Proposed Rules

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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. 96–031–1]

RIN 0579–AA82

Importation of Wood Chips From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations for importing logs, lumber, and other unmanufactured wood articles. We believe that a surface pesticide treatment is effective in rendering large shipments of *Pinus radiata* wood chips from Chile free of plant pests. Therefore, we are proposing to allow the importation of *Pinus radiata* wood chips from Chile if the surfaces of the wood chips are treated with a specified pesticide mixture for use on wood chips from Chile. This change would provide more alternatives for persons interested in importing wood chips from Chile while continuing to protect against the introduction of dangerous plant pests.

DATES: Consideration will be given only to comments received on or before September 28, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–031–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–031–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295; or e-mail: rcampbell@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: Analyses.

Background

Logs, lumber, and other unmanufactured wood articles imported into the United States could pose a significant hazard of introducing plant pests and pathogens detrimental to agriculture and to natural, cultivated, and urban forest resources. The regulations in 7 CFR 319.40–1 through 319.40–11 (referred to below as the regulations) contain provisions to eliminate any significant plant pest risk presented by the importation of logs, lumber, and other unmanufactured wood articles.

Wood Chips and Proposed Treatment

Approximately $40 million worth of wood chips is imported into the United States each year for use in making pulp for paper production. Section 319.40–6(c) of the regulations requires that wood chips from any place except certain places in Asia may be imported if, among other things, they were (1) derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or, (2) fumigated with methyl bromide, heat treated, or heat treated with moisture reduction, in accordance with the regulations in § 319.40–7. (Section 319.40–7 of the regulations, ''Treatments and safeguards,'' sets forth the methods by which certain treatments and safeguards required by the regulations must be conducted.)

We propose to establish a new set of requirements for importing Monterey pine wood chips from Chile. *Pinus radiata* (also known as Monterey pine) wood chips from Chile are in demand in the United States for use in making high quality paper pulp. Several commercial processors of wood chips in the United States have requested that the Animal and Plant Health Inspection Service (APHIS) consider allowing the importation of *Pinus radiata* wood chips from Chile if they are treated with a surface pesticide. Since February 1995, APHIS has supervised approximately 16 trial shipments to the United States of *Pinus radiata* wood chips from Chile that were treated with a surface pesticide. The surface pesticide consisted of a mixture of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-Iodo-2-propynl butylcarbamate, and an insecticide containing 44.9 percent of the active ingredient chlorphrifos phosphorothioate. At a facility located at a port in Chile, the wood chips were sent through a chute as they were loaded onto the ship. As the chips were passing through the chute, they were sprayed with the pesticide from all sides, so that each chip was coated with the pesticide. All of the shipments arrived in the United States apparently free from any live plant pests.

Based on the success of the trial shipments, we have determined that wood chips from Chile can be imported with negligible risk into the United States after treatment in the manner described above with any pesticide mixture consisting of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-Iodo-2-propynl butylcarbamate, and an insecticide containing 44.9 percent of the active ingredient chlorphrifos phosphorothioate.

Section 319.40–6 of the regulations contains universal importation provisions for the importation of specified articles, including wood chips. We are proposing to revise § 319.40–6(c) to allow *Pinus radiata* wood chips from Chile to be imported after receiving the surface pesticide treatment described above.

At this time, we would add provisions for surface pesticide treatment only for *Pinus radiata* wood chips from Chile. There have been no requests for allowing the use of a surface pesticide treatment on any wood chips other than *Pinus radiata* wood chips from Chile. Further, we cannot conclude that the method of treatment used in the trial shipments from Chile would be effective on any species other than *Pinus radiata*. APHIS conducted a pest risk assessment for *Pinus radiata* in Chile in September 1993. New Zealand is the only other country for which a pest risk assessment has been conducted concerning *Pinus radiata*. The pests determined by the pest risk assessment to attack *Pinus*

radiata in New Zealand are not the same as the pests of concern in Chile. Therefore, even though the species would be the same, we cannot conclude that the method of treatment used for *Pinus radiata* wood chips from Chile would be effective on the pests that attack *Pinus radiata* in New Zealand. In addition, New Zealand does not have the facilities necessary to treat large amounts of wood chips with a surface pesticide. If, in the future, there appears to be a demand for wood chips other than *Pinus radiata* or from a country other than Chile to be imported using a surface pesticide treatment, APHIS would determine at that time what kind of research would be necessary to assess whether or not such treatment would be effective on that particular commodity.

However, the pest risk assessment conducted in 1993 for *Pinus radiata* in Chile is still valid as the basis for the following regulatory controls designed to mitigate to a negligible level the risks of importing *Pinus radiata* wood chips from Chile.

