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. 98–054–1]

RIN 0579–AB02

Importation of Unmanufactured Wood Articles From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to add restrictions on the importation of pine and fir logs and lumber, as well as other unmanufactured wood articles, from Mexico. This change would require that these wood articles from Mexico meet certain treatment and handling requirements to be eligible for importation into the United States. We believe this action is necessary to prevent the introduction into the United States of dangerous plant pests, including forest pests, with unmanufactured wood articles from Mexico.

DATES: Consideration will be given only to comments received on or before August 10, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–054–1, 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. 98–054–1. 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. Jane E. Levy, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The unrestricted importation of logs, lumber, and other unmanufactured wood articles into the United States could pose a significant hazard of introducing plant pests detrimental to agriculture and to natural, cultivated, and urban forests. ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles,'' contained in 7 CFR 319.40–1 through 319.40–11 (and referred to below as the wood subpart), is intended to mitigate the plant pest risk presented by the importation of logs, lumber, and other unmanufactured wood articles.

Currently, § 319.40–3(a) provides a general permit for the importation of unmanufactured wood articles (other than articles from certain subfamilies of the family Rutaceae) into the United States from Canada and from States in Mexico adjacent to the United States/Mexico border. A general permit means the written authorization provided in § 319.40–3; no separate paper permit is required. Under a general permit, unmanufactured wood articles from Canada and from Mexican States adjacent to the U.S. border may be imported into the United States provided they are accompanied by an importer document stating that the articles are derived from trees harvested in, and have never been moved outside, Canada or adjacent States in Mexico, and subject to the inspection and other requirements in § 319.40–9. Unmanufactured wood articles imported into the United States from adjacent States in Mexico in accordance with § 319.40–3(a) include, but are not limited to, logs, lumber, railroad ties, fence posts, firewood, solid wood packing material, and mesquite wood for cooking.

In contrast, unmanufactured wood articles from Mexican States that are not adjacent to the United States/Mexico border are subject to the more rigorous requirements of the wood subpart for importing wood articles from all other countries except Canada. These more rigorous requirements include requirements for treatment and other special handling to ensure freedom from plant pests. Section 319.40–5 provides import and entry requirements for specified regulated articles such as bamboo timber (§ 319.40–5(a)), tropical hardwoods (§ 319.40–5(c)), temperate hardwoods (§ 319.40–5(d)), and railroad ties (§ 319.40–5(f)). Section 319.40–6 provides universal importation options, including treatment and handling options, for unmanufactured wood articles imported into the United States, including logs (§ 319.40–6(a)), lumber (§ 319.40–6(b)), wood chips and bark chips (§ 319.40–6(c)), wood mulch, humus, compost, and litter (§ 319.40–6(d)), and cork and bark (§ 319.40–6(e)).

The less restrictive importation requirements for unmanufactured wood articles imported into the United States from Canada and the States of Mexico adjacent to the United States/Mexico border are based on the premise that the forests in the United States share a common forested boundary with Canada and adjacent States in Mexico and, therefore, share, to a reasonable degree, the same forest pests.

However, in February 1998, the Forest Service, U.S. Department of Agriculture (USDA), published a study entitled ''Pest Risk Assessment of the Importation into the United States of Unprocessed *Pinus* and *Abies* Logs from Mexico.'' [1] This pest risk assessment was requested by the Animal and Plant Health Inspection Service (APHIS), USDA, to evaluate the forest insect and pathogen complexes in the forests of the United States and the adjacent States of Mexico. The Forest Service's pest risk assessment shows that a significant pest risk exists in the movement of raw wood material into the United States from the adjacent States of Mexico. This conclusion has also been confirmed by USDA inspectors finding a number of dangerous plant pests on wood imports from adjacent States in Mexico during inspections at ports of entry along the United States/Mexico border.

The Forest Service's pest risk assessment clearly indicates that the mountain top forests of the adjacent States in Mexico, from which unmanufactured wood articles are moving into the United States, should be viewed as biological islands, not as an extension of the U.S. forest ecosystem. These biological islands

[1] For copies of this pest risk assessment, contact the person listed under **FOR FURTHER INFORMATION CONTACT** or access the assessment on the Forest Service's Forest Products Laboratory Web site at Internet address http://www.fpl.fs.fed.us/documents/fplgtr/fplgtr104.pdf

contain their own unique combination of forest pests, which are different than those currently found in the United States. Those pests have the potential to substantially harm U.S. forests if they become established in the United States.

