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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 300 and 319

[Docket No. 91-074-6]

RIN 0579-AA47

#### Importation of Logs, Lumber, and Other Unmanufactured Wood Articles

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

**ACTION:** Final rule.

**SUMMARY:** We are establishing comprehensive regulations concerning imported unmanufactured wood articles. The new regulations will affect persons importing logs, lumber, bark chips, wood chips, certain wood packing materials, and other unmanufactured wood articles. We are also amending several existing regulations to remove provisions concerning the importation of certain wood articles, and to state that such articles will instead be covered under the new regulations. We are also incorporating by reference Agriculture Handbook 188, the "Dry Kiln Operator's Manual," which contains treatments authorized by this final rule. We are taking these actions because there is increased interest in importing large volumes of unmanufactured wood articles into the United States, and prohibitions and restrictions are necessary to eliminate any significant plant pest risk associated with importing these articles.

**DATES:** Final rule effective August 23, 1995. The Director of the Office of the Federal Register approved the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on August 23, 1995.

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#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service (APHIS) is establishing comprehensive regulations to eliminate any significant plant pest risks presented by the importation<sup>1</sup> of logs, lumber, and other unmanufactured wood articles.

A changing national and world economy has recently increased the incentives to import wood that may present a significant increase in the risk of plant pest introduction into the United States. An example of this change is the interest of sawmills and other wood processors in utilizing foreign sources of wood to offset expected harvest reductions in the United States, or to provide raw materials for their facilities at prices competitive with or better than domestic prices.

Trees produced in many foreign locations are attacked by a wide variety of exotic plant pests and pathogens that do not occur in this country. Logs 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. Plant pests and pathogens introduced into the United States in the past, such as the gypsy moth and the agents of Dutch elm disease and chestnut blight, have caused billions of dollars of damage to United States forest and plant resources.

Until recently, the quantity and variety of unmanufactured wood imported were very limited, and there was little need to develop regulations specifically to address such imports. With few exceptions (see the discussion below of interim regulations allowing importation of certain logs from Chile and New Zealand), APHIS has been dealing with such imports only by detaining shipments at ports of first arrival for inspection, and ordering further action if warranted pursuant to

<sup>1</sup>Throughout this document, the words "import" and "importation" are used to mean moving or bringing articles into the territorial limits of the United States.

the Federal Plant Pest Act and regulations issued under that Act (7 CFR part 330). In addition, APHIS has prohibited the entry into the United States of logs from the former Soviet Far East and Siberia because a detailed plant pest risk assessment found that dangerous plant pests could occur in such logs and may be introduced with them.

However, when large volumes of wood imports are involved, inspection at the port of first arrival without other conditions relating to the wood imports is not practical or adequate for preventing the introduction of plant pests associated with imported wood. Interest in importing logs and other unmanufactured wood articles from various countries is increasing rapidly toward a point where inspection and control activities solely at the port of first arrival will not be feasible. There is currently an intense commercial interest in developing a long-term industry in the Pacific Northwest for importing and processing logs from foreign countries. There is also potential for increased log and other unmanufactured wood article imports into other areas of the United States.

#### Interim Rules Affecting Certain Logs From Chile and New Zealand

An interim rule published in the **Federal Register** on February 16, 1993, and effective January 19, 1993 (58 FR 8524-8533, Docket No. 91-074-4), established importation requirements for Monterey pine and Douglas-fir logs from New Zealand. Plant pest risks associated with importing these articles, and import requirements that would reduce these risks to insignificant levels, were identified early in the course of developing comprehensive wood import regulations. Therefore, to reduce these plant pest risks as soon as possible, we established regulatory requirements in 7 CFR 319.40-1 through 319.40-8 for certain logs from New Zealand.

A second interim rule published in the **Federal Register** on November 9, 1993 (58 FR 59348-59353, Docket No. 91-074-5), and effective November 2, 1993, established importation requirements for Monterey pine logs from Chile. This interim rule applied the same requirements to Monterey pine logs from Chile that the first interim rule applied to Monterey pine and Douglas-fir logs from New Zealand.

This final rule replaces the regulations established by the interim rules with comprehensive regulations affecting importation of unmanufactured wood articles from all places, including Chile and New Zealand. The provisions contained in this rule for Monterey pine logs from Chile, and for Monterey pine and Douglas-fir logs from New Zealand are essentially the same as the requirements imposed by the interim rule, except that the interim rule used slightly different definitions due to its limited scope.

#### Proposed Rule

On January 20, 1994, we published a document in the **Federal Register** (59 FR 3002-3029, Docket No. 91-074-3) proposing to replace the interim regulations, "Subpart—Logs from Chile and New Zealand," with a new "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles" containing prohibitions and restrictions concerning imported unmanufactured wood articles.