To help ensure the *Pinus radiata* wood chips from Chile are free from pests, we are proposing that several conditions be met in addition to the surface pesticide treatment. We would require that the wood chips be accompanied by a certificate stating that the wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and that the logs were debarked in accordance with § 319.40–7(b) before being chipped. (Section 319.40–7(b) sets forth tolerance levels for amounts of bark that may be retained on a regulated article after debarking.) These conditions are the same as current requirements for the importation of *Pinus radiata* logs from Chile, with the exception of the stipulation that the chips be from ''plantation-grown'' trees. We would require that the wood chips be from plantation-grown trees because the pest risk in a managed forest area is lower than in an unmanaged forest.

We would also require that the certificate state that no more than 45 days elapsed from the time the trees used to make the chips were felled to the time the wood chips were exported. This requirement would reduce the opportunities for exposure of the logs to plant pests.

Additionally, we would require that the wood chips be consigned to a facility in the United States operating under a compliance agreement with APHIS, in accordance with § 319.40–8 of the regulations. (Section 319.40–8 concerns facilities that operate under compliance agreements.) The compliance agreement would further ensure the safe importation of the treated wood chips from Chile by specifying safeguards and requirements to ensure that the processing method would effectively destroy any plant pests, and by stating that APHIS inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and the regulations.

We would require that, during shipment to the United States, no other regulated articles (other than solid wood packing materials) would be permitted in the holds or sealed containers carrying the wood chips, and that wood chips on the vessel's deck would have to be in a sealed container. These requirements would control possible movement of plant pests from other regulated articles.

We would also require that certain safeguards be applied upon arrival of the wood chips in the United States. First, the wood chips would have to be unloaded upon arrival by a conveyor which is covered, to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips would have to have a procedure in place to retrieve any chips that fall during unloading. If the chips must be transported after arrival, we would require that they must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance, or from being blown off the means of conveyance by wind. Once at the facility, the wood chips would have to be stored on a paved surface and be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area could not be adjacent to wooded areas. Finally, the wood chips would have to be processed, and any fines or unusable wood chips would have to be disposed of by burning, within 60 days of arrival at the facility. ''Fines'' are small particles or fragments of wood, slightly larger than sawdust, that result from chipping, sawing, or processing wood. These safeguards would help remove any opportunities for movement of plant pests from the wood chips, should there be any plant pests present on the chips.

We also are proposing to revise § 319.40–7(e), concerning surface pesticide treatments, to allow for the use of any surface pesticide treatment to qualify *Pinus radiata* wood chips from Chile for importation that is a mixture of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-Iodo-2-propynl butylcarbamate and an insecticide containing 44.9 percent of the active ingredient chlorphrifos phosphorothioate. We would require that the fungicide and insecticide be mixed using the proportions called for on the label requirements.

We would further stipulate in § 319.40–7(e) that the wood chips must be sprayed with the surface pesticide treatment so that all the chips are exposed to the chemical on all sides. The treatment method used on the trial shipments from Chile would be acceptable under this provision. Any other treatment method that accomplishes the goal of spraying the chips so that they are exposed to the pesticide on all sides would also be acceptable. Finally, we would require that, during the interval between treatment and export, the wood chips would have to be stored, handled, or safeguarded in a manner that prevents any infestation of the wood chips by plant pests.

In the future, if we determine the pesticide mixture described in this document, or any other pesticide treatment, is effective on plant pests that could be carried on wood chips, we will propose amendments to the regulations to allow for the importation of wood chips from that country after receiving the surface pesticide treatment.

Executive Order 12866

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Benefits from allowing *Pinus radiata* wood chips to be imported from Chile include lower priced wood chips for pulp mills in the Pacific Northwest, and lower priced products to consumers if lower input prices are reflected in lower retail prices. Greater choice among species for wood chip raw material is another benefit. Costs associated with risks of introducing pests are negligible because the procedures required to import Chilean wood chips under this rule are designed to keep the risk of importing pests to a negligible level. Since imports will be concentrated in the Pacific Northwest, impacts will be felt mainly by wood chip producers and purchasers in the region. Wood chip producers may bear revenue losses if they are unable to compete with lower cost imports or adjust their product mix.

Test shipments of *Pinus radiata* wood chips from Chile to the Pacific Northwest during recent years have demonstrated the effectiveness of

phytosanitary safeguards proposed in this rule, as well as the economic feasibility of chip imports from Chile for the region's pulp mills. Chile's large and expanding forestry plantations are expected to provide a reliable source for future wood chip imports when there is sufficient demand. At present, the abundant supply of wood chips in the Pacific Northwest precludes imports, a market situation that differs dramatically from that of three years ago when wood chip prices reached an all-time high. Pacific Northwest pulp mills depend primarily on domestic wood chip suppliers, but turn to overseas sources when domestic wood chip prices are high. Chilean imports can be expected to be competitively marketed when the domestic wood chip supply is low, since *Pinus radiata* wood chips can substitute for most other softwood chips. Some domestic wood chip producers may be adversely affected by Chilean imports, but the impact is not likely to be widespread; most domestic wood chip producers that cannot compete may adjust their product mix away from wood chips to other mill products.