In its research, the Forest Service used pine and fir pests as surrogates for determining the overall pest risk associated with all of the native trees grown in these isolated biological forested regions in Mexico. This method was used in order to keep the assessment manageable. Timber species of pine and fir were chosen specifically because: (1) They constitute the majority of the unmanufactured wood articles imported into the United States from Mexico; and (2) the pest complexes of pine and fir trees have been the focus of more research, and are, therefore, better understood than the pest complexes for many other genera of imported timber trees. APHIS concurs with the Forest Service that extrapolation of this type of data is scientifically both rational and defensible.

Based on the conclusions of the Forest Service's pest risk assessment, we are proposing to amend the wood subpart in three ways.

First, we propose to limit the use of a general permit under § 319.40–3(a) for unmanufactured wood articles imported from the adjacent States in Mexico. Under proposed § 319.40–3(a), only unmanufactured mesquite wood for cooking, unmanufactured wood for firewood, and small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal purposes would be allowed importation under a general permit.[2] Mesquite is a woody species that is continuous on both sides of the United States/Mexico border and, therefore, presents little foreign pest risk. Firewood would not pose a significant pest risk because of its limited distribution and consumption near the border. Small, noncommercial packages of unmanufactured wood to be used for personal cooking or personal medicinal purposes also would not pose a significant pest risk because the packages would be limited in quantity and therefore easily inspected, and likely would be distributed and consumed near the border. Except as discussed below, all other unmanufactured wood articles from the adjacent States of Mexico would be allowed into the United States only in accordance with the importation and entry requirements in place for unmanufactured wood articles from the rest of Mexico and all other countries except Canada. This proposed rule would result in a more consistent regulation of unmanufactured wood articles from all the States of Mexico, as well as all other countries except Canada.

Second, we propose to amend § 319.40–5 to add an additional treatment option for pine and fir lumber from Mexico. Currently, the only treatment options for imported pine and fir lumber from Mexico are heat treatment (under § 319.40–7(c)) or heat treatment with moisture reduction (under § 319.40–7(d)) before importation into the United States, as required by § 319.40–6(b)(1); or heat treatment or heat treatment with moisture reduction within 30 days after release from the port of first arrival in the United States, at a U.S. facility operating under a compliance agreement with APHIS, as required by § 319.40–6(b)(2). However, based on conclusions of the Forest Service's pest risk assessment and on APHIS' evaluation of treatment options, we are proposing to allow standard industry cut lumber made from pine or fir species originating in Mexico to be imported into the United States from any State of Mexico if, prior to arrival, that lumber is 100 percent free of bark and fumigated with methyl bromide in accordance with schedule T–312 contained in the Plant Protection and Quarantine Treatment Manual, incorporated by reference at § 300.1, or with an initial methyl bromide concentration of at least 240 g/m^3 with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration. This treatment is effective against the pine and fir pests identified in the Forest Service's pest risk assessment.

Third, we propose to amend § 319.40–5 to add an additional treatment option, with a thickness requirement, to the importation of railroad ties from Mexico. Currently, pursuant to § 319.40–5(f), railroad ties from nonborder States of Mexico must be completely free of bark and accompanied by an importer document stating that the railroad ties will be pressure treated within 30 days following the date of importation to be eligible for importation into the United States. Because of the proposed change to the general permit section of the wood subpart described earlier, railroad ties from States of Mexico adjacent to the U.S. border would no longer be eligible for importation into the United States under a general permit. Based on conclusions of the Forest Service's pest risk assessment, we propose to amend § 319.40–5 to provide an additional treatment option for the importation of railroad ties from Mexico that would allow the importation of railroad ties (cross-ties) originating from all States in Mexico if they are 100 percent free of bark, no thicker than 8 inches, and fumigated with methyl bromide using the concentration levels specified in the paragraph above. Railroad ties may continue to be imported under current requirements that they be completely free of bark and pressure-treated with a preservative approved by the U.S. Environmental Protection Agency (EPA) within 30 days following the date of importation. Under the existing requirements, we would also allow Mexican railroad ties that are debarked in accordance with § 319.40–7(b) to be imported into the United States if the railroad ties have been heat treated in accordance with § 319.40–7(c).

