



Billing Code: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2015-0073]

RIN 0579-AE18

Importation of Fresh Apple and Pear Fruit into the Continental United States from Certain Countries in the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow the importation of fresh apple and pear fruit from certain countries in the European Union into the continental United States, provided that the fruit is produced in accordance with a systems approach, as an alternative to importation under the current preclearance program. The proposed systems approach for fresh apple and pear fruit consists of production site and packinghouse registration, inspection of registered production sites twice a season, production site pest control and sanitation, post-harvest safeguards, fruit culling, traceback, sampling, cold treatment against Mediterranean fruit fly in countries where the pest is known to occur, a phytosanitary certificate, port of entry inspection, and importation as commercial consignments only. Fresh apple and pear fruit that does not meet the requirements in the systems approach would continue to be allowed to be imported into the United States subject to the conditions of the preclearance program. This action would provide an alternative for the importation of fresh apple and pear fruit from certain

countries in the European Union while continuing to provide protection against the introduction of plant pests into the continental United States.

DATES: We will consider all comments that we receive on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0073>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2015-0073, 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-2015-0073> 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 holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Senior Regulatory Policy Specialist, USDA/APHIS/PPQ, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2103; [David.B.Lamb@aphis.usda.gov](mailto:David.B.Lamb@aphis.usda.gov).

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-74, referred to below as the regulations or the fruits and vegetables regulations), the

Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Currently, § 319.56-22 provides conditions for importation of fresh apple fruit (Malus domestica Borkh.) from Belgium, Denmark, France, Germany, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, and Switzerland, and fresh pear fruit (Pyrus communis L.) from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain, into the United States under a preclearance program. Conditions for importation of fresh apple and pear fruit from the above countries include a trust fund agreement between the national plant protection organization (NPPO) of the exporting country and APHIS; orchard and packinghouse inspections for Leucoptera malifoliella and other quarantine plant pests; approved mitigations for infested orchards; cold treatment of fruit against Mediterranean fruit fly (Ceratitis capitata, or Medfly) in countries where the pest is known to occur; identification of orchards and packinghouses for traceback of each consignment; packinghouse handling and safeguarding requirements for fruit intended for shipment to the United States; and preclearance inspection.

As an alternative to the preclearance program, the European Commission, the executive body of the European Union (EU), has requested that APHIS amend the regulations to allow the importation into the continental United States from certain EU countries of fresh apple and pear fruit that has been produced in accordance with an approved systems approach. Any alternative approach to the preclearance program for importing these articles requires that the current regulations be amended.

As part of our evaluation of the EU's request, we prepared a pest list<sup>1</sup> of quarantine pests that could follow the pathway of commercial shipments of fresh apple and pear fruit into the continental United States from the EU member countries included in the request. A quarantine pest is defined in § 319.56-2 as “a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.” The pest list reported 32 quarantine pests (26 arthropods, 1 bacterium, 4 fungi and 1 viroid) that may follow the pathway of commercial shipments of apples and pears into the continental United States. They are:

Arthropods:

Adoxophyes orana (Fischer von Roeslerstamm) (Lepidoptera: Tortricidae)  
Aphanostigma piri (Cholodkovsky) (Hemiptera: Phylloxeridae)  
Archips podana (Scopoli) (Lepidoptera: Tortricidae)  
Argyrotaenia pulchellana (Haworth) (Lepidoptera: Tortricidae)  
Ceratitis capitata (Wiedemann) (Diptera: Tephritidae)  
Ceroplastes japonicus Green (Hemiptera: Coccidae)  
Choristoneura hebenstreitella (Muller) (Lepidoptera: Tortricidae)  
Cryptoblabes gnidiella (Milliere) (Lepidoptera: Pyralidae)  
Cydia pyrivora (Danilevsky) (Lepidoptera: Tortricidae)  
Diloba caeruleocephala (L.) (Lepidoptera: Noctuidae)  
Eutetranychus orientalis (Klein) (Acari: Tetranychidae)  
Euzophera bigella (Zeller) (Lepidoptera: Pyralidae)  
Grapholita funebrana Treitschke (Lepidoptera: Tortricidae)  
Grapholita lobarzewskii (Nowicki) (Lepidoptera: Tortricidae)  
Hedya pruniana (Hubner) (Lepidoptera: Tortricidae)  
Lacanobia oleracea L. (Lepidoptera: Noctuidae)  
Leucoptera malifoliella (Costa) (Lepidoptera: Lyonetiidae)  
Lobesia botrana Dennis & Schiffermuller (Lepidoptera: Tortricidae)  
Mamestra brassicae L. (Lepidoptera: Noctuidae)  
Pammene rhediella (Clerck) (Lepidoptera: Tortricidae)  
Pandemis cerasana (Hubner) (Lepidoptera: Tortricidae)  
Pandemis heparana (Denis & Schiffermuller) (Lepidoptera: Tortricidae)  
Rhynchites aequatus (L.) (Coleoptera: Curculionidae)