Discussion

Under the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), the Secretary of Agriculture is authorized to promulgate regulations requiring inspection of products and articles as a condition of their movement into or through the United States, and imposing other conditions upon such movement, in order to prevent the dissemination into the United States of plant pests.

This proposed rule would amend the regulations for importing wood chips to allow the importation of *Pinus radiata* wood chips from Chile if the surfaces of the wood chips are treated with a pesticide approved by the Administrator for use on wood chips from Chile. Allowing the use of a surface pesticide treatment would make it possible to effectively treat large shipments of wood chips. Wood chips are used for making pulp used in the production of paper. U.S. pulp producers want to import *Pinus radiata* wood chips from Chile because these wood chips produce a high quality pulp. However, there is no treatment in the regulations that is both practical and effective in treating large shipments of these wood chips.

Current APHIS regulations call for, along with other requirements, heat treatment or fumigation of imported wood materials. While these safeguards are appropriate for solid wood products, they are less useful for wood chips. Heating of wood chips is time consuming, and fumigation of wood chips in ship holds can result in insufficient treatment. Therefore, it is being proposed that importation of *Pinus radiata* wood chips from Chile be allowed following their surface treatment with a specified pesticide mixture. As discussed above, the efficacy of this treatment is demonstrated by 16 trial shipments of surface-treated *Pinus radiata* wood chips from Chile that have arrived without pests since February 1995.

Approximately $40 million worth of wood chips is imported into the United States each year for use in making pulp for paper production. Coniferous wood chip imports by the U.S. comprise less than one percent of domestic production.[1] About 30 percent of U.S. wood chip production takes place in the Pacific Northwest.[2] Wood chip imports to the United States have been mainly to the Pacific Northwest, although there have been recent shipments of Caribbean pine from Brazil that have entered through the port at Mobile, AL.

Wood chips are used mainly in the manufacture of pulp, that is then used to make paper and panel products.[3] Test shipments of *Pinus radiata* wood chips from Chile during the last three years have been so utilized, and it is expected that future shipments facilitated by the surface pesticide treatment proposed in this rule change would also be used to make pulp.[4]

The demand for wood chips used by pulp mills is a derived demand, depending on the market for pulp.[5] While the long-term demand for pulp in the United States and internationally is expected to continue to expand (with increasing reliance on wood from plantation forests), pulp and wood chip prices can be volatile in the short term, causing relatively abrupt market changes. The variable demand for wood chips during the few years the Chilean test shipments have taken place illustrates how rapidly market conditions can change. Coniferous wood chip imports in 1995 by the United States nearly tripled those of 1994, with imports from Canada rising more than threefold, and test shipments from Chile doubling and displacing 1994 imports from Mexico.[6] The increase in demand was reflected in a 60 percent increase in the price paid in the United States for Chilean wood chips, from $42 per ton in 1994, to $67 per ton in 1995.[7] Comparable U.S. prices for domestically produced wood chips in these two years were $56 per ton in 1994 and $72 per ton in 1995.[8] Since then, prices have receded due to the current abundant supply of wood chips.

Chile's coniferous wood chip exports to the United States, 1994–1996, and Chile's share of coniferous wood chip imports by the United States, are as follows:[9]

1994	168 metric tons	00.05 percent of imports.
1995	339,665 metric tons	48.29 percent of imports.
1996	329,387 metric tons	44.06 percent of imports.

In 1994, 57 percent of coniferous wood chip imports by the United States were from Mexico and 43 percent were from Canada. In 1995, pulp prices reached record levels, with U.S. coniferous wood chip imports more than doubling from the year before, to 703,000 metric tons from 331,000 metric tons. That year, no coniferous wood

[1] Robert Flynn, private wood industry consultant, personal communication, drawing in part on information from ''Southern Pulpwood Production, 1996,'' by Tony Johnson, USDA Forest Service, Southern Research Station, Resource Bulletin SRS–21.

[2] Richard Haynes, USDA Forest Service, personal communication.

[3] Chris Twarok, Department of Commerce, personal communication. Landscaping is a secondary use.

[4] J.J. Morrell, Department of Forest Products, Oregon State University, personal communication.

[5] The pulp fiber industry has traditionally been a softwood chip market, but this has been changing in recent years in the eastern United States. Pulp mills in the southeastern United States are relying increasingly on hardwood chips, where only softwood chips were once used. Long-term rising demand for wood chips is also reflected in an increasing number of ''chipping'' mills producing only wood chips; at least 100 of more than 140 wood chip mills in the southeastern United States have been constructed within the past decade. (Dennis Haldeman and Doug Sloane, personal communications)

[6] U.S. wood chip import and export statistics from Department of Commerce, Bureau of the Census.