These actions appear to be necessary to reduce the risk of the introduction of dangerous plant pests on unmanufactured wood articles moving from Mexico into the United States.

Use of Methyl Bromide

Methyl bromide is currently in widespread use as a fumigant. It is proposed as a treatment option for standard industry cut lumber made from pine or fir species and railroad ties from Mexico. The environmental effects of using methyl bromide, however, are being scrutinized by international, Federal, and State agencies. EPA, based on its evaluation of data concerning the ozone depletion potential of methyl bromide, published a final rule in the **Federal Register** on December 10, 1993 (58 FR 65018–65082). That rule froze methyl bromide production in the United States at 1991 levels and required the phasing out of domestic use of methyl bromide by the year 2001. EPA's methyl bromide regulations were issued under the authority of the Clean Air Act. Recently, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, amended the Clean Air Act. The amendments provide that the production of methyl bromide shall not terminate prior to January 1, 2005, and directs EPA to promulgate new rules to reduce and terminate the production, importation, and consumption of methyl bromide in accordance with the phaseout schedule of the Montreal Protocol. The Montreal Protocol, an international treaty governing the production and use of ozone-depleting chemicals, provides for a phaseout of methyl bromide, with an

[2] Other unmanufactured wood articles, such as solid and loose wood packing material and bamboo timber, would continue to be allowed importation into the United States under a general permit in accordance with § 319.40–3(b), (c), (d), and (e).

exemption for quarantine and preshipment uses, in developed countries by the year 2005 and in developing countries, including Mexico, by the year 2015. EPA has indicated that it will publish proposed and final regulations to achieve production and importation reductions from the 1991 base levels of methyl bromide as follows: 25 percent reduction in 1999, 50 percent reduction in 2001, 70 percent reduction in 2003, 100 percent reduction in 2005. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, further provides a quarantine-use exemption for the production, importation, consumption of methyl bromide to fumigate commodities entering or leaving the United States for purposes of complying with APHIS regulations. EPA has also indicated that it will work closely with USDA, State agricultural departments, and other stakeholders to define the preshipment and quarantine uses that will be exempt from the phaseout. Our proposal assumes the continued availability of methyl bromide for use as a fumigant for at least the next few years. Nonetheless, APHIS is studying the effectiveness and environmental acceptability of alternative treatments to prepare for the eventual unavailability of methyl bromide fumigation.

Miscellaneous

We are also proposing to amend § 319.40–5(f) to require that pressure treatment of railroad ties be conducted at a U.S. facility under compliance agreement with APHIS. This would affect railroad ties imported from all countries except Canada. We propose this action to help ensure compliance with the requirement that railroad ties must be pressure treated within 30 days following the date of importation into the United States.

In § 319.40–3, paragraph (a) requires articles imported under general permit to be accompanied by an importer document. The importer document must state that the regulated articles are derived from trees that were harvested in, and have never moved outside, Canada or States in Mexico adjacent to the U.S. border. We are proposing to amend § 319.40–3(a) to remove the requirement that the importer document must state that the articles have never been moved outside Canada or States in Mexico adjacent to the U.S. border; the ''derived from'' requirement will remain. We are also proposing to amend § 319.40–3(a) to specify that the importer document only needs to accompany commercial shipments of unmanufactured wood articles imported into the United States under a general permit. With respect to Mexico, the importer document requirement currently helps ensure that logs and lumber from adjacent States in Mexico are not moved into other States in Mexico for processing or milling and then imported into the United States. However, because we are proposing to disallow movement under general permit for most unmanufactured wood articles from adjacent States in Mexico, this precaution would no longer be necessary. With respect to Canada, it is highly improbable that wood articles from Canada would be processed or milled in another country and then returned to Canada for export to the United States. Therefore, we do not believe that this requirement is necessary for unmanufactured wood articles imported into the United States from Canada. Further, it is not administratively feasible to require an importer document for noncommercial shipments of mesquite wood for cooking and firewood, or for small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal uses imported into the United States from States in Mexico adjacent to the United States border; therefore, we propose to specify that commercial shipments of unmanufactured wood articles imported from Canada, and commercial shipments of mesquite wood for cooking and firewood imported from adjacent States in Mexico, be accompanied by the importer document described above.

Executive Order 12866 and Regulatory Flexibility Act

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.

