

Proposed Rules

Federal Register

Vol. 76, No. 242

Friday, December 16, 2011

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 Part 319

[Docket No. APHIS–2011–0007]

RIN 0579–AD42

Importation of Chinese Sand Pears From China

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 of Chinese sand pears (*Pyrus pyrifolia*) from China into the United States. As a condition of entry, sand pears from areas in China in which the Oriental fruit fly (*Bactrocera dorsalis*) is not known to exist would have to be produced in accordance with a systems approach that would include requirements for registration of places of production and packinghouses, sourcing of pest-free propagative material, inspection for quarantine pests at set intervals by the national plant protection organization of China, bagging of fruit, safeguarding, labeling, and importation in commercial consignments. Sand pears from areas in China in which Oriental fruit fly is known to exist could be imported into the United States if, in addition to these requirements, the places of production and packinghouses have a monitoring system in place for Oriental fruit fly and the pears are treated with cold treatment. All sand pears from China would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that all conditions for the importation of the pears have been met and that the consignment of pears has been inspected and found free of quarantine pests. This action would allow for the importation of sand pears from China into the United States while

continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before February 14, 2012.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0007-0001>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0007, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0007> or

in our reading room, which 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 holiday. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Mrs. Donna L. West, Senior Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–0627.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–54, 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 regulations currently allow for the importation of both Ya pears (*Pyrus bretschneideri*) and fragrant pears (*Pyrus* sp. nr. *communis*) from China. The conditions for importation of Ya pears are found in § 319.56–29 of the regulations; those for fragrant pears are found in § 319.56–39 of the regulations.

The national plant protection organization (NPPO) of China has requested that the Animal and Plant Health Inspection Service (APHIS)

amend the regulations to also allow Chinese sand pears (*Pyrus pyrifolia*) from China to be imported into the United States.

As part of our evaluation of China’s request, we have prepared a pest risk assessment (PRA), titled “Importation of Fresh Fruit of Chinese Sand Pear, *Pyrus pyrifolia*, from China, including the Special Administrative Regions of Hong Kong and Macau, into the Entire United States, Including all Territories” (July 2009). The PRA evaluates the risks associated with the importation of Chinese sand pears into the United States from China. Copies of the PRA may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The PRA identifies 16 pests of quarantine significance present in China that could be introduced into the United States through the importation of Chinese sand pears:

- *Acrobasis pyrivorella*, pear fruit moth.
- *Alternaria gaisen* Nagano, black spot of Japanese pear.
- *Amphitetranynchus viennensis* (Zacher), Hawthorn spider mite.
- *Aphanostigma iaksuiense* (Kishida), an aphid.
- *Bactrocera dorsalis*, Oriental fruit fly.
- *Caleptrimerus neimongolensis* Kuang and Geng, a mite.
- *Carposina sasakii* Matsumora, peach fruit moth.
- *Ceroplastes japonicus* Green, Japanese wax scale.
- *Ceroplastes rubens* Maskell, red wax scale.
- *Conogothus punctiferalis* (Guenée), yellow peach moth.
- *Grapholita inopinata*, Manchurian fruit moth.
- *Guignardia pyricola* (Nose) W. Yamamoto, a phytopathogenic fungus.
- *Monilinia fructigena* Honey in Whetzel, brown fruit rot.
- *Phenacoccus pergandei* Cockerell, a mealybug.
- *Planococcus kraunhiae* (Kuwana), a mealybug.
- *Venturia nashicola* Tanaka & Yamamoto, pear scab fungus.

The PRA states that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by

these plant pests, and provides a number of potential options for such measures. After consideration of these options, we have prepared a risk management document (RMD) to recommend specific measures to mitigate these risks. Copies of the RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site.

Based on the recommendations of the RMD, we are proposing to allow the importation of Chinese sand pears from China into the United States only if they are produced in accordance with a systems approach; we are proposing to add the systems approach to the regulations in a new § 319.56–55 governing the importation of Chinese sand pears from China.

Most of the pests identified by the PRA as being likely to follow the pathway of Chinese sand pears from China were previously identified as likely to follow the pathway of Ya pears or fragrant pears from China. Moreover, since we authorized the importation of Ya pears and fragrant pears from China into the United States, none of the quarantine pests identified for those commodities has been detected during inspections of the pears at ports of first arrival in the United States. The absence of detections over a prolonged period of time—more than 5 years for both Ya pears and fragrant pears—demonstrates the efficacy of the mitigation measures in place for the importation of Ya pears and fragrant pears from China. Hence, many of the mitigation measures in the systems approach would be modeled on existing measures for the importation of Ya pears or fragrant pears from China.

