

In the event that Oriental fruit fly is detected in Hebei Province after this final rule becomes effective, we would take any and all appropriate actions to ensure that this plant pest is not introduced into the United States. Such actions may include, but may not be limited to, the reinstatement of the cold treatment requirement for Ya pears imported from Hebei Province.

One commenter questioned the reliability of the fruit fly trapping data submitted to us by the People's Republic of China. We have examined the data and believe it to be accurate. In the proposed rule, we invited persons interested in reviewing the data to contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We received no comments asserting that any specific aspects of the data appeared unreliable. We are making no changes in response to this comment.

One commenter argued that the recent rise in the quantity of imports of Ya pears from China and the decrease in the price of the imports, as described in the economic analysis in the proposed rule, showed that the cold treatment requirement was not significantly hampering the ability of Chinese producers to export Ya pears to the United States. The commenter also took issue with the statement in the economic analysis that Ya pears are not a substitute for domestically produced pears, on the grounds that all produce items compete for a share of the food dollar of U.S. consumers. This commenter stated that until restrictions on the export of U.S. pears to China are lifted by the Government of the People's Republic of China, APHIS restrictions on the importation of pears from China should remain in place. Another

commenter opposed removing the cold treatment requirement on the grounds that the cost of complying with the cold treatment requirement was not particularly onerous.

Cold treatment was required for Ya pears from Hebei Province in China because we had no information indicating that Oriental fruit fly was not present in Hebei Province. Data made available by the People's Republic of China indicate that the Oriental fruit fly is not present in Hebei Province; therefore, this requirement appears to be unnecessary. The purpose of treating imported fruits and vegetables is to mitigate pest risk, not to impose economic barriers on the importation of fruits and vegetables; APHIS has no authority to regulate based on purely economic considerations. We are making no changes in response to these comments.

One commenter supported the proposed rule but argued that we should additionally remove the cold treatment requirement from Ya pears imported from Shandong Province in China. We will consider removing this requirement if the People's Republic of China provides APHIS with data similar to the data submitted for Hebei Province indicating that Oriental fruit fly is not present in Shandong Province. In addition, removing the cold treatment requirement from Ya pears imported from Shandong Province is beyond the scope of the present rulemaking. We are making no changes in response to this comment.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

**Effective Date**

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is warranted to remove a cold treatment requirement for Ya pears imported from Hebei Province in the People's Republic of China that is no longer necessary. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

This 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.

This rule removes the cold treatment requirement for Ya pears imported from Hebei Province in the People's Republic of China. This action is based on data from the national plant protection organization of the People's Republic of China indicating that Oriental fruit fly does not occur in Hebei Province and the fact that climatic conditions do not favor the establishment of Oriental fruit fly in Hebei Province.

The rapid growth in Ya pear imports by the United States from China is evident in table 1. Imports increased from about 329,000 kilograms in 1998 to over 6.57 million kilograms in 2001. The estimated cost savings discussed in this analysis are based on the import quantity and value for 2001.

TABLE 1.—YA VARIETY PEAR IMPORTS FROM CHINA

	Quantity (kilograms)	Value (millions of dollars)	Price (dollars per kilogram)
1998 .....	328,818	\$0.328	\$1.00
1999 .....	2,097,863	2.011	0.96
2000 .....	5,264,099	3.746	0.71
2001 .....	6,573,113	3.559	0.54

**Source:** World Trade Atlas, based on data from the U.S. Bureau of the Census. Harmonized Tariff Schedule code 080820.

We expect that removing the cold treatment requirement for Ya pears imported from Hebei Province will reduce shipping costs. The magnitude of the reduction will depend on transport costs with and without the cold treatment requirement. While refrigeration costs will still be borne by importers in the absence of the cold treatment requirement, the costs

required to maintain, monitor, and report cold treatment temperatures during transport will all be saved.

The cold treatment schedule for Ya pears from China, as specified in the Plant Protection and Quarantine Treatment Manual, is T107–F. The number of days required for cold treatment en route under the schedule—10 to 14 days, depending on the

treatment temperature—is less than the number of days it takes to ship Ya pears to the United States from China. No reduction in shipping time, and thus no associated cost savings, is expected to result from the removal of the cold treatment requirement.

A recent analysis of cold treatment requirements for the Mediterranean fruit fly at U.S. ports, used here as a proxy