We are proposing to amend the wood subpart by adding a treatment option for pine and fir lumber and railroad ties imported from Mexico, and by adding that unmanufactured wood articles from Mexico's border States meet certain treatment and handling requirements to be eligible for importation into the United States. We believe this action is necessary to help prevent the introduction into the United States of dangerous plant pests, including forest pests, with unmanufactured wood articles from Mexico.

Because this proposal concerns unmanufactured wood articles, it would affect the importation into the United States of both hardwood and softwood species from Mexico. However, this analysis focuses on softwood lumber, particularly pine and fir, since it comprises nearly all the unmanufactured wood articles imported from Mexico. In 1997, imports of U.S. lumber from Mexico consisted of about 98 percent softwood species, by value, and only about 2 percent hardwood species. Also in 1997, 97 percent of U.S. imports of unmanufactured softwood articles from Mexico, not including solid wood packing material (SWPM) and continuously shaped softwood (which may be manufactured), were softwood lumber.

The value of U.S. production of softwood lumber in 1996 was about $16 billion. U.S. production of softwoods that year totaled 33.9 billion board feet (bbf), compared to 12.7 bbf of hardwoods. Softwood imports in 1996 reached 18.0 bbf, compared to exports of 1.9 bbf, for net imports of 16.1 bbf. In other words, U.S. supply of softwoods, not including stocks, was about 50 bbf (production + imports − exports), with about one-third of the nation's supply imported.

Values of 1997 U.S. imports and exports of some major categories of unmanufactured softwood articles are found in table 1, below. U.S. trade with both the whole world and Mexico is shown, allowing some insight into Mexico's share of U.S. imports, and the U.S. trade position overall for these commodities. By far, the main commodity is softwood lumber, for which U.S. imports, worth $7.3 billion, dwarfed U.S. exports, worth $1.1 billion. Of the commodities included in table 1, 93 percent of imports were softwood lumber. Softwood lumber imports from Mexico, at $97.6 million, represent 1 percent of total U.S. softwood lumber imports.

Continuously shaped softwood is a category that includes both manufactured and unmanufactured articles. Therefore, the value shown for these imports from Mexico ($120 million) overstates the value of imports that would be affected by the proposed rule. (On the other hand, there are other unmanufactured wood articles that enter from Mexico, such as solid wood packing material, that are not shown in this table.) As indicated, one-fourth of continuously shaped softwood that is imported into the United States comes from Mexico. As is the case of softwood lumber, the value of U.S. imports of these articles is several times greater than the value of exports.

The United States is a large net exporter of untreated softwood logs and poles, with 1997 exports valued at about $1.5 billion, compared to 1997 imports

of $61 million. Of these imports, Mexico is a minor supplier, providing three percent of the total. Similarly, for fuel wood and railroad ties (not impregnated),[3] Mexico supplied only a small portion of total U.S. imports in 1997: 6 percent, in each instance.

In summary, unmanufactured softwood articles imported into the United States are predominantly lumber. Their value significantly outweighs that of exports of U.S. softwood lumber. In 1997, about one percent of softwood lumber imports, worth about $97.6 million, came from Mexico. Shipments from Mexico of continuously shaped softwood are of greater value ($120 million in 1997), but a large share may be manufactured articles. For softwood logs and poles, the United States is in a strong net export position, with the value of imports only about four percent of the value of exports. Importations from Mexico of softwood logs and poles, fuel wood, and railway ties represent small percentages of total U.S. imports of these commodities.

TABLE 1.—U.S. TRADE WITH MEXICO AND THE WORLD IN PRINCIPAL UNMANUFACTURED SOFTWOOD ARTICLES, 1997

Wood category	U.S. imports			U.S. exports		
	From the world (dollars)	From Mexico (dollars)	Percentage from Mexico	To the world (dollars)	To Mexico (dollars)	Percentage to Mexico
Softwood lumber	7,345,096,000	97,614,000	1	1,100,577,000	39,435,000	4
Softwood, continuously shaped	488,057,000	120,340,000	25	111,756,000	8,310,000	7
Softwood logs and poles, not treated	61,207,000	1,764,000	3	1,488,347,000	3,001,000	0.2
Fuel wood	6,220,000	377,000	6	5,601,000	170,000	3
Railway ties, not impregnated	3,850,000	232,000	6	8,938,000	11,000	0.1
Total	7,904,430,000	220,327,000	2.8	2,715,219,000	50,927,000	1.9

Source: Foreign Agriculture Service's Global Agricultural Trade System using data from the United Nations Statistical Office.