[7] FAS Global Agricultural Trade System, using data from the United Nations Statistical Office.

[8] Richard Haynes, USDA Forest Service, personal communication. Domestic prices based on export prices for the Columbia-Snake Customs District, adjusted to ''green'' metric tons. Without consideration of transportation costs, these quoted prices may overestimate the price realized at a Pacific Northwest pulp mill for U.S. chips and underestimate the price realized for Chilean chips. Moreover, average yearly prices conceal seasonal variations.

[9] FAS Global Agricultural Trade System, using data from the United Nations Statistical Office

chips were imported from Mexico, 48 percent of imports came from Chile, 49 percent came from Canada, and 3 percent came from Brazil. In 1996, Canada's share of U.S. coniferous wood chip imports increased to 56 percent, 44 percent came from Chile, and none was received from Brazil.

Production of *Pinus radiata* wood chips in the United States is essentially nil, due to the relatively small region in which it grows well, about six miles inland along the coastal fog belt of central California (hence its common name, the Monterey pine). There may be some production from sawmill residues, but the quantity, if any, is negligible. No pulp mills are currently using domestically produced *Pinus radiata* wood chips.[10]

Impacts on the U.S. wood chip industry of potential Chilean imports, therefore, depend on the substitutability of *Pinus radiata* wood chips for other softwood or for hardwood chips. Instances in which *Pinus radiata* and hardwood chips might substitute for each other are relatively few. However, *Pinus radiata* wood chips can generally be used in place of other coniferous chips such as lodgepole pine and ponderosa pine, although milling adjustments may be required—and costs incurred—due to differences in resin content[11]. We invite public comments on the magnitude of adjustment costs which would be required to substitute *Pinus radiata* chips for those of species commercially grown in the Pacific Northwest. We also invite comments on the extent to which such costs would inhibit substitution, and the economic consequences of such substitution.

The test shipments of Chilean wood chips were received by pulp mills in the Pacific Northwest. This region is expected to continue to be the destination of future shipments, given the additional transportation costs that would be incurred by pulp mills in the eastern and southeastern United States. With sales regionally concentrated, little impact from this rule is expected outside the Pacific Northwest.

In sum, the test shipments from Chile have shown the value to Pacific Northwest pulp mills of Chilean wood chips in supplementing domestic and Canadian wood chip supplies when the price of pulp makes such shipments economically feasible. Pulp mills able to adjust milling processes to utilize *Pinus radiata* wood chips can benefit by making profitable use of Chilean imports when other sources are insufficient or more costly. As now described, Chile has the production capacity to be a reliable source of *Pinus radiata* wood chips to the United States.

Chile's wood chip industry grew significantly during the 1980s, with production increasing more than tenfold, from 0.44 million tons in 1984, to 5.03 million tons in 1990.[12] Chile's wood chip exports during this period rose from none in 1984, to 2.23 million tons (44 percent of production) in 1990. During the first half of the 1990s, both production and export levels fluctuated, but without the dramatic increases of the 1980s. Annual production between 1990 and 1995 averaged about 5.80 million tons, and exports averaged about 3.05 million tons (about 53 percent of production).

Pinus radiata wood chips comprise a minor share of Chile's wood chip exports.[13] Of the approximately 3 million tons of wood chips exported annually between 1990 and 1996, *Pinus radiata*'s share averaged 12 percent. Between January and August, 1997, 10 percent of Chile's wood chip exports were *Pinus radiata*.

Japan was, by far, the principal importer of Chilean wood chips from 1990 to 1996. (Country destinations by species are not known for these years.) From 1990 to 1994, an average of 96 percent of Chile's wood chip exports were received by Japan. With the test shipments of *Pinus radiata* to the United States in 1995 and 1996, Japan's share of Chile's wood chip exports fell to 87 percent and 83 percent, respectively, and the United States' share for these two years was 9 percent and 11 percent.

From January to August, 1997, Japan's share of Chile's wood chip exports was 89 percent. The United States and Japan each received about one-half of Chile's *Pinus radiata* wood chip exports during this eight-month period.

Chile's development of its forest products sector rests to a large degree on the success of *Pinus radiata;* its share of Chile's wood chip exports is expected to increase. By 1996 there were approximately 1,387,000 hectares planted in *Pinus radiata,* representing 75 percent of plantation plantings, and 15 percent of Chile's forest resources including native forest.[14] This pine species matures at 20 to 24 years in Chile (thinnings are available for use after 15 years), compared to 30 years in New Zealand and Australia, and 40 to 60 years in North America and Europe. Production and exports are expected to peak during the coming decade, when trees on most of the *Pinus radiata* plantations will be ready to be harvested.

