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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 170

[Docket No. TM-04-09]

RIN 0581-AC39

#### USDA Farmers Market Operating Procedures

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is publishing procedures to administer the U.S. Department of Agriculture (USDA) Farmers Market at 12th Street & Independence Avenue, SW., Washington, DC. These procedures allow AMS the means to demonstrate and experiment with direct marketing techniques (operate a farmers market), while at the same time educating consumers on the significance of small farms, the nutritional benefits of fresh fruits and vegetables, and the merits of food recovery. This final rule includes guidelines for the establishment of vendor criteria, selection procedures, and guidelines for governing the operation of the USDA Farmers Market. Also established is a one-time yearly submission information collection in a required application form.

**DATES:** Effective December 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Errol R. Bragg, Associate Deputy Administrator, Marketing Services Branch, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), USDA, Room 2646-South, 1400 Independence Avenue, SW., Washington, DC, 20250; 202/720-8317, fax 202/690-0031; or e-mail at [USDAFMComments@usda.gov](mailto:USDAFMComments@usda.gov).

**SUPPLEMENTARY INFORMATION:** Prior published document in this proceeding: Proposed Rule and invitation for

comments on proposed USDA Farmers Market guidelines and information collection, Published February 17, 2005 [70 FR 8040].

#### Executive Order 12866

This 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.

#### Executive Order 13132

AMS has analyzed this rule under Executive Order 13132, Federalism, and have determined that it does not have Federalism implications to warrant the preparation of a Federalism assessment under that order.

#### Background

The Agricultural Marketing Act of 1946 authorizes this final rule. The Act directs and authorizes the Secretary of Agriculture to conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market packaging, handling, transporting, distributing, and marketing agricultural products. 7 U.S.C. 1622(a). Moreover, 7 U.S.C. 1622(f) directs and authorizes the Secretary to conduct and cooperate in consumer education for more effective utilization and greater consumption of agricultural products. In addition, 7 U.S.C. 1622(n) authorizes the Secretary to conduct services and to perform activities that will facilitate the marketing and utilization of agricultural products through commercial channels. Pursuant to 7 CFR 2.79, the Under Secretary for Marketing and Regulatory Programs has re-delegated these authorities to the Administrator of AMS.

On February 17, 2005, AMS published a proposed rule in the **Federal Register** [70 FR 8040] inviting comments on a proposal of guidelines to establish (a) Procedures to administer the USDA Farmers Market at 12th Street & Independence Avenue, SW., Washington, DC; (b) rules for the establishment of vendor criteria, selection procedures, and guidelines for governing the operation of the USDA Farmers Market; and (c) a one-time yearly submission information collection in the form of a required application form.

Interested parties were provided 60 days to comment on the proposed

guidelines that applied only to the USDA Farmers Market at headquarters on the corner of 12th Street and Independence Avenue, SW., Washington, DC.

#### Summary of Comments

Six (6) comments were received from the public; two by mail, the remaining by e-mail. Of the six comments received, three (3) were from students from Tufts University, one (1) was from an individual, and the remaining two (2) provided no comments on the proposed rule.

Three of the four significant comments were supportive of AMS's efforts and the proposed guidelines and procedures. The commenters also indicated that the information collection was necessary and ensured the Agency's performance of its responsibility to properly maintain a functioning market.

The comments received fall largely into a broad category that involves administrative and procedural issues. One issue addresses the USDA Farmers Market hours of operation, the second involves the data collection estimated time requirement, and the third addresses where products sold at the market come or are produced from.

#### USDA Farmers Market Hours of Operation

Two commenters thought that the hours of operation, 10 a.m.–2 p.m., were too short or inconvenient for those in the immediate vicinity of the market.

This rule applies only to the USDA Farmers Market at USDA headquarters just outside of the USDA complex buildings in Washington, DC. There are four USDA complex buildings: the USDA Whitten and South buildings, located on either side of the Independence Avenue, SW., between 14th and 12th Streets; the third, USDA Cotton Annex, located at the corner of 12th and C Streets; and the fourth, the USDA Forestry building, is located on the corner of 14th and Independence. The USDA Farmers Market, operating June-October annually, is located in a parking area at the corner of 12th Street and Independence Avenue, SW., Washington, DC.