Notes: Listed commodities have the following six-digit codes from the Harmonized Tariff Schedule of the United States: softwood lumber, 440710; softwood, continuously shaped, 440910; softwood logs and poles, not treated, 440320; fuel wood, 440110; and railway ties, not impregnated, 440610. Continuously shaped softwood includes articles processed in various ways, such as wood molding. Many of these articles are ''manufactured,'' and therefore would not be affected by this proposed rule. Also, firewood included under the fuel wood category would not be affected by the proposed rule.

Since potential effects of the proposed rule largely concern imports of unmanufactured wood articles from Mexico's border States, it is necessary to estimate their share of Mexico's exports to the United States. Using data obtained from U.S. ports of entry, we estimate that affected commodities worth about $31.3 million came from Mexico's border States in 1997, which is slightly more than one-third of the value of all shipments of these articles from Mexico (see table 2).

El Paso, TX, is the principal port through which affected articles enter the United States. In 1997, approximately $81.7 million worth of these articles (89 percent of unmanufactured wood articles imported from Mexico) entered the United States through the port of El Paso. We estimate that 30 percent of these articles originated in Mexico's border States. Other U.S. border ports of entry report higher percentages coming from Mexico's border States—50 percent for Laredo, TX, and 100 percent for San Diego, CA, and Nogales, AZ—but the volumes of articles shipped were much smaller. Not surprisingly, most unmanufactured wood articles that enter through ports not near the United States/Mexico border (e.g., shipments by sea) originate from nonborder States in Mexico.

TABLE 2.—VALUE OF U.S. IMPORTS OF UNMANUFACTURED WOOD ARTICLES FROM ALL OF MEXICO AND FROM MEXICAN STATES ADJACENT TO THE UNITED STATES, BY PORT OF ENTRY, 1997

U.S. port of entry	Estimated value of imports from all of Mexico (dollars)	Estimated proportion of shipments from Mexico's border States (percentage)	Estimated value of imports from Mexico's border States (dollars)
El Paso, TX	81,730,000	30	24,519,000
San Diego, CA	5,551,000	100	5,551,000
Laredo, TX	1,859,000	50	929,500
Portland, OR	1,021,000	0	0
San Francisco, CA	735,000	0	0
Los Angeles, CA	591,000	0	0
Nogales, AZ	341,000	100	341,000
Mobile, AL	80,000	0	0
Total	91,908,000	.....	31,340,500

Sources: Foreign Agriculture Service, Forest and Fishery Products Division, for the estimated values of imports; Plant Protection and Quarantine, APHIS, for the estimated proportion of shipments from Mexico's border States.

Note: Percentages of imports estimated as originating in Mexico's border states are based on numbers of shipments. Therefore, estimated values in the last column do not account for differences in shipment values. Available data does not permit a more accurate estimation of values. Also, shipments of unmanufactured hardwood articles that may be included in these values are assumed to be very minor.

[3] Impregnated railway ties are not considered unmanufactured wood articles.

The significance of these levels of import can be put in perspective by comparing them to U.S. production and trade levels overall. Unmanufactured wood articles include a variety of commodities, but the value of softwood lumber production in the United States offers a reasonable basis for comparison, since the major timber species that would be affected by the proposed rule are pine and fir. When continuously shaped softwood articles are not considered, less than 2 percent (about 1.4 percent) of unmanufactured softwood articles imported into the United States came from Mexico in 1997 (see table 1). Assuming imports contribute about one-third of total U.S. supply, imports from Mexico would, therefore, amount to about 0.5 percent of the U.S. supply of unmanufactured softwood articles. Further, if about one-third of Mexico's shipments originate in Mexico's border States, shipments from the border States would represent about 0.5 percent of unmanufactured softwood articles imported by the United States, or about 0.15 percent of U.S. supply.

Mention should be made of SWPM, such as wooden pallets, crates, packing blocks, and dunnage. This packing material is used to prevent damage to cargo during shipment. Currently, SWPM originating in Mexico's border States and Canada may contain bark; SWPM entering the United States from anywhere else in the world must be without bark or be heat treated, fumigated, or treated with preservatives. In addition, SWPM from China has additional requirements (see § 319.40–5(g)). The proposed rule would require that SWPM restrictions for Mexico's border States be the same as for the rest of the world except Canada and China.