One set of projections describing the volume of *Pinus radiata* wood chips that could be exported to the United States over the coming five years, assuming favorable prices, is as follows:[15]

Year	Potential *Pinus radiata* wood chip exports from Chile to the United States (million tons)
1998	0.56 to 0.70.
1999	0.60 to 1.00.
2000	1.00 to 1.20.
2001	0.90 to 1.00.
2002	0.85 to 0.90.

Realization of these export levels will depend on the demand for *Pinus radiata* wood chips by U.S. pulp mills. As has been described, international short-term demand for pulp fibers can be volatile. When prices fell between 1995 and 1996, Chile's forestry sector exports declined by 24 percent, mainly because of reduced sales to Japan.

Chile's stock of *Pinus radiata* available for harvest will enable Pacific Northwest importers to take advantage of a ready source as wood chip prices rebound. In 1996, all coniferous wood chip imports by the United States totaled about 0.75 million tons, of which 0.33 million tons were imported from Chile.[16] Projected export levels shown above would increase U.S. wood chip imports above current levels, and establish Chile as a major foreign supplier. Wood chip prices in the United States will determine whether these projections are overly optimistic.

[10] Robert Rummel, American Pulpwood Association; Robert Flynn, Robert Flynn and Associates, personal communications.

[11] Chris Twarok, Department of Commerce, personal communication.

[12] Information on Chile's wood chip production and exports taken from Wood Products: International Trade and Foreign Markets, FAS Circular Series WP 3–97, August 1997, Table 15.

[13] Information on Chile's *Pinus radiata* wood chip exports compiled from data provided by APHIS-International Services.

[14] ''Forest Products, Annual Report,'' Office of Agricultural Affairs, American Embassy, Santiago, AGR Number CI7033, 1997.

[15] Fernando Hartwig, Inversiones Forestales C.C.A., personal communication.

[16] The United States is a net exporter of coniferous and nonconiferous wood chips. Compared to coniferous wood chip imports of 0.75 million tons in 1996, the United States exported 1.78 million tons. Nonconiferous wood chip imports and exports by the United States exhibit an even larger difference, with 1996 imports totaling about 55,000 tons and exports at 4.29 million tons. (Department of Commerce, Bureau of the Census)

Regulatory Flexibility Act

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the number of small entities that would be impacted by this proposed rule, positively or negatively, in regards to the provisions for allowing the importation of *Pinus radiata* wood chips from Chile. We are also interested in information concerning the volume of wood chips that may be imported from Chile under this proposed rule, and whether or not the wood chips from Chile would be in competition with wood chips produced in the United States.

The Regulatory Flexibility Act requires consideration of potential impacts of rule changes on small businesses, organizations, and governmental jurisdictions. In this instance, small entities directly affected would be U.S. wood chip producers and pulp mills in the Pacific Northwest.

Wood chip production is included in the SIC category for firms operating sawmills and planing mills. In most cases, wood chips are a by-product of lumber production. A mill will vary its level of wood chip production (compared to other products) based on whether wood chip prices are high or low at a particular point in time. In the Pacific Northwest, about 150 mills produce wood chips (90 in Oregon and 60 in Washington), but more than one may be owned by the same firm.[17] Data on the exact number of firms is not available. Sawmills and planing mills that employ 500 people or fewer are designated by the Small Business Administration as ''small.'' In 1994, there were 5,241 firms operating sawmills and planing mills in the United States, of which 5,149 (more than 98 percent) were small.[18] Estimated annual receipts of these 5,149 ''small'' firms totaled about $14.88 billion, which was 62 percent of total annual receipts of about $23.93 billion earned by all sawmills and planing mills. In the absence of information on mill firm sizes specific to Oregon and Washington, it is assumed that most sawmills in the Pacific Northwest are also small entities.

Adverse impacts on most ''small'' U.S. wood chip producers due to this rule change will be minor. The Chilean imports are expected to be sold in the Pacific Northwest, thereby affecting a geographical subset of all wood chip producers. Adverse impacts on Pacific Northwest wood chip producers will depend on the ability of such producers to find lower priced raw materials to produce wood chips or otherwise reduce cost, and the extent of their reliance on wood chips for their net revenues. Producers of those wood chips that are substitutes for *Pinus radiata* chips will find their net returns reduced when import prices are low. As raw materials used for wood chip production grow increasingly scarce and expensive in the Pacific Northwest, those wood chip producers that compete with lower priced imports will face adjustment pressures. However, U.S. wood chip producers already feel competition from other international sources.

It is estimated that less than 5 percent of wood chip producers in the Pacific Northwest are ''chipping'' mills devoted solely to wood chip production.[19] However, during periods of high wood chip demand such as three years ago, many sawmills may be converted largely to wood chip production.