<sup>1</sup> “Pest List for Importation of Fresh Fruit of Apple, Malus domestica, and Pear, Pyrus communis, into the Continental United States from eight countries in the European Union (Belgium, Germany, France, Italy, Poland, Portugal, Spain, the Netherlands)” (USDA, 2014).

Rhynchites auratus (Scopoli) (Coleoptera: Curculionidae)  
Rhynchites bacchus (L.) (Coleoptera: Curculionidae)  
Syndemis musculana (Hubner) (Lepidoptera: Tortricidae)

Bacteria:

Erwinia pyrifoliae Kim et al.

Fungi:

Alternaria gaisen Nagano (Ascomycetes: Pleosporales)  
Ascochyta pyricola Sacc. (Ascomycetes: Pleosporales)  
Monilinia fructigena Honey ex Whetzel (Ascomycetes: Helotiales)  
Monilinia polystroma (G.C.M. Leeuwen) Kohn (Ascomycetes: Helotiales)

Viroid:

Pear blister canker viroid (PBCVd)<sup>2</sup>

We prepared a risk management document (RMD) to determine what phytosanitary measures should be applied to mitigate the pest risk associated with the importation of fresh apple and pear fruit from certain EU member countries into the continental United States.

Copies of the pest list and RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for a link to Regulations.gov and information on the location and hours of the reading room).

In the RMD, entitled, “Importation of Fresh Fruit of Apple, Malus domestica, and Pear, Pyrus communis, into the Continental United States from eight countries in the European Union (Belgium, Germany, France, Italy, Poland, Portugal, Spain, the Netherlands),” (July 2015), we

<sup>2</sup> Apples and pears infected with the plant pathogenic pear blister canker viroid (PBCVd) are not a pathway. The pathogen is not insect or seed transmitted, and cannot be transmitted from the vascular tissue of fruit (Hadidi et al., 2011). This systemic pathogen could be present in the fruit, but it will not establish in the United States because the pathogen is neither seed transmitted nor insect vectored (Flores et al., 2003). Since there is no evidence that apples or pears are pathways for PBCVd (USDA, 2014) we would not require any mitigation measures for the disease.

determined that phytosanitary measures could be applied as a systems approach to mitigate the risks of introducing or disseminating the quarantine pests in the pest list into the continental United States. Therefore, we are proposing to allow the importation of fresh apple and pear fruit from the EU countries of Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands into the continental United States if the fruit is produced under the systems approach described below. Fresh apple and pear fruit that does not meet the conditions of the systems approach would still be allowed to be imported into the continental United States if it is produced in accordance with the requirements of § 319.56-22. Fruit imported under § 319.56-22 would still be required to be in commercial consignments and accompanied by documentation to validate foreign site preclearance inspection after the required treatment is completed.

We have determined that the specific mitigation measures proposed for the quarantine pests identified in the pest list, along with the general requirements for the importation of fruits and vegetables in the regulations, will be sufficient to prevent the introduction of quarantine pests into the continental United States via importation of fresh apple and pear fruit from the EU countries listed above. Therefore, we are proposing to add the systems approach to the regulations in a new § 319.56-75.

#### General Requirements

Paragraph (a) of proposed § 319.56-75 would set out general requirements for the NPPO of the exporting country and for growers and packers producing fresh apple and pear fruit for export to the continental United States.