There is a "mall" area on the other side of the USDA Whitten building, which is a large grassy area which extends between the Washington Monument and the U.S. Capital building. Buildings on the opposite side

of this mall area are Smithsonian museums.

The remaining closest buildings in the vicinity of the USDA Farmers Market and USDA complex are office buildings and museums: The Holocaust Museum, a Smithsonian museum, the Department of Energy, and two U.S. Treasury buildings.

The majority of shopping customers at the USDA Farmers Market are Federal employees working in this immediate vicinity and tourists visiting various museums in the area.

Beginning with the first market in 1996, the USDA Farmers Market operation hours of 10 a.m.–2 p.m. were mutually agreed upon by participating farmers and AMS. Federal employees generally ventured from work to the market just before, during, and after lunch hours from 11 a.m.–1:30 p.m. This shopping pattern remains unchanged.

Farmers participating in the market drive in from Virginia, Maryland, and Pennsylvania. Generally speaking, traffic into and out of Washington, DC is much lighter just after 9 a.m. and before 3 p.m. The one hour window, from 2–3 p.m. in the afternoon, allows participating farmers and other vendors an opportunity to break-down their tents, pack-up or glean any remaining food items, clean-up their assigned selling market spaces, and leave before traffic begins to increase.

With this information in mind, the 10 a.m.–2 p.m. hours of operation was and is the logical choice for farmers and visiting employee customers in the vicinity. AMS plans no changes to the market's hours of operation from 10 a.m.–2 p.m.

#### *Estimated Time Required for Data Collection*

One commenter was concerned that the new information collection, the required USDA Farmers Market Application form, would take longer than an average of 0.08 hours or 4.8 minutes to complete.

Specifically, the information requested on the application form includes contact information including the farmer and farm names, other farm employees, and the farm mailing address, phone, and e-mail. This information is critical for AMS to provide timely information to each farmer about the market's operating guidelines. Additionally, an unexpected condition such as weather related storms or other security issues could require AMS to close the market. Should this ever happen in the future, AMS will be able to contact each farmer prior to the date of the closure.

Although not required for participation, AMS also requests the number of farm acreage (numeric response), whether the farm is certified organic (yes/no response), and whether liability insurance coverage (name of company) is maintained on the product and farm (yes/no responses).

The farm acreage information is gathered to ensure that vendors can and are producing the products provided on the application. AMS also visits farm locations to verify compliance with market criteria and guidelines. Information regarding certified organic farms is gathered to assist market managers in determining a diverse mix of products offered. The insurance liability coverage information, which includes off-farm liability insurance and product liability insurance, is asked to protect USDA from lawsuits and customers from financial harm caused by accidents. This information is gathered only for AMS's records.

Lastly a list of over 45 fruits, vegetables, and other products has been provided on each form. Farmers are asked to provide the month the corresponding products will be available for sale at the market. This information provides AMS with information about the type, variety, and availability of products during the months of June–October.

AMS began the voluntary use of this form in 1998 and rarely does the information requested require farmers and vendors to look-up their responses. AMS plans to make no changes to the estimated time burden for participants to complete the application form. The questions are general in nature and each farmer should already know his or her responses.

#### *Products Sold at the USDA Farmers Market*

One commenter expressed concern regarding whether the products produced from China would make their way into this market.

AMS recruits farmers and vendors through local farm organizations in the Washington DC metropolitan area and State Departments of Agriculture in the mid-Atlantic region including, Virginia, West Virginia, Maryland, Delaware, and Pennsylvania. Upon receiving a list of potential farmers and vendors from the organizations and the State Departments of Agriculture, an information packet, which includes an application and this rule, is mailed to each potential participant identified by the contacts.

AMS utilizes selection criteria designed to ensure a consistently high level of quality and diverse products are available at the market, while operating

in the constraints of space available at the market site as defined in section 170.12. The criteria include:

(a) The participant must be a producer-only farmer or producer, seller of value-added products, or specialized non-produce vendor, as defined in section 170.4.