Turning to the pulp mills, themselves, there were 37 firms operating pulp mills in the United States in 1994. Often more than one pulp mill is owned by a single firm. Pulp mill firms employing 750 people or fewer are designated by the Small Business Administration as ''small.'' In 1994, between 20 and 25 of the 37 firms were small, that is, between 54 and 68 percent of the total number of firms. Estimated annual receipts of these 20 to 25 ''small'' firms totaled between about $383 million and about $1.12 billion, which represented between 7 percent and 21 percent of total annual receipts by all pulp mills of about $5.30 billion. About 10 percent of U.S. pulp mills are in the Pacific Northwest.

Due to resin-content differences, pulp mills cannot use various species of wood chips indiscriminately. Pulp mills designed to process wood chips of *Pinus radiata* or similar species would therefore be the only ones directly affected by this rule. It is estimated that less than one-half of U.S. pulp mills could use *Pinus radiata* wood chips.[20] Assuming an equal distribution of these pulp mills among all pulp mills, size-wise, ''small'' pulp mill firms directly affected would then number between 10 and 13, based on 1994 data. These numbers are likely to be an overestimation, since not all of the ''small'' firms that could utilize *Pinus radiata* wood chips are necessarily located in the Pacific Northwest. Regardless of the number of affected ''small'' pulp mill firms, having Chile as a source of *Pinus radiata* wood chips would be beneficial to pulp mills and their customers, to the extent lower chip prices would be reflected in lower product prices.

Test shipments of *Pinus radiata* wood chips from Chile have been successfully imported by pulp mills in the Pacific Northwest. This rule change will enable such shipments, using a surface pesticide treatment, to continue to take place when economically feasible. Although *Pinus radiata* wood chip production in the United States is negligible, this species can substitute for other species as a pulp fiber, given certain milling adjustments. Off-shore wood chip sources to supplement domestic supply are advantageous to pulp mills, given the volatility of pulp prices. Chile's wood products industry has a large export component, and is expected to be a reliable source when pulp prices prompt wood chip exports to the United States. Adverse effects for wood chip producers in the Pacific Northwest will be felt by those producers who are unable to reduce costs to meet import competition and who rely heavily on revenues from wood chips.

No figures are available concerning potential costs of pest introductions through importation of *Pinus radiata* wood chips from Chile. A pest risk assessment for the importation of *Pinus radiata* logs from Chile (''Pest Risk Assessment of the Importation of *Pinus radiata, Nothofagus dombeyi,* and *Laurelia philippiana* Logs from Chile,'' USDA Forest Service, Miscellaneous Publication No. 1517, September 1993) provides the phytosanitary basis for allowing the wood chips to be imported if they are treated as prescribed. The pest risk assessment supports our determination that *Pinus radiata* wood chips may be imported from Chile with negligible risk.

The pest risk assessment reported that in sharp contrast to native forests in Chile, that country's *Pinus radiata* plantations are relatively free of major insect and disease problems. Exceptions include the recently introduced European pine shoot moth (*Rhyaccionia buoliana*), *Hylurgus ligniperda* and two

[17] Richard Haynes, USDA Forest Service, personal communication.

[18] This is the latest year for which data is available from the ''SBA Office of Advocacy, Statistics on Small Business'' Web home page.

[19] Richard Haynes, USDA Forest Service, personal communication.

[20] Byron Lundi, Georgia-Pacific, personal communication.

other species of European bark beetles, several needle disease fungi (*Dothistroma pini* and *Lophodermium* spp., among others), diplodia shoot blight (*Sphaeropsis sapinea*), and two species of blue stain fungi (*Ophiostoma picea* and *O. piliferum*). The wood wasp *Sirex noctilio* (considered to be the most important pest on *Pinus radiata* logs exported from New Zealand) and pine wood nematodes (*Bursaphelenchus spp.*) have yet to be found in Chile.

Among the insect pests of *Pinus radiata* analyzed in detail in the pest risk assessment, only the bark beetle *Hylurgus ligniperda* was considered to have a high pest risk potential. Moderate pest risk potentials were assigned to *Rhyephenes spp.*, *Ernobius mollis*, *Urocerus gigas gigas*, *Neotermes chilensis*, *Porotermes quadricollis*, *Colobura alboplagiata*, and *Buprestis novemmaculata*. Among the pathogens, the stain fungi (*Ophiostoma* spp.) were found to merit a moderate to high pest risk potential, whereas the complex of needle diseases (*Dothistroma pini* and other species) and diplodia shoot blight (*Sphaeropsis sapinea*) were rated as moderate risks. Other pathogens were considered to be of low risk. One weed of concern (*Imperata condensata*, considered a variety of *I. cylindrica* or cogongrass) was identified.