There would, however, be one significant difference. Whereas we limit the origin of Ya pears and fragrant pears grown for export to the United States to areas within China in which Oriental fruit fly is not known to exist and could not survive (areas north of the 33rd parallel), we would authorize the importation into the United States of Chinese sand pears grown in any area of China, including areas south of the 33rd parallel.¹ Pears grown in areas south of the 33rd parallel would, however, be subject to additional mitigation measures necessary to address the risk posed by the Oriental fruit fly.

¹ See “Risk Management Document: Removal of fruit fly trappings and cold treatment requirement for importation of Ya Pear (*Pyrus x bretschneideri*) fruit from China into the United States (June 15, 2007),” pages 2–6. Available at <http://www.regulations.gov/#!documentDetail;D=APHIS-2007-0116-0002>.

Proposed Systems Approach

General Requirements

Paragraph (a) of § 319.56–55 would set out general requirements for the NPPO of China and for growers and packers producing sand pears for export to the United States.

Paragraph (a)(1) of § 319.56–55 would require the NPPO of China to provide an operational workplan to APHIS that details the activities that the NPPO will, subject to APHIS’ approval of the workplan, carry out to meet the requirements of proposed § 319.56–55. As described in a notice we published on May 10, 2006, in the **Federal Register** (71 FR 27221–27224, Docket No. APHIS–2005–0085), an operational workplan is an agreement between APHIS’ Plant Protection and Quarantine (PPQ) program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Operational workplans establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires an operational workplan to be developed.

Paragraph (a)(2) would require the pears to be grown in places of production that are registered with the NPPO of China.

Paragraph (a)(3) would require the pears to be packed for export to the United States in pest-exclusionary packinghouses that are registered with the NPPO of China.

Paragraph (a)(4) would state that sand pears from China may be imported in commercial consignments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestation because the commodity is often ripe to overripe and is often grown with little to no pest control. Commercial consignments, as defined within the regulations, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a

wholesaler or retailer. We currently require both Ya pears and fragrant pears from China to be imported in commercial consignments as a mitigation measure against the quarantine pests associated with these species of pear.

Place of Production Requirements

Our systems approach would require certain measures to take place at the registered places of production. Proposed paragraph (b) of § 319.56–55 would contain these measures.

Paragraph (b)(1) would require all propagative material entering a registered place of production to be tested and certified by the NPPO of China as being free of quarantine pests. Propagative material that is not tested and certified presents a risk of introducing quarantine pests into a place of production; since several of the quarantine pathogens have latency periods, this is true even if the material appears asymptomatic.

Paragraph (b)(2) would require the place of production to carry out any phytosanitary measures specified for the place of production under the operational workplan. Depending on the location, size, and plant pest history of the orchard, these measures may include surveying protocols, safeguarding of trees, or application of pesticides and fungicides.

Paragraph (b)(3) would state that, when any sand pears destined for export to the United States are still on the tree and are no more than 2.5 centimeters in diameter, double-layered paper bags must be placed wholly over the pears. The bags would have to remain intact and on the pears until the pears arrive at the packinghouse. This bagging protocol, which is modeled on a similar requirement for Ya pears from China, helps protect the pears against the quarantine moths and fungi.

Paragraph (b)(4) would require the NPPO of China to visit and inspect registered places of production prior to harvest for signs of infestations and would allow APHIS to monitor the inspections. The NPPO would also have to provide records of pest detections and pest detection practices to APHIS, and APHIS would have to approve these practices. This provision is modeled on an existing provision for the importation of fragrant pears from China, and serves a dual purpose: It not only provides for the NPPO of China to inspect the place of production for quarantine pests in a manner that APHIS believes to be sufficiently rigorous, but also affords the NPPO the opportunity to determine whether the orchard has continually maintained the phytosanitary measures

specified for it under the operational workplan.

Paragraph (b)(5) would state that, if any of the listed quarantine pests is detected at a registered place of production, APHIS could reject the consignment or prohibit the importation into the United States of sand pears from the place of production for the remainder of the season. The exportation to the United States of sand pears from the place of production could resume in the next growing season if an investigation is conducted and APHIS and the NPPO conclude that appropriate remedial action has been taken.