(b) AMS selects participants to ensure that a balanced mix of wide range of fresh farm fresh fruits and vegetables will be maintained throughout the season.

(c) Participants should commit to supporting the USDA food gleaning/food recovery initiative. This commitment requires farmers and vendors to donate surplus food and food products at the end of each market day to a local nonprofit organization identified by USDA.

(d) Participants must commit to the entire market season and be willing to participate on a regular basis.

(e) AMS reserves the right to select several farmers or vendors based on previous participation in the program (grandfather provision), consistency in providing quality products, and compliance with operating guidelines.

AMS also provides the USDA Farmers Market operating guidelines (section 170.13) to each participant, and visits farms/businesses as necessary.

Because AMS is involved in the farmer/vendor selection and visits these local farm operations, we do not agree that products brought to the market will be produced from China.

#### **Paperwork Reduction Act**

In accordance with Office of Management and Budget (OMB) regulations [5 CFR 1320], which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by this rule were submitted and approved by OMB under 0581–0229. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Form TM–28, USDA Farmers Market Application, was described in the proposed rule as requiring a one-time yearly submission of the information on the application with information on contacts, farm location, type of farming operation, types of products grown, and business practices, including insurance coverage. This signed application also provides a list of over 45 fruits, vegetables, and other products produced by farmers and the months the corresponding products, as requested

for AMS to know when products will be available for sale at the market.

As a result of the comments received, the USDA Farmers Market Application has been revised to clarify two existing requests for information.

First, the application will be revised to request the names of other farmers or employees that will be participating at the market with the farm contact person, instead of a list of other farmers and/or employees who work at the applicant farm. This information is required for USDA security personnel to assist in providing security about who will have access to the USDA property.

Second, the application will be revised to request the estimated months the corresponding products will be available for sale at the market. This information will provide AMS with an estimate not only as to when, but how long each of the products may be available for sale at the market.

These revisions and clarifications have no effect on the burden or description of the form. The information collection will be used only by AMS staff to (a) communicate efficiently and effectively with, and (b) provide operating guidelines and procedures to farmers and vendors participating in the USDA Farmers Market.

#### Government Paperwork Elimination Act Compliance

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their regulatory actions not specifically required by law on state, local and tribal governments. This rule contains no Federal mandates that would result in the expenditure of \$100 million or more for these groups or for the private section. Therefore, no written statement or cost-benefit analysis is required under this act.

#### Regulatory Flexibility Act

AMS reviewed the proposed rule under the Regulatory Flexibility Act, 5 U.S.C. 601–612, and determined that it will not have a significant economic impact on a substantial number of small entities. This program does not impose requirements on small entities that are not eligible to participate in the program, and imposes on small entities

applying for and participating in the program only minimum requirements necessary for proper administration and oversight of this program. Therefore, a regulatory flexibility analysis is not required and was not performed.

#### List of Subjects in 7 CFR Part 170

Agricultural commodities, Farmers.

■ For the reasons set forth in the preamble, Title 7, chapter 1 of the Code of Federal Regulations is amended as follows:

■ 1. Add a new subchapter G, consisting of part 170 to read as follows:

#### Subchapter G—Miscellaneous Marketing Practices Under the Agricultural Marketing Act of 1946

#### PART 170—USDA FARMERS MARKET

Sec.

- 170.1 To which farmers market does this rule apply?
- 170.2 Is the USDA Farmers Market a producer-only market?
- 170.3 What products may be sold at the USDA Farmers Market?
- 170.4 Who may participate in the USDA Farmers Market?
- 170.5 Is there a fee to participate in the USDA Farmers Market?
- 170.6 How are potential market participants identified for the USDA Farmers Market?
- 170.7 Can I apply if I am not recruited?
- 170.8 What are the application procedures?
- 170.9 What type of information does the application require?
- 170.10 Must a participant in the market have insurance?
- 170.11 How are farmers and vendors selected for participation in the USDA Farmers Market?
- 170.12 What are the selection criteria for participation in the USDA Farmers Market?
- 170.13 What are the operating guidelines for the USDA Farmers Market?
- 170.14 What circumstances will prevent participation in the USDA Farmers Market?