Paragraph (a)(1) of proposed § 319.56-75 would require the NPPO of the exporting country to develop an operational workplan, subject to APHIS approval, that details the activities that the NPPO would carry out to meet the requirements of proposed § 319.56-75. An

operational workplan is an agreement developed between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities, that specifies in detail the phytosanitary measures that will be carried out to comply with our regulations governing the importation of a specific commodity. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Operational 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. The operational workplan may include, but is not limited to, details of the orchard monitoring, pest action thresholds, orchard phytosanitary measures including removing fallen fruit, packinghouse inspection procedures, and traceback requirements.

Paragraph (a)(2) of proposed § 319.56-75 would state that only commercial consignments of fresh apple and pear fruit from certain EU countries would be allowed to be imported into the continental United States. Commercial consignments, as defined in § 319.56-2, 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. Commercial consignments are less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, may be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

## Production Site Requirements

Under proposed § 319.56-75(b)(1), production sites where fresh apple or pear fruit is grown would be required to be registered with the NPPO of the exporting country. Such registration would facilitate traceback of a consignment of fresh apple or pear fruit to the production site in the event that quarantine pests were discovered in the consignment at the port of first arrival into the continental United States. APHIS would reserve the right to conduct oversight visits at the production site in the event of pest interceptions or other problems.

Under proposed paragraph (b)(2), the registered grower of the production site would be responsible for following the phytosanitary measures agreed upon by APHIS and the NPPO of the exporting country, including removal of fallen fruit and other control measures that are authorized for use in the EU and the United States to reduce pest populations. The NPPO of the exporting country or officials authorized by the NPPO would be responsible for monitoring pest populations at production sites in order to determine the need and timing of such control measures and ensure effective control of pests. The NPPO would also be required to ensure that registered production sites are inspected twice every season, with special emphasis on quarantine pests listed in the operational workplan.

Details of production site traceback and pest monitoring requirements, pest action thresholds, field sanitation, and other phytosanitary measures would be included in the operational workplan approved by the NPPO of the exporting country and APHIS.

Paragraph 319.56-75(b)(3) would require that apple and pear propagative material introduced into registered production sites be certified free of quarantine pests by the NPPO of the exporting country.

## Packinghouse Requirements

Paragraph (c) of proposed § 319.56-75 would set forth requirements for pest mitigation, fruit sampling, inspection, and other measures that would have to take place at registered packinghouses under the operational workplan.

Under proposed § 319.75(c)(1), all fresh apple and pear fruit for export to the United States would be required to be packed in packinghouses that are registered and approved by the NPPO of the exporting country. Packinghouses would have to be able to exclude plant pests and have a tracking system to identify individual production sites. Requirements for packinghouse specifications and procedures would be detailed in the operational workplan.

Under proposed § 319.75(c)(2), packinghouses would not be permitted to pack apple or pear fruit for other countries while packing for the continental United States. All leaves would have to be removed from fruit to remove the leaf mining pest Leucoptera malifoliella. Packinghouse culling and inspection procedures would have to be followed to remove fruit with pupae of Leucoptera malifoliella. These procedures would be detailed in the operational workplan.

Under paragraph (c)(3), all packed fruit intended for shipment to the United States would need to be safeguarded from infestation by fruit flies and other pests at the packinghouse and during transport to the continental United States. Safeguarding measures for packinghouses and packed fruit, which would be detailed in the operational workplan, include protecting fruit by a pest-proof screen or plastic tarpaulin while the fruit is in transit to the packinghouse and while awaiting packing. Other safeguarding measures include the use of packinghouse screens and double doors that are sufficient to prevent pests from entering the packing area and requiring

fruit to be packed in insect-proof cartons or containers, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the United States.

Under proposed paragraph (c)(4), apple and pear fruit would have to be held in a cold storage facility while awaiting export. If any other fruit from unregistered production sites are stored in the same facility, the apple and pear fruit must be isolated from that other fruit.

Under proposed § 319.75(c)(5), each shipping box would need to be marked with the identity of the packing facility, the production site, and grower or grower organization to enable trace back as necessary.