An informal survey of the ports of entry shown in table 2 found that a negligible amount of SWPM that is untreated or not free of bark enters the United States from Mexico. None is reported to enter through El Paso, TX, San Diego, CA, San Francisco, CA, Los Angeles, CA, or Nogales, AZ, and less than 1 percent is reported for Laredo, TX, and Portland, OR. (No contact was made with Mobile, AL.) Clearly, nearly all SWPM from Mexico's border States already meets the entry requirements that would be imposed by this proposed rule. Therefore, potential economic effects with respect to SWPM imports need not be given further consideration.

Economic Consequences

Two parts of the proposed rule could have an impact on U.S. imports of unmanufactured wood articles from Mexico: (1) Adding methyl bromide fumigation as a treatment option for pine and fir lumber and railroad ties from Mexico; and (2) placing unmanufactured wood articles from Mexico's border States under the same treatment requirements, in general, as the rest of the Mexico.

Adding Methyl Bromide Fumigation Option for Pine and Fir Lumber and Railroad Ties

For railroad ties from nonborder States of Mexico, current regulations require that the ties be completely debarked and either heat treated prior to importation or pressure treated within 30 days following importation. Under this proposed rule, fumigation would become an available treatment option. Virtually all railroad ties imported into the United States from Mexico are pressure treated for commercial reasons (i.e., in addition to eliminating pests, it protects the ties from decay). We expect that this would continue, and that few importers would utilize the proposed fumigation method. In order to comply with the wood subpart, importers may choose to fumigate railroad ties prior to importation if the railroad ties will be pressure treated beyond 30 days following importation. In any event, importations of railroad ties from Mexico represent a small percentage of total U.S. imports of railroad ties (6 percent of total U.S. imports, valued at $232,000). Therefore, we expect that adding methyl bromide fumigation as a treatment option would have very little or no impact on importers of railroad ties.

For pine and fir lumber imported from nonborder States of Mexico, treatments available under the current regulations are heat treatment and heat treatment with moisture reduction. Under this proposed rule, fumigation would become an available treatment method. Kiln drying is a type of heat treatment with moisture reduction, and is the most common method used to treat lumber from Mexico. Kiln drying is used almost exclusively over other treatments for lumber because kiln drying is the industrial standard and it increases the economic value of the wood. For this reason, this analysis focuses on comparing the most common method, kiln drying, to the proposed alternative, methyl bromide fumigation.

In 1997, softwood lumber imported from Mexico cost an average of $318 per cubic meter ($750.48 per thousand board feet), according to data compiled by the Foreign Agricultural Service, USDA. This figure is higher than average domestic unmanufactured green softwood prices of $137.71 per cubic meter ($325 per thousand board feet) in Northern California because: (1) Higher valued ponderosa pine constitutes a large percentage of imports from Mexico; (2)lumber imported from Mexico is mostly ''shop grade'' lumber, often used for making molding; (3) reported prices of lumber imported from Mexico may include delivery costs (F.O.B. delivered), whereas prices for domestic lumber do not (F.O.B. mill); and (4) some of the lumber imported from Mexico may already be kiln dried, which commands a higher price.[4]

Costs associated with kiln drying pine and fir lumber range between approximately $12 and $20 per cubic meter. In comparison, methyl bromide fumigation is reported to cost about one-third of this amount, or between $4.60 and $6.90 per cubic meter.[5] There is not an appreciable difference in the time required to apply the two treatments. Methyl bromide fumigation of lumber requires 2 days for the actual treatment and up to 2 days for setup and dismantling and airing of the cargo. Kiln drying of lumber takes 3 to 4 days.

At first glance, it would appear that there could be cost savings for Mexican exporters of pine and fir lumber to the United States—and potentially lower prices for U.S. importers—by replacing kiln drying with methyl bromide fumigation. However, kiln drying serves other commercial purposes besides satisfying phytosanitary requirements. U.S. importers may prefer kiln dried lumber, whereby fumigation would only result in an unnecessary additional cost. Information is not available to estimate the percentage of imports that would be fumigated instead of kiln dried.