Packinghouse Requirements

Paragraph (c) of § 319.56–55 would set forth requirements for mitigation measures that would have to take place at registered packinghouses.

Paragraph (c)(1) would require that, during the time registered packinghouses are in use for packing sand pears for export to the United States, the packinghouses may only accept sand pears that are from registered places of production and that are produced in accordance with the requirements of proposed § 319.56–55. Pears from other places of production may be produced under conditions that are less stringent than those of this proposed rule, and may therefore be a pathway for the introduction of quarantine pests into the packinghouses.

Paragraph (c)(2) would require packinghouses to have a tracking system in place to readily identify all sand pears destined for export to the United States that enter the packinghouse back to their place of production. In the event that quarantine pests are discovered in any consignment, the packinghouse would have to use the tracking system to determine the place of production of the pears, and supply the NPPO of China or officials authorized by the NPPO with this information. The NPPO would then inspect the place of production in order to determine the scope of the outbreak and the remedial actions necessary to address it.

Paragraph (c)(3) would require the NPPO of China or officials authorized by the NPPO to inspect the pears at the packinghouses for signs of pest infestation and would allow APHIS to monitor the inspections. If any of the listed quarantine pests is detected in a consignment at the packinghouse, APHIS may reject the consignment.

Paragraph (c)(4) would state that, following the inspection, the packinghouse must follow a handling procedure for the pears that is mutually

agreed upon by APHIS and the NPPO of China. Handling procedures could include such measures as culling damaged pears, removing leaves off of the pears, wiping the pears with a clean cloth, air blasting, or grading.

Paragraph (c)(5) would require the sand pears to be packed in cartons that are labeled with the identity of the place of production and the packinghouse. In the event that quarantine pests are discovered in a consignment of pears after it is exported to the United States, this labeling will facilitate traceback and help the NPPO and APHIS delimit the scope of the outbreak.

Paragraph (c)(6) would require the cartons to be placed in insect-proof containers, and the containers to be sealed. It would also require the containers to be safeguarded during transport to the United States in a manner that will prevent pest infestation. These requirements preclude introduction of pests while the pears are in transit from the packinghouse to the port of export, and from the port of export to the United States.

Shipping Requirements

Proposed paragraph (d) of § 319.56–55 would set forth shipping requirements for sand pears from China. It would require sealed containers of sand pears destined for export to the United States to be held in a cold storage facility while awaiting export. This would help to prevent pest infestation of packed pears, as certain of the quarantine pests for Chinese sand pears from China are averse to cold conditions.

Phytosanitary Certificate

Paragraph (e) of § 319.56–55 would require each consignment of sand pears imported from China into the United States to be accompanied by a phytosanitary certificate issued by the NPPO of China with an additional declaration stating that the requirements of § 319.56–55 have been met and the consignment has been inspected and found free of quarantine pests.

Additional Conditions for Sand Pears From Areas of China South of the 33rd Parallel

The mitigation measures contained in proposed paragraphs (a) through (e) of § 319.56–55 would apply to all Chinese sand pears imported into the United States from China. However, since the Oriental fruit fly is known to exist, in varying population densities, in areas of China south of the 33rd parallel, Chinese sand pears from such areas would be subject to additional mitigation measures designed to prevent

infested pears from being exported to the United States. Proposed paragraph (f) of § 319.56–55 would contain these additional mitigations.

Paragraph (f)(1) would require the place of production of the pears and the packinghouse in which they are packed have a trapping system in place for the Oriental fruit fly. At a minimum, the trapping system would have to meet the following requirements:

- All traps would have to use an APHIS-approved lure.
- At least one trap per square kilometer would have to be placed in the place of production or packinghouse.
- Traps would have to be placed in the area with a 2-kilometer radius that surrounds the place of production or packinghouse at a rate of one trap per square kilometer.
- Traps would have to be serviced every 2 weeks.

Paragraph (f)(2) would require the place of production or the packinghouse to retain data regarding the number and location of the traps, as well as any pests other than Oriental fruit fly that have been caught, and make this information available to APHIS upon request.