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1621–1627.

#### § 170.1 To which farmers markets does this rule apply?

This rule applies only to the USDA Farmers Market at headquarters on the corner of 12th Street & Independence Avenue, SW., Washington, DC.

#### § 170.2 Is the USDA Farmers Market a producer-only market?

Yes. A producer-only market is one that does not offer agricultural products that are commercially made, created, or produced, and only allows agricultural products that are grown by a principal farmer. A producer-only market offers raw agricultural products such as fruits, vegetables, flowers, bedding plants, and potted plants. The USDA Farmers

Market is a producer-only market since only farmers who may sell products that they grow or produce will be selected for participation. It also allows the sale of value-added products and other specialized non-produce items.

#### § 170.3 What products may be sold at the USDA Farmers Market?

Products that may be sold at the market include, but are not limited to, fresh, high-quality fruits, vegetables, herbs, honey, jams and jellies, cheese, vinegars, cider, maple syrup, fish, flowers, bedding plants, and potted plants. USDA inspected meats and poultry items also may be sold.

#### § 170.4 Who may participate in the USDA Farmers Market?

Members of three groups may participate in the USDA Farmers Markets:

(a) *Principal farmers or producers who sell their own agricultural products.* The principal farmer must be in full control and supervision of the individual steps of production of crops including tilling, planting, cultivating, fertilizer and pesticide applications (if applicable), harvesting and post-harvest handling on its own farm with its own machinery and labor.

(b) *Principal farmer or producers who sell their own value-added agricultural products.* Value-added products may include agricultural products that have been enhanced through a modification of the product, such as braiding, weaving, hulling, extracting, handcrafting, and the like. It also may result from growing the product in a way that is acknowledged as safer. Farmers and vendors selling these types of products must prepare them predominately with material they have grown or gathered.

(c) *Nonproduce vendors.* A limited number of non-produce vendors may be selected by market management to sell specialized products that enhance the market atmosphere and historically attract customers to a farmers market. These specialized vendors, such as bakers, may be exempted from the reselling restrictions that apply to the farmers and vendors described in paragraphs (a) and (b) of this section.

#### § 170.5 Is there a fee to participate in the USDA Farmers Market?

No, there are no fees charged to participate in the market.

#### § 170.6 How are potential market participants identified for the USDA Farmers Market?

Potential market participants are recruited by AMS market management through local farm organizations in the

Washington DC metropolitan area State Departments of Agriculture from the mid-Atlantic region including, Virginia, West Virginia, Maryland, Delaware, and Pennsylvania. Upon receiving a list of potential farmers and vendors from the organizations and the State Departments of Agriculture, an information packet, which includes an application and this rule, will be mailed to each potential participant identified by the contacts.

**§ 170.7 Can I apply if I am not recruited?**

Yes. Interested persons may call or write USDA to request an information packet even if they are not recruited. Those interested may write USDA/AMS/TM/MSB, Room 2646—South Building, 1400 Independence Avenue, SW., Washington, DC, 20250, or call (202) 720-8317. They may also call the USDA Farmers Market Hotline at 1-800-384-8704 to leave a message to have a packet mailed or faxed. They may also visit the web site at <http://www.ams.usda.gov/farmersmarkets/> to review the selection criteria, the operating rules, and to receive an application electronically.

**§ 170.8 What are the application procedures?**

In January of each year, prospective and returning participants must submit to USDA a completed application for participation in the upcoming market season. Each application will include a copy of this rule, which includes the selection criteria and operating guidelines. Each applicant also will certify that each is the owner or representative of the farm or business submitting the application.

**§ 170.9 What type of information does the application require?**

The application for participation in the USDA Farmers Market will provide market management with information on contacts, farm location, type of farming operation, types of products grown, and business practices, including insurance coverage.

**§ 170.10 Must a participant in the market have insurance?**

There is no requirement for a participant to have insurance; however, USDA asks that participants with insurance provide insurance information for our records.