Pests potentially affecting untreated *Pinus radiata* wood chips are a subset of those identified in the pest risk assessment, since wood chip production would physically remove or destroy most pests that could be present in the logs. Treatment with the surface pesticide proposed by this rule change would prevent entry into the United States of any harmful insects or fungi that might remain.

The Pacific Northwest's coastal ranges and Cascade Mountains have some of the highest quality natural and planted conifer forests in the world, producing commodities ranging from pulp and paper, to lumber for construction, to ornamentals and Christmas trees. Introduced pests such as those described could affect forestry industries directly by causing damage, or indirectly by curtailing commerce through quarantines.

Some potential costs of foreign timber pests have been estimated in other instances. For example, a pest risk assessment concerning Siberian timber imports estimated that the introduction of a single pest, larch canker, could cause direct timber losses of $129 million annually. The same study estimated that a worst-case scenario involving heavy establishment of exotic defoliators in the United States could cost $58 billion.[21]

Concerning consumer and producer impacts of allowing *Pinus radiata* wood chips to be imported from Chile, data is insufficient to permit confident estimation of welfare changes. Time-series data for the estimation of elasticities of supply and demand are not available. Circumstantial evidence, however, would suggest that pulp producers and pulp product consumers benefit from *Pinus radiata* wood chip imports from Chile, when their relative price is low compared to that of other wood chip species or sources. The test shipments from Chile resulted in U.S. wood chip imports worth $22.8 million and $19.3 million in 1995 and 1996, respectively. These shipments represented over 48 and 44 percent of all U.S. coniferous wood chip imports in those two years.[22]

The continuing reduction in timber sources in the Pacific Northwest will encourage more wood imports in the future, and Chile's expanded commercial forestry plantings promise a prominent role for that country as a wood products exporter. Price impacts, if any, from imports for U.S. wood chip producers should be very small, since coniferous wood chip imports are less than one percent of U.S. production.

Moreover, trade statistics indicate that U.S. coniferous wood chip producers are finding overseas markets as profitable as their Chilean counterparts. U.S. coniferous wood chip exports in 1995 were valued at more than $222 million, and in 1996, at more than $181 million. As is true for Chile, the principal overseas coniferous wood chip market for the United States is Japan.[23]

This proposed rule includes the following reporting and recordkeeping requirement: We would require that wood chips imported from Chile be accompanied by a certificate issued by the Government of Chile, and stating that all the applicable requirements of the regulations have been met.

An alternative to this proposed rule would be to take no action. This proposed rule provides an alternative treatment for pulp manufacturers who cannot import wood chips from Chile using currently allowed treatments, and relieves restrictions concerning other requirements of the regulations. The no action alternative was rejected because we believe that the provisions of this proposed rule will make compliance easier for regulated individuals without increasing the risk of introducing a plant pest into the United States.

[21] ''Importation of Logs, Lumber, and Other Unmanufactured Wood Articles: Final Supplement to the Environmental Impact Statement, May 1998,'' USDA, APHIS.

[22] FAS Global Agricultural Trade System, using data from the United Nations Statistical Office.

[23] FAS Global Agricultural Trade System, using data from the United Nations Statistical Office.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of *Pinus radiata* wood chips from Chile under the conditions specified in this proposed rule would not present a risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

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. 96–031–1. Please send a copy of your comments to: (1) Docket No. 96–031–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 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.

This rule would require that wood chips entering the United States from Chile be accompanied by a certificate, issued by an official authorized by the national government of Chile, stating that the wood chips meet the proposed requirements for importation. This rule would also require that wood chips entering the United States from Chile must be consigned to a facility in the United States that operates under a compliance agreement with APHIS. This agreement would help ensure the safe importation of wood chips from Chile by specifying various safeguards necessary to prevent the spread of plant pests from the facility, specifying requirements to ensure that the processing method would affectively destroy any plant pests, and specifying that APHIS inspectors must be allowed access to the facility to monitor compliance with the regulations. It should be noted that the certificate and compliance agreement described above are information-containing documents that need not be completed by participating personnel, but they must be signed by them to attest that various requirements outlined in the documents are being satisfied.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to 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;

(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 .28 hours per response.

Respondents: Plant protection authorities in Chile and designated personnel at wood chip processing facilities in the United States.

Estimated number of respondents: 4.

Estimated number of responses per respondent: 10.

Estimated total annual number of responses: 40.

Estimated total annual burden on respondents: 11.2.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.40–1 [Amended]

2. In § 319.40–1, a definition of the word *fines* would be added in alphabetical order to read as follows:

* * * * *

Fines. Small particles or fragments of wood, slightly larger than sawdust, that result from chipping, sawing, or processing wood.