Paragraph (f)(3) would require the place of production or the packinghouse to notify the NPPO of China, and the NPPO of China to notify APHIS, regarding the detection of a single Oriental fruit fly in a place of production, packinghouse, or surrounding area within 48 hours of the detection. If a single Oriental fruit fly is detected in a registered place of production, APHIS would prohibit the importation into the United States of sand pears from the place of production until any mitigation measures determined by APHIS to be necessary to prevent future infestations are taken. Likewise, if a single Oriental fruit fly is detected in a registered packinghouse, the packinghouse could not be used to pack sand pears for export to the United States until any mitigation measures determined by APHIS to be necessary to prevent future infestations are taken. Mitigation measures that we may require a place of production or packinghouse to take include increasing trap density or treating the entire place of production or packinghouse with an APHIS-approved insecticidal spray.

Paragraph (f)(4) would require the pears to be treated in accordance with 7 CFR part 305. Within part 305, § 305.2 provides that approved treatment schedules are set out in the PPQ Treatment Manual, found online at http://www.aphis.usda.gov/import_export/plants/manuals/ports/

downloads/treatment.pdf. (The manual specifies that cold treatment schedule T107 is effective in neutralizing Oriental fruit fly on sand pears.)

Executive Order 12866 and the Regulatory Flexibility Act

This proposed 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 regarding the economic effects of this proposed rule on small entities. The economic analysis examines pear production in the United States and the amount of Chinese sand pears likely to be imported from China into the United States if this proposed rule is finalized. It identifies U.S. pear producers as the small entities most likely to be impacted by the provisions of the proposed rule, and requests public comment regarding the cost of the rule to such entities.

Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Executive Order 12988

This proposed rule would allow Chinese sand pears to be imported into the United States from China. If this proposed rule is adopted, State and local laws and regulations regarding sand pears imported under this rule would be preempted while the fruit is in foreign commerce. Fresh sand pears 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.

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–2011–0007. Please send a copy of your comments to: (1) Docket No. APHIS–2011–0007, 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.

We are proposing to amend the fruits and vegetables regulations to allow the importation of sand pears from China into the United States. As a condition of entry, sand pears from China would have to be produced in accordance with a systems approach that would include requirements for registration and monitoring of places of production and packinghouses; sourcing of all propagative material that enters the place of production; orchard sanitation; inspection for quarantine pests at set intervals by the national plant protection organization of China; bagging of fruit; safeguarding; labeling; and importation of the sand pears in commercial consignments. Implementation of this proposed rule would require persons to fill out various forms and documents. These include: Phytosanitary certificates, workplans, registration and inspection forms, and labels.

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 0.62595 hours per response.

Respondents: The NPPO of China, importers of Chinese sand pears.

Estimated annual number of respondents: 28.

Estimated annual number of responses per respondent: 4.67857.

Estimated annual number of responses: 131.

Estimated total annual burden on respondents: 82 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) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues 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.

2. A new § 319.56–55 is added to read as follows:

§ 319.56–55 Chinese sand pears from China.

Fresh Chinese sand pears (*Pyrus pyrifolia*) from China may be imported into the United States from China only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Acrobasis pyrivorella*, pear fruit moth; *Alternaria gaisen* Nagano, black spot of Japanese pear; *Amphitetranychus viennensis* (Zacher), Hawthorn spider mite; *Aphanostigma iaksuiense* (Kishida), an

aphid; *Bactrocera dorsalis*, Oriental fruit fly; *Caleptrimerus neimongolensis* Kuang and Geng, a mite; *Carposina sasakii* Matsumora, peach fruit moth; *Ceroplastes japonicus* Green, Japanese wax scale; *Ceroplastes rubens* Maskell, red wax scale; *Conogothus punctiferalis* (Guenée), yellow peach moth; *Grapholita inopinata*, Manchurian fruit moth; *Guignardia pyricola* (Nose) W. Yamamoto, a phytopathogenic fungus; *Monilinia fructigena* Honey in Whetzel, brown fruit rot; *Phenacoccus pergandei* Cockerell, a mealybug; *Planococcus kraunhiae* (Kuwana), a mealybug; and *Venturia nashicola* Tanaka and Yamamoto, pear scab fungus. The conditions for importation of all fresh sand pears from China are found in paragraphs (a) through (e) of this section; additional conditions for sand pears imported from areas of China south of the 33rd parallel are found in paragraph (f) of this section.

(a) *General requirements.*

(1) The national plant protection organization (NPPO) of China must provide an operational workplan to APHIS that details the activities that the NPPO of China will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section.

(2) The pears must be grown at places of production that are registered with the NPPO of China.