**§ 170.11 How are farmers and vendors selected for participation in the USDA Farmers Market?**

USDA reviews all applications and selects participants based primarily on the type of farmer or vendor (i.e., fruit, vegetable, herb, baker) and secondly, on the specific types of products to be sold.

The selection of the participants is conducted by the market management to ensure a balanced product mix of fruits, vegetables, herbs, value-added products, and baked goods.

**§ 170.12 What are the selection criteria for participation in the USDA Farmers Market?**

The selection criteria are designed to ensure a consistently high level of quality and diverse products are available at the market, while operating in the constraints of space available at the market site. The criteria are:

(a) *Member of one of the three participant groups specified in § 170.4 of this part.* The participant must be a producer-only farmer or producer, seller of value-added products, or specialized non-produce vendor.

(b) *Participant offers a product that adds to a product mix.* Market management will ensure that a balanced mix of fresh fruits and vegetables will be maintained throughout the season. Final selection of fruit and vegetable producers will be made based on their ability to ensure a wide range of fresh farm products throughout the season.

(c) *Willingness to Glean.* Participants should commit to supporting the USDA food gleaning/food recovery initiative. This commitment requires farmers and vendors to donate surplus food and food products at the end of each market day to a local nonprofit organization identified by USDA. Questions about tax deductions for gleaning should be referred to the Internal Revenue Service or a tax advisor. Receipts for donated foods may be obtained from the receiving nonprofit organization.

(d) *Commitment to market.* Participants must commit to the entire market season and be willing to participate on a regular basis.

(e) *Grandfather provision.* Market management reserves the right to select several farmers or vendors based on previous participation in the program, consistency in providing quality products, and compliance with operating guidelines.

**§ 170.13 What are the operating guidelines for the USDA Farmers Market?**

(a) *Market Operation.* The Market will be held in parking court #9 of the USDA Headquarters Complex located on the corner of 12th Street and Independence Avenue, SW., Washington, DC. Selling will not begin before 10 a.m. and will end promptly at 2 p.m. each market day. All participants must be in place, setup and ready to sell by 10 a.m. Due to space restrictions at the site, late arrivals will be located at market management's discretion. All vehicles must vacate the market site no later than 3 p.m.

(b) *Notification of Attendance.* Each participant must call USDA within 48 hours of a market day if they cannot attend. Failure to provide proper and timely notification may result in termination of participation in the market.

(c) *Participant Space.* One vehicle is permitted per space; all other vehicles must be removed from the immediate market premises. One space is 16w x 17d feet, and all trucks must fit within that area. There is only room for 15 spaces.

(d) *Signage.* Participants must clearly display the name of their farm/business and post prices for all items being sold.

(e) *Clean-up.* Participants are responsible for cleaning all trash and waste within and around their allotted space. Garbage bins are provided on the market site for this purpose.

(f) *Cooperative Marketing.* Participants are permitted to share space with another participant or sell another's products if the arrangement is deemed by market management as beneficial to the market. A co-op must be pre-approved by market management and will not be accepted if similar products are already sold by existing farmers or vendors.

(g) *Farm/Business Visits.* Market management may visit farm/business locations to verify compliance with market criteria and guidelines. Participants should submit a map and directions to their farm/businesses with their market applications.

(h) *Conduct on Federal Property:* Participants must comply with Subpart 20.3 of the Federal Property Management Regulations, "Conduct on Federal Property," 41 CFR 20.3.

**§ 170.14 What circumstances will prevent participation in the USDA Farmers Market?**

(a) Efforts will be made to accommodate all who apply to participate in the market. However, market management may deny participation in the market because of insufficient space or excess supply of the products to sell, failure to meet the stated criteria, or the participant's noncompliance with the operating guidelines or regulations.

(b) Participants who sell before the 10 a.m. opening time will be restricted from participating in the market following their second violation. A written warning will be given to the participant for the first violation of this guideline. After the second violation occurs, a letter of reprimand will be given to the participant restricting their participation for the next immediate market day.