#### Mitigations for Medfly

Under proposed § 319.56-75(d), apple and pear fruit being exported from countries where APHIS has determined that Medfly is known to occur would be required to undergo cold treatment in accordance with the phytosanitary treatments regulations in 7 CFR part 305. Currently, treatment schedule T 107-a<sup>3</sup> is approved for apples and pears from countries where Medfly is known to occur. Details of required cold treatment procedures would be included in the operational workplan.

#### Phytosanitary Inspection

Paragraph § 319.56-75(e) would require that, after post-harvest processing, the NPPO of the exporting country or officials authorized by the NPPO of the exporting country inspect the apple and pear fruit for signs of pest infestation and confirm absence of the pests listed in the operational workplan. Upon detection of Adoxophyes orana, Alternaria gaisen, Argyrotaenia pulchellana, Ascochyta piricola, Ceratitis capitata, Grapholita (Cydia) funebrana, Leucoptera malifoliella, Monilinia fructigena and/or Monilinia polystroma in a consignment for export, the

<sup>3</sup> USDA/PPQ Treatment Manual, section 5, Treatment Schedules.  
[https://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf).

NPPO of the exporting country would be required to reject that consignment and may, under conditions specified in the operational workplan, be required to suspend the production site and/or packinghouse from importation to the continental United States for the remainder of that season. If any of these pests are found in a consignment at U.S. ports of entry, APHIS may, under conditions specified in the operational workplan, reject the consignment and suspend imports from the production site and/or packinghouse until an investigation is completed by the NPPO of the exporting country and APHIS. The investigation may include site visits by APHIS and reports from the NPPO of the exporting country. Procedures for suspension of production sites and/or packinghouses would be detailed in the operational workplan. The exportation to the continental United States of fresh apple and pear fruit from a suspended production site and/or packinghouse may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of the exporting country agree that appropriate remedial actions have been taken.

#### Phytosanitary Certificate

Paragraph § 319.56-75 (f) would require that each consignment of fresh apple or pear fruit be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country. Requiring a phytosanitary certificate ensures that the NPPO of the exporting country has inspected the fruit and certified that the fruit meets the conditions under the systems approach for export to the continental United States.

APHIS has determined that the above risk management measures under the proposed systems approach will mitigate the risk of pest introductions on fresh apple and pear fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands into the continental United States.

## Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The 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, which is summarized below, regarding the economic effects of this proposed rule on small 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).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This proposed rule would allow the importation of fresh apples (Malus domestica) and fresh pears (Pyrus communis) from eight European Union (EU) countries (Belgium, France, Germany, Italy, the Netherlands, Poland, Portugal, and Spain, referred to here as the EU-8) into the continental United States, if they are produced in accordance with an approved systems approach. At present, importation of fresh pear from Germany and fresh apple and fresh pear from Poland is not allowed. For the other EU-8 countries, this action would provide an alternative to current preclearance import requirements.

The United States and the EU both have large apple and pear industries. U.S. demand for EU-8 apples and pears imported under the proposed rule would depend on relative prices and on market characteristics as determined by domestic and foreign supplies and consumer preferences. The competitiveness of EU-8 apples and pears would largely rest on their prices, the varieties shipped, and their quality.

The EU estimates that annual apple and pear exports by the EU-8 to the United States would total 14,000 MT under the proposed rule. EU-8 apple and pear exports in recent years to countries outside of the EU show the quantity of apples to have been four times that of pears. For our analysis, we apportion the 14,000 MT similarly, that is, 80 percent apple (11,200 MT) and 20 percent pear (2,800 MT).

Apple and pear imports from the EU-8 would directly compete with U.S. produced fruit since the growing seasons are the same. Most apple and pear imports by the United States come from southern hemisphere countries (89 percent of apple imports, 78 percent of pear imports) and, notwithstanding year-round storage capabilities, we expect any displacement of apple and pear imports from current sources by EU-8 shipments would be limited due to different growing seasons. For this analysis, we therefore assume that not more than 10 percent of U.S. apple and pear imports from the EU-8 countries would displace imports from elsewhere.