(3) The pears must be packed for export to the United States in pest-exclusionary packinghouses that are registered with the NPPO of China.

(4) Sand pears from China may be imported in commercial consignments only.

(b) *Place of production requirements.*

(1) All propagative material entering a registered place of production must be tested and certified by the NPPO of China as being free of quarantine pests.

(2) The place of production must carry out any phytosanitary measures specified for the place of production under the operational workplan.

(3) When any sand pears destined for export to the United States are still on the tree and are no more than 2.5 centimeters in diameter, double-layered paper bags must be placed wholly over the pears. The bags must remain intact and on the pears until the pears arrive at the packinghouse.

(4) The NPPO of China must visit and inspect registered places of production prior to harvest for signs of infestations and allow APHIS to monitor the inspections. The NPPO must provide records of pest detections and pest detection practices to APHIS, and APHIS must approve these practices.

(5) If any of the quarantine pests listed in the introductory text of this section

is detected at a registered place of production, APHIS may reject the consignment or prohibit the importation into the United States of sand pears from the place of production for the remainder of the season. The exportation to the United States of sand pears from the place of production may resume in the next growing season if an investigation is conducted and APHIS and the NPPO conclude that appropriate remedial action has been taken.

(c) *Packinghouse requirements.*

(1) During the time registered packinghouses are in use for packing sand pears for export to the United States, the packinghouses may only accept sand pears that are from registered places of production and that are produced in accordance with the requirements of this section.

(2) Packinghouses must have a tracking system in place to readily identify all sand pears destined for export to the United States that enter the packinghouse back to their place of production.

(3) The NPPO of China or officials authorized by the NPPO must inspect the pears for signs of pest infestation and allow APHIS to monitor the inspections. If any of the quarantine pests listed in the introductory text of this section is detected in a consignment at the packinghouse, APHIS may reject the consignment.

(4) Following the inspection, the packinghouse must follow a handling procedure for the pears that is mutually agreed upon by APHIS and the NPPO of China.

(5) The pears must be packed in cartons that are labeled with the identity of the place of production and the packinghouse.

(6) The cartons must be placed in insect-proof containers, and the containers sealed. The containers of sand pears must be safeguarded during transport to the United States in a manner that will prevent pest infestation.

(d) *Shipping requirements.* Sealed containers of sand pears destined for export to the United States must be held in a cold storage facility while awaiting export.

(e) *Phytosanitary certificate.* Each consignment of sand pears imported from China into the United States must be accompanied by a phytosanitary certificate issued by the NPPO of China with an additional declaration stating that the requirements of this section have been met and the consignment has been inspected and found free of quarantine pests.

(f) *Additional conditions for Chinese sand pears from areas of China south of*

the 33rd parallel. In addition to the conditions in paragraphs (a) through (e) of this section, Chinese sand pears from areas of China south of the 33rd parallel must meet the following conditions for importation into the United States:

(1) The place of production of the pears and the packinghouse in which they are packed must have a trapping system in place for *B. dorsalis*. At a minimum, the trapping system must meet the following requirements:

(i) All traps must use an APHIS-approved lure.

(ii) At least one trap per square kilometer must be placed in the place of production or packinghouse.

(iii) Traps must be placed in the area with a 2-kilometer radius that surrounds the place of production or packinghouse at a rate of one trap per square kilometer.

(iv) Traps must be serviced every 2 weeks.

(2) The place of production or the packinghouse must retain data regarding the number and location of the traps, as well as any pests other than *B. dorsalis* that have been caught, and make this information available to APHIS upon request.

(3)(i) The place of production or packinghouse must notify the NPPO of China, and the NPPO of China must notify APHIS, regarding the detection of a single *B. dorsalis* in a place of production, packinghouse, or surrounding area within 48 hours of the detection.

(ii) If a single *B. dorsalis* is detected in a registered place of production, APHIS will prohibit the importation into the United States of sand pears from the place of production until any mitigation measures determined by APHIS to be necessary to prevent future infestations are taken.

(iii) If a single *B. dorsalis* is detected in a registered packinghouse, the packinghouse may not be used to pack sand pears for export to the United States until any mitigation measures determined by APHIS to be necessary to prevent future infestations are taken.

(4) The pears must be treated in accordance with 7 CFR part 305.

Done in Washington, DC, this 12th day of December 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011-32320 Filed 12-15-11; 8:45 am]

BILLING CODE 3410-34-P