Irrespective of the proposed addition of methyl bromide as a treatment option, any potential costs of this proposed rule for producers and consumers in the United States are likely to be very minor. As discussed above, the value of softwood lumber imported from Mexico is estimated to be only 0.5 percent of the value of the U.S. supply of softwood lumber. If it happens that kiln drying remains the preferred treatment alternative after fumigation is allowed, most shipments of pine and fir lumber imported into the United States from nonborder States of Mexico would not be affected.

[4] Based on communication with the Foreign Agricultural Service, USDA.

[5] Estimated costs for kiln drying are based on communication with the Forest Products Laboratory, Forest Service, USDA. Estimated costs for fumigation are based on communications with fumigation companies operating at California ports and the Port of Baltimore.

No Longer Exempting Unmanufactured Wood Articles From Mexico's Border States

As a result of this proposed rule, unmanufactured wood articles from Mexico's border States would be subject to the same importation and entry requirements as unmanufactured wood articles from the rest of Mexico (except for mesquite wood for cooking and firewood and small, noncommercial packages of unmanufactured wood for personal cooking or medicinal purposes). This change would have its primary impact on softwood lumber, which constitutes the vast majority of all unmanufactured wood articles imported from Mexico's border States.

Currently, softwood lumber from Mexico's border States can be imported without restriction, provided that the lumber was derived from trees harvested in Mexico's border States and has never been moved outside those States. Under this proposal, lumber from Mexico's border States would have to be either heat treated, heat treated with moisture reduction, or fumigated with methyl bromide. As with lumber from the rest of Mexico, the most likely treatments chosen would be kiln drying, at a cost of $12 to $20 per cubic meter, or methyl bromide fumigation, which could be done for, at most, one-third the cost of kiln drying.

As stated previously in this document, the total value of unmanufactured wood articles imported from Mexico's border States in 1997 was approximately $31.3 million; almost all of these imports were softwood lumber. If we assume that all unmanufactured wood articles imported from Mexico's border States are untreated, and would be kiln dried or fumigated to comply with this proposed rule, the impact of requiring treatment would range between $565,000 and $1.6 million, depending on whether most importers choose to kiln dry or fumigate the wood. (This calculation was made by first assuming that all unmanufactured wood articles imported from Mexico's border States in 1997 were softwood lumber, and then by using the value of $318 per cubic meter of softwood lumber to arrive at a total of 98,428 cubic meters of softwood lumber imported from Mexico's border States, multiplied by the midpoint in the range of costs for kiln drying and fumigation.)

Some of the lumber imported from Mexico's border States may already be kiln dried and would not require additional treatment as a result of this proposed rule. We do not have data to estimate the quantity of lumber imports from Mexico's border States that is already kiln dried nor what percentage of imports would be fumigated rather than kiln dried under this proposal. We welcome public comments with information that would help us more precisely estimate total potential treatment costs.

This proposed rule would result in small additional cost for an extremely small fraction of the U.S. supply of unmanufactured softwood articles. The benefit of the proposed rule is greater protection of U.S. forests. The potential for exotic pest introduction via imports of unmanufactured wood articles necessitates rigorous mitigation measures. The cost to producers and consumers could range in the millions of dollars if these measures are not taken.[6] The cost of treating unmanufactured wood articles imported from Mexico's border States is small, compared to the possible consequences of not changing existing regulations.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of the proposed rule on small entities. The Small Business Administration (SBA) has established size criteria by Standard Industrial Classification for determining which economic entities meet the definition of a small firm. Data from the SBA was used to estimate the number of small entities potentially affected by this proposed rule.

The proposed rule would add a treatment option for railroad ties and pine and fir lumber from Mexico, and would add treatment and handling requirements for logs, lumber, and other unmanufactured wood articles imported from States in Mexico adjacent to the U.S. border. Entities most likely to be affected by the proposed rule are those that import pine and fir lumber. These entities include sawmills, lumber wholesalers, lumber retailers, wood article manufacturers, and general contractors of home construction. The SBA classifies sawmills and wood article manufacturers as small entities if fewer than 500 people are employed. Wood wholesalers and retailers are considered small with fewer than 100 employees. A general contractor is considered small with annual receipts of less than $17 million.

The number, size, and location of entities that actually import pine and fir lumber from Mexico could not be quantified by APHIS. According to SBA data, there are about 177,014 entities in these potentially affected industries. More than 87 percent of these firms, between approximately 154,029 and 155,447, are classified as small according to SBA criteria. Thus, the majority of firms likely to be affected by this proposed rule would be small entities. It is presumed that the majority of these entities would be ones located in the southwestern United States.