(c) Participants who arrive after the 10 a.m. opening time may be restricted from participating in the market following their second violation. A written warning may be given to the participant for the first violation of this guideline. After the second violation occurs, a letter of reprimand may be given to the participant restricting their participation for the next immediate market day.

Dated: December 19, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-24427 Filed 12-22-05; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 02-049-2]

#### Importation of Fragrant Pears From China

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetables regulations to allow the importation of fragrant pears from China under certain conditions. As a condition of entry, fragrant pears from China must be grown in the Korla region of Xinjiang Province in a production site that is registered with the national plant protection organization of China. The fragrant pears will be subject to inspection. In addition, the pears must be packed in cartons that are labeled in accordance with the regulations, shipped in insect-proof containers, and safeguarded from pest infestation during transport to the United States. This action will allow fragrant pears to be imported from China while continuing to provide protection against the introduction of plant pests into the United States.

**DATES:** *Effective Date:* January 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1231; (301) 734-8758.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 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 dissemination of plant pests that are new to or not widely distributed within the United States.

The regulations have not previously included provisions authorizing the importation of fragrant pears from China. However, the national plant protection organization of China requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fragrant pears from the Korla region of Xinjiang Province in China to be imported into the United States.

Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed. The Secretary has determined that it is not necessary to prohibit the importation of fragrant pears from the Korla region of Xinjiang Province in China in order to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.<sup>1</sup>

Accordingly, on May 23, 2003, we published in the **Federal Register** (68 FR 28161-28166, Docket No. 02-049-1) a proposal to amend the fruits and vegetables regulations to allow the importation of fragrant pears from China under certain conditions. Among other things, we proposed that the fragrant pears be packed in insect-proof containers that are labeled in accordance with § 319.56-2(g). However, upon further consideration, we are amending the packing and shipping requirements in this final rule to make clear that the fragrant pears must be packed in cartons that are labeled in accordance with § 319.56-2(g), shipped in insect-proof containers, and safeguarded during transport to the United States in a manner that will prevent pest infestation. These changes will clarify the packing and shipping requirements and be more consistent with current packing and shipping practices for pears.

<sup>1</sup> This determination is based on the finding that the application of the remedial measures contained in this rule will provide the protection necessary to prevent the introduction and dissemination of plant pests into the United States. The factors considered in arriving at this determination include the conclusions of a pest risk assessment, program analysis, and site visits.

We solicited comments concerning our proposal for 60 days ending on July 22, 2003. We received seven comments by that date. They were from private citizens, a professional organization, and representatives of State and foreign governments. The comments are discussed by subject below.

#### General

One commenter requested that we provide the scientific name for fragrant pear. In the January 1997 pest risk assessment, we indicated that the scientific name for fragrant pear from China was *Pyrus ussuriensis* Maxim. However, in 2005, the national plant protection organization of China informed APHIS that the scientific name for fragrant pear is *Pyrus* sp. nr. *communis*. Accordingly, we will use *Pyrus* sp. nr. *communis*, rather than *Pyrus ussuriensis* Maxim, as the scientific name for fragrant pear.

Another commenter requested that APHIS identify the specific government organization that serves as the "national plant protection organization for China." Currently, the national plant protection organization for China is known as the Administration for Quality Supervision, Inspection and Quarantine (AQSIQ). We used the generic term "national plant protection organization of China" in the proposed rule and continue to do so in this final rule because the name of the national plant protection organization of China has changed several times in recent years. Our use of this more generic term is consistent with international standards.

One commenter recommended that APHIS fully disclose all information collected and used in generating the proposed rule. This commenter also recommended that APHIS delay action on the proposed rule until it has developed and circulated for peer review the following documents: A detailed plan documenting the incidence of specific quarantine pests in the Korla region, survey information for those pests for which free area status is proposed, in-orchard monitoring plans for those pests known to occur in the region, and greater detail of the post-harvest inspection protocols which will be implemented.

We do not believe it is necessary to delay action on the proposed rule pending development and peer review of the documents listed by the commenter. The Secretary has determined that it is not necessary to prohibit the importation from the Korla region of Xinjiang Province in China in order to prevent the introduction into the United States or the dissemination