We use a non-spatial, net trade, partial equilibrium approach to welfare analysis to compute expected impacts of the proposed rule on U.S. producers and consumers. We model changes in U.S. consumption, production, price, consumer welfare, and producer welfare for three import levels (the expected quantity, and this quantity plus or minus 10 percent). In all cases, consumer welfare gains under the proposed rule outweigh producer welfare losses,

yielding a positive net welfare impact. The expected net benefit for the two fruits exceeds \$1.3 million per year.

For apples, producer welfare losses under the three import levels range between \$9.2 million and \$11.2 million, the equivalent of about 0.3 percent of the annual value of fresh apple production. Consumer welfare gains range between \$10.0 million and \$12.2 million, yielding net welfare gains of between \$800,000 and \$1 million. Apple prices are calculated to decline by about 0.5 percent when 11,200 MT of fresh apples are imported annually from the EU-8. This quantity is equivalent to about 0.5 percent of annual fresh apple consumption in the United States.

For pears, producer welfare losses under the three import levels range between \$1.9 million and \$2.3 million, coincidentally also equivalent to about 0.3 percent of the annual value of fresh pear production. Consumer welfare gains range between \$2.3 million and \$2.8 million, and net welfare gains are less than \$500,000. Pear prices are calculated to decline by about 0.4 percent when 2,800 MT of fresh pears are imported annually from the EU-8. This quantity is equivalent to about 0.7 percent of annual fresh pear consumption in the United States. Small-entity apple and pear producers may be directly affected by the proposed rule. Other small entities that may be affected include those in auxiliary industries that support the production and distribution of fresh apples and pears in the United States, as well as importers of fresh apples and pears.

#### Executive Order 12988

This proposed rule would allow fresh apple and pear fruit to be imported into the continental United States from certain EU countries under a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh apple and pear fruit imported

under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits 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-2015-0073. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, 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.

The regulations in “Subpart – Fruits and Vegetables” (Title 7, Code of Federal Regulations (CFR) 319.56 through 319.56-74, referred to 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 with the United States.

APHIS is proposing to amend the regulations to allow the importation of fresh apple and pear fruit from certain countries in the European Union into the continental United States, provided that the fruit is produced in accordance with a systems approach, as an alternative to importation under the current preclearance program. The proposed systems approach for fresh apple and pear fruit consists of production site and packinghouse registration, inspection of registered production sites twice a season, production site pest control and sanitation, post-harvest safeguards, fruit culling, traceback, sampling, cold treatment against Mediterranean fruit fly in countries where the pest is known to occur, a phytosanitary certificate, port of entry inspection, and importation as commercial consignments only. Fresh apple and pear fruit that does not meet the requirements in the systems approach would continue to be allowed to be imported into the United States subject to the conditions of the preclearance program.

This action would provide an alternative for the importation of fresh apple and pear fruit from certain countries in the European Union while continuing to provide protection against the introduction of plant pests into the continental United States.

Implementing this rule will require an operational workplan, production site and packing house registrations, tracking system, monitoring, inspections, investigations, box markings, cold treatment burden requirements, and phytosanitary certificates.

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 .00627 hours per response.

Respondents: Foreign businesses and NPPOs.

Estimated annual number of respondents: 72.

Estimated annual number of responses per respondent: 2,230.

Estimated annual number of responses: 160,553.

Estimated total annual burden on respondents: 1,007 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 Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

#### 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 Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

#### 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 propose 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. In § 319.56-22, the introductory text of paragraph (a) is revised to read as follows:

#### **§ 319.56-22 Apples and pears from certain countries in Europe.**

(a) Importations allowed. The following fruits may be imported into the United States in accordance with this section and all other applicable provisions of this subpart. See § 319.56-75 for alternative provisions authorizing the importation of apples and pears from certain countries in Europe.

\* \* \* \* \*

3. Section 319.56-75 is added to subpart—Fruits and Vegetables to read as follows:

#### **§ 319.56-75 Fresh apple and pear fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain and the Netherlands.**

Fresh apple (Malus domestica Borkh.) and fresh pear (Pyrus communis L.) fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands may be imported into the continental United States in accordance with the conditions listed in this section. See §

319.56-22 for alternative provisions authorizing the importation of apples and pears from certain countries in Europe.