Given the small fraction of the U.S. supply of unmanufactured wood articles imported from Mexico, and the even smaller percentage originating in Mexico's border States, we expect that the effect of this proposed rule on small entities in the United States would be negligible. If the proposal is adopted, and kiln dried imports from nonborder States are instead fumigated, cost savings may be partly realized by U.S. buyers through lower prices. For imports from Mexico's border States, costs to U.S. buyers may increase due to the new treatment requirements. But as discussed above, treatment costs are a small fraction of total product costs, so any impact, negative or beneficial, would be slight.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

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

We have prepared an environmental assessment for this proposed rule. The assessment provides a preliminary basis for the conclusion that the importation of unmanufactured wood articles from Mexico under the conditions specified in this proposed rule would reduce the risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment.

We prepared the environmental assessment in accordance with: (1) The

[6] Estimates of economic losses if representative insects and pathogens of concern were introduced into the United States are in the ''Pest Risk Assessment of the Importation into the United States of Unprocessed *Pinus* and *Abies* Logs from Mexico,'' referred to previously in this document. Estimated costs of introduction range from less than $1 million to more than $50 million, depending on the pest. To obtain copies of this pest risk assessment, see the instructions under footnote 1 of this document.

National Environmental Policy Act of 1969, as amended (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 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.**

We invite you to comment on all aspects of this proposed rule, including the environmental assessment. For information on when and where to send your comments, please refer to the **DATES** and **ADDRESSES** sections near the beginning of this document.

Paperwork Reduction Act

In accordance with 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 approved by the Office of Management and Budget (OMB). The forms that we are proposing to require for the importation into the United States of certain unmanufactured wood articles from the adjacent States in Mexico have been approved by OMB for the importation of unmanufactured wood articles from other areas of Mexico and other countries. The time that would be needed for the completion of forms under this proposal is included in the paperwork hours approved by OMB for the affected CFR sections. The assigned OMB control number is 0579–0119.

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, we propose to amend 7 CFR part 319 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).

2. In § 319.40–3, paragraph (a) would be amended as follows:

§ 319.40–3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

(a) *Canada and Mexico.* (1) The following articles may be imported into the United States under general permit:

(i) From Canada: Regulated articles, other than regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae; and

(ii) From States in Mexico adjacent to the United States: Commercial and noncommercial shipments of mesquite wood for cooking and firewood, and small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal purposes.

(2) Commercial shipments allowed in paragraph (a)(1) of this section are subject to the inspection and other requirements in § 319.40–9 and must be accompanied by an importer document stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

* * * * *

3. In § 319.40–5, paragraph (f) would be amended by adding the words ''at a U.S. facility under compliance agreement with APHIS'' immediately before the period, and a new paragraph (l) will be added to read as follows:

§ 319.40–5 Importation and entry requirements for specified articles.

* * * * *

(l) *Railroad ties and pine and fir lumber from Mexico.* Cross-ties (railroad ties) 8 inches or less at maximum thickness and lumber derived from pine and fir may be imported from Mexico into the United States if they:

(1) Originate from Mexico;

(2) Are 100 percent free of bark; and

(3) Are fumigated prior to arrival in the United States. The regulated article and the ambient air must be a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T–312 contained in the Treatment Manual. In lieu of the schedule T–312 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 240 g/m^3 with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration.

Done in Washington, DC, this 7th day of June 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–14844 Filed 6–10–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–62–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Boeing Model 737–600, –700, and –800 series airplanes, that currently requires an inspection of the power distribution panels (PDP) to verify proper installation of the power feeder terminals and associated hardware, and corrective actions, if necessary. That AD also requires repetitive torque checks of the terminal attachment screws. This action would add a requirement for repetitive replacement of the PDP rigid bus assembly with a new assembly. This proposal is prompted by reports of loss of electrical power from the engine-driven generators or the auxiliary power unit due to overheating, melting, and subsequent failure of the power feeder terminals. The actions specified by the proposed AD are intended to prevent such conditions, which could result in increased risk of fire and the loss of electrical power from the associated alternating current power source.

DATES: Comments must be received by July 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–62–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information pertaining to this amendment may be obtained from or examined at the FAA, Transport