental fruit fly into the United States. The People's Republic of China has submitted data indicating that no Oriental fruit flies have been found in Hebei Province since the beginning of 1997 and has requested that we remove the cold treatment requirement. This action will remove a restriction that no longer appears necessary.

EFFECTIVE DATE: June 10, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

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 spread of plant pests that are new to or not widely distributed within the United States.

On December 20, 2002, we published in the **Federal Register** (67 FR 77940–77942, Docket No. 02–084–1) a proposal to amend the regulations in § 319.56–2ee by removing the requirement that Ya pears imported from Hebei Province in the People's Republic of China be cold treated for Oriental fruit fly. We proposed to remove this requirement because fruit fly trapping data submitted in March 2000 by the People's Republic of China showed no occurrence of Oriental fruit fly in Hebei Province for 1997 through 1999. Further data have continued to indicate that Oriental fruit fly is not present in Hebei Province. In addition, the cool climate of Hebei Province, which is comparable to that of Pennsylvania in the United States, does not favor the development of Oriental fruit fly. We proposed to leave the other safeguards required by § 319.56–2ee for Ya pears from Hebei Province in place, as they help to prevent against the introduction of other plant pests.

We solicited comments concerning our proposal for 60 days ending February 18, 2003. We received four comments by that date. They were from a private citizen, an industry advocacy group, and representatives of State and foreign governments. The issues raised by the commenters are discussed below.

One commenter opposed the proposed rule on the grounds that it would increase the risk of a fruit fly outbreak in the United States, with potentially devastating effects for U.S. agriculture.

When the Animal and Plant Health Inspection Service (APHIS) originally allowed the importation of Ya pears from China, we required that the pears be cold treated because we had no information indicating that Oriental fruit fly was not present in Hebei and Shandong Provinces. As stated above, we now have data submitted by the People's Republic of China that indicates that Oriental fruit fly is not present in Hebei Province; in addition, climatic conditions there do not favor its establishment. (**Note:** In the proposed rule and in the regulations in § 319.56–2ee, we incorrectly refer to Shandong Province as “Shadong Province.” This rule corrects that error in the regulations, and we refer to the province by its correct name throughout this document.)

In order to require cold treatment for Ya pears imported into the United

States from Hebei Province, we would have to have scientific evidence indicating that Oriental fruit fly is present in Hebei Province and that importing Ya pears from Hebei Province would pose a risk of introducing Oriental fruit fly into the United States. The available scientific evidence, to the contrary, indicates that the cold treatment requirement for Ya pears imported from the Hebei Province in China is no longer necessary. We cannot require treatment based on a purely theoretical risk of pest introduction. Therefore, we are removing the requirement that Ya pears imported into the United States from Hebei Province be cold treated, and we are making no changes in response to this comment.

One commenter supported the proposed rule on the condition that the People's Republic of China maintain an Oriental fruit fly detection program in Hebei Province and submit annual reports to APHIS affirming that fruit fly continues not to be present in Hebei Province. Furthermore, this commenter asserted, if Oriental fruit fly is ever detected in Hebei Province, APHIS should immediately reinstate the cold treatment requirement.

The People's Republic of China will continue trapping and surveying for Oriental fruit fly and for other fruit flies and quarantine pests in Hebei Province after this final rule becomes effective. We will not, however, require that China submit the trapping and surveying data to us. Climatic conditions do not favor the establishment of Oriental fruit fly in Hebei Province, and we have no reason to suspect that Oriental fruit fly will become established there. Nevertheless, if trapping data were to indicate in the future that a quarantine pest such as Oriental fruit fly is present in Hebei Province, the national plant protection organization of China would notify APHIS immediately, fulfilling its obligation to do so under trade agreements for agricultural products. Thus, any requirement that the People's Republic of China continue submitting trapping data would, in practice, only mandate repeated submissions of negative data. Since we already have data sufficient to prove that Oriental fruit fly does not exist in Hebei Province, we do not believe further submissions of negative data are necessary.