(a) General requirements. (1) The NPPO of the exporting country must develop an operational workplan, subject to APHIS approval, that details the activities that the NPPO would carry out to meet the requirements of this section.

(2) The fresh apple and pear fruit must be imported in commercial consignments only.

(b) Production site requirements. (1) Production sites where the fresh apple and pear fruit is grown must be registered with the NPPO of the exporting country.

(2) The registered grower of the production site must follow the phytosanitary measures agreed upon by APHIS and the NPPO of the exporting country in the operational workplan, including applying control measures that are authorized for use in the EU and the United States to reduce pest populations. The NPPO of the exporting country or officials authorized by the NPPO must monitor pest populations at production sites in order to determine the need and timing of such control measures and ensure effective control of pests. The NPPO must also ensure that registered production sites are inspected twice every season with emphasis on the quarantine pests listed in the operational workplan.

(3) Any apple and pear propagative material introduced into registered production sites must be certified free of quarantine pests by the NPPO of the exporting country.

(c) Packinghouse requirements. (1) All fresh apple and pear fruit for export to the continental United States must be packed in packinghouses that are registered and approved by the NPPO of the exporting country. Packinghouses must be able to exclude plant pests and have a tracking system to identify individual production sites in accordance with the operational workplan.

(2) Packinghouses must not pack apple and pear fruit for other countries while packing for shipment to the continental United States. All leaves must be removed from the fruit to remove Leucoptera malifoliella, and packinghouse culling and inspection procedures must be followed to remove fruit with pupae of Leucoptera malifoliella.

(3) All packed fruit intended for shipment to the continental United States must be safeguarded from infestation by fruit flies and other pests while at the packinghouse and during shipment to the continental United States in accordance with the operational workplan.

(4) Apple and pear fruit must be held in a cold storage facility while awaiting export. If any other fruit from unregistered production sites are stored in the same facility, the apple and pear fruit must be isolated from that other fruit.

(5) Each shipping box must be marked with the identity of the packing facility, the production site, and grower or grower organization to ensure traceback.

(d) Mitigation for Mediterranean fruit fly. Apple and pear fruit being exported from countries where Mediterranean fruit fly is known to occur must undergo cold treatment in accordance with the phytosanitary treatments regulations in part 305 of this chapter. Cold treatment procedures and schedules will be included in the operational workplan.

(e) Phytosanitary inspection. After post-harvest processing, the NPPO of the exporting country or officials authorized by the NPPO of the exporting country must inspect the apple and pear fruit for signs of pest infestation and confirm absence of the pests listed in the operational workplan. Upon detection of Adoxophyes orana, Alternaria gaisen, Argyrotaenia pulchellana, Ascochyta piricola, Ceratitis capitata, Grapholita (Cydia) funebrana, Leucoptera malifoliella, Monilinia fructigena and/or Monilinia polystroma in a consignment for export, the NPPO of the exporting country must reject the consignment and may, under conditions specified in the

operational workplan, be required to suspend the production site and/or packinghouse from importation to the continental United States for the remainder of that season. If any of these pests are found in a consignment at U.S. ports of entry, APHIS may, under conditions specified in the operational workplan, reject the consignment and suspend the production site and/or packinghouse from importation to the continental United States until an investigation is completed by the NPPO of the exporting country and APHIS. The investigation may include site visits by APHIS and/or reports from the NPPO of the exporting country. Procedures for suspension of production sites and/or packinghouses will be detailed in the operational workplan. The exportation to the continental United States of fresh apple and pear fruit from a suspended production site and/or packinghouse may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of the exporting country agree that appropriate remedial actions have been taken.

(f) Phytosanitary certificate. Each consignment of fresh apple or pear fruit must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country certifying that the fruit meets the conditions under this section for export to the continental United States.

Done in Washington, DC, this 13<sup>th</sup> day of January 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.  
[FR Doc. 2016-00992 Filed: 1/19/2016 8:45 am; Publication Date: 1/20/2016]