The proposed rule, and this final rule, are based on an approach that gives importers three complementary options for importing regulated articles. These are:

(1) If the regulations contain specific requirements for importing a specific article from a specific country or area, you may import the article by complying with those requirements. Examples of this option include the importation of Monterey pine logs and raw lumber from Chile and New Zealand in accordance with the requirements of § 319.40-5, "Importation and entry requirements for specified articles." We intend to add more articles, countries or areas from which articles may be imported, and importation requirements to this section as new requests to import various articles are evaluated and approved.

(2) If the regulations do not contain specific requirements for importing the article you wish to import, or if you believe the article may be safely imported under less stringent conditions than the regulations require, you may submit an application for a permit to import the article, and describe in the application information about the article's origin, processing, treatment, and handling. We will evaluate the permit request, conducting plant pest risk assessments as necessary, and if we determine that the article may be safely imported under conditions not already in the regulations, we will institute rulemaking to add the appropriate articles and conditions to § 319.40-5, "Importation and entry requirements for specified articles."

(3) If the regulations do not contain specific requirements for importing the article you wish to import, you may wish to import the article before there is time to complete plant pest risk assessments and add the article and the necessary specific importation requirements to the regulations. In this case, you may import the article by complying with one of the universal importation options in § 319.40-6. These universal options employ heat treatment and other conditions for importing logs and lumber not otherwise enterable. These universal options are relatively stringent, because they must eliminate the spectrum of potential plant pests and address risks that have not been characterized. The universal options are designed to give importers a way to import articles that would otherwise be prohibited until detailed plant pest risk assessments are completed. Whenever feasible, importers may choose to employ universal options while plant pest risk assessments and rulemaking are underway to establish less stringent requirements for the articles they wish to import. Importers of some articles may find that complying with a universal option is the most feasible and cost-effective way to import their articles.

#### Comments on the Proposed Rule

We solicited comments concerning our proposal for a 90-day comment period ending April 20, 1994. We received 56 comments by that date. Eleven were from companies and industrial associations involved in the harvesting and importation of logs and other wood products, or the manufacturing of wood products that could be derived from such imports, or the sale of products or processes used in such manufacturing. Eleven comments were from environmental organizations. Six comments were from universities. Four comments were from State agencies involved in forestry or agriculture. Four comments were from agencies of the Canadian government, and one from the Delegation of the Commission of the European Communities. National associations representing Federal and State employees involved in forestry, American growers of nursery stock, and interested members of the public also submitted comments.

We carefully evaluated these comments. While most supported implementing regulations addressing the importation of wood, many raised questions about how to do so in an optimally effective manner. These comments are discussed below in detail.

In response to the comments, APHIS is making eight changes to the proposed requirements. These changes are:

1. *Change the standard for heat treatment and heat treatment with moisture reduction from 56 °C for 30 minutes to 71.1 °C for 75 minutes.* This change is in response to several commenters who recommended that APHIS use 71.1 °C for 75 minutes as reported in the Forest Service's Scientific Panel Review of January 10, 1992—Proposed Test Shipment Protocol for Importing Siberian Larch Logs. Upon reviewing this research and our data from the proposal supporting a lesser temperature-time combination, we believe we were in error in believing that the proposed heat treatment would effectively eliminate all plant pests of concern. Specifically, a heat treatment of 56 °C for 30 minutes could allow various harmful fungi to survive. Research reports show that various fungi in wood can survive 1 to several hours of heat treatment at temperatures ranging from 56 °C to 70 °C, but are destroyed by a treatment of 71.1 °C for 75 minutes. The heat treatment required by the regulations must be able to effectively destroy all potentially dangerous fungi. Therefore, we are changing the requirements for heat treatment and heat treatment with moisture reduction in § 319.40-7 (c) and (d) to specify 71.1 °C for 75 minutes. We will allow heat treatment at lower temperatures only in specific kiln drying processes where the fungicidal action of the heat is extended over a long period of time and is complemented by moisture reduction (see below).

2. *Allow kiln drying conducted in accordance with acceptable industry practices to qualify as heat treatment with moisture reduction, in lieu of a specific temperature-time combination.* As proposed, heat treatment with moisture reduction had to raise the temperature at the center of the treated article to 56 °C for 30 minutes. If we changed this provision consistent with the above change in the temperature and time of heat treatments (i.e., 71.1 °C for 75 minutes), then most articles kiln dried according to industry practices would not qualify as heat treated with moisture reduction, even though they meet the dryness standard of the regulations (a moisture content of 20 percent or less, as specified in § 319.40-7(d)).

In fact, research shows that while some fungi survive temperatures between 56 °C and 70 °C for relatively short periods, all harmful fungi are destroyed by kiln drying that is conducted according to standard