* * * * *

3. In § 319.40–6, paragraph (c) would be revised to read as follows:

§ 319.40–6 Universal importation options.

* * * * *

(c) *Wood chips and bark chips.* (1) *From Chile.* Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs may be imported in accordance with § 319.40–6(c)(2) or in accordance with the following requirements:

(i) The wood chips must be accompanied by a certificate stating that the wood chips meet the requirements in paragraphs (c)(1)(i)(A) through (c)(1)(i)(C) of this section.

(A) The wood chips were treated with a surface pesticide treatment in accordance with § 319.40–7(e) prior to arrival in the United States.

(B) The wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and the logs used to make the wood chips were debarked in accordance with § 319.40–7(b) before being chipped.

(C) No more than 45 days elapsed from the time the trees used to make the wood chips were felled to the time the wood chips were exported.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips. Wood chips on the vessel's deck must be in a sealed container.

(iii) The wood chips must be consigned to a facility in the United States that operates under a compliance agreement in accordance with § 319.40–8. The following requirements apply upon arrival of the wood chips in the United States:

(A) Upon arrival in the United States, the wood chips must be unloaded by a conveyor that is covered to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips must have a procedure in place to retrieve any chips that fall during unloading.

(B) If the wood chips must be transported after arrival, the chips must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance, or from being blown off the means of conveyance by wind.

(C) The wood chips must be stored at the facility on a paved surface and must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area must not be adjacent to wooded areas.

(D) The wood chips must be processed within 60 days of arrival at the facility. Any fines or unusable wood chips must be disposed of by burning within 60 days of arrival at the facility.

(2) *From places other than certain places in Asia.* Wood chips and bark chips from any place except places in

Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(i) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(B) Fumigated with methyl bromide in accordance with § 319.40–7(f)(3), heat treated in accordance with § 319.40–7(c), or heat treated with moisture reduction in accordance with § 319.40–7(d).

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; Except that: If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel, and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(iii) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide in accordance with § 319.40–7(f)(3), heat treated in accordance with § 319.40–7(c), or heat treated with moisture reduction in accordance with § 319.40–7(d).

(iv) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with § 319.40–8. The wood chips or bark chips must be burned, heat treated in accordance with § 319.40–7(c), heat treated with moisture reduction in accordance with § 319.40–7(d), or otherwise processed in a manner that will destroy any plant pests associated with the wood chips or bark chips, within 30 days of arrival at the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with § 319.40–7(f)(3), heat treated in accordance with § 319.40–7(c), or heat treated with moisture reduction in accordance with § 319.40–7(d).

4. In § 319.40–7, paragraph (e) would be revised to read as follows.

§ 319.40–7 Treatments and safeguards.

* * * * *

(e) *Surface pesticide treatments.* All United States Environmental Protection Agency registered surface pesticide treatments are authorized for regulated articles imported in accordance with this subpart, except that Pinus radiata wood chips from Chile must be treated in accordance with § 319.40–7(e)(2). Surface pesticide treatments must be conducted in accordance with label directions approved by the United States Environmental Protection Agency. Under the following circumstances, surface pesticide treatments must also be conducted as follows:

(1) *Heat treated logs.* When used on heat treated logs, a surface pesticide treatment must be first applied within 48 hours following heat treatment. The surface pesticide treatment must be repeated at least every 30 days during storage of the regulated article, with the final treatment occurring no more than 30 days prior to departure of the means of conveyance that carries the regulated articles to the United States.

(2) *Pinus radiata wood chips from Chile.* When used on *Pinus radiata* wood chips from Chile, a surface pesticide consisting of the following must be used: A mixture of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-Iodo-2-propynl butylcarbamate, and an insecticide containing 44.9 percent of the active ingredient chlorphrifos phosphorothioate. The fungicide and insecticide must be mixed using the proportions called for in the label requirements. The wood chips must be sprayed with the pesticide so that all the chips are exposed to the chemical on all sides. During the entire interval between treatment and export, the wood chips must be stored, handled, or safeguarded in a manner that excludes any infestation of the wood chips by plant pests.

* * * * *

Done in Washington, DC, this 22nd day of July 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–20156 Filed 7–27–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98–005–1]

Veterinary Services User Fees; Embryo Collection Center Approval Fee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend existing user fees for the inspection and approval of embryo collection centers. Existing user fees require embryo collection centers to pay user fees based on hourly rates for inspections and approval. We are proposing to replace the hourly rates for this specific service with a flat rate annual user fee that would cover the cost of approval and all required inspections of the facility for that year. We are taking this action in order to make the collection of user fees simpler and to allow centers to better predict the costs of APHIS' inspection and approval.

DATES: Consideration will be given only to comments received on or before September 28, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–005–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–005–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, ABS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import-related and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.21 lists the user fees charged for