Proposed Rules

Federal Register
Vol. 74, No. 67
Thursday, April 9, 2009

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 Parts 305 and 319

[Docket No. APHIS–2007–0117]

RIN 0579–AC90

Importation of Wooden Handicrafts From China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to provide for the importation of wooden handicrafts from China under certain conditions. From 2002 to 2005, the Animal and Plant Health Inspection Services (APHIS) issued more than 300 emergency action notices and conducted national recalls to remove infested Chinese-origin wooden handicrafts from the U.S. marketplace. In 2005, APHIS suspended the importation of certain Chinese wooden handicrafts until we could more fully analyze the pest risks associated with those articles. Based on the evidence in a recent pest risk analysis, APHIS has determined that these articles can be safely imported from China, provided certain conditions are met. This action would allow for trade in Chinese wooden handicrafts to resume while continuing to protect the United States against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before June 8, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0117* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2007–0117, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0117.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. John Tyrone Jones, Trade Director (Forestry Products), Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1231; (301) 734–8860.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles'' (7 CFR 319.40–1 through 319.40–11, referred to below as the regulations) govern the importation of various logs, lumber, and other unmanufactured wood products into the United States. Under § 319.40–9 of the regulations, all regulated articles must be inspected at the port of first arrival. If a regulated article shows any signs of pest infestation, the inspector may require treatment, if an approved treatment exists, or refuse entry of the consignment.

In recent years, wood decorative items and craft products (wooden handicrafts) from China have been entering the United States in increasing quantities. Since 2002, the Animal and Plant Health Inspection Service (APHIS) has issued more than 300 emergency action notices for wooden handicrafts from China, including artificial trees manufactured from a composite of natural and synthetic materials, garden trellis towers, home and garden wood décor, and craft items. In 2004, the United States Department of Agriculture (USDA) intercepted live wood boring beetles, *Callidiellum villosulum* (Coleoptera: Cerambycidae), on artificial trees manufactured from wood components and on other craft products imported from China. Subsequent to these interceptions, shipments of those articles were recalled from retail stores. Based on these pest interceptions, we suspended the importation of most wooden handicrafts (i.e., all handicrafts made from wooden logs, limbs, branches, or twigs greater than 1 centimeter in diameter) from China in 2005 until a more thorough evaluation of the pest risks associated with those articles could be conducted.

APHIS prepared a pest risk assessment, titled ''Pests and mitigations for manufactured wood décor and craft products from China for importation into the United States,'' to evaluate the risks associated with the importation of such wooden handicrafts into the United States from China. APHIS also prepared a risk management document, titled ''Pests and mitigations for manufactured wood décor and craft products from China for importation into the United States,'' to determine mitigations necessary to prevent pest entry, introduction, or establishment associated with imported wooden handicrafts from China. Copies of the pest risk assessment and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the conclusions in the pest risk assessment and the accompanying risk management document, we have determined that wooden handicrafts can be imported from China provided certain conditions are met. The details of those conditions would be set out in a new paragraph (o) in § 319.40–5, ''Importation and entry requirements for specified articles.'' The new paragraph would require treatments, phytosanitary certificates and inspection, and box identifications. These requirements are discussed in more detail in the following paragraphs.

Change to the Title of ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles''

For reasons that we discuss below, we are proposing to remove the word

''unmanufactured'' from the title of the subpart.

Definitions

Section 319.40–1 contains definitions for certain terms used in the regulations pertaining to logs, lumber, and other wood articles. In § 319.40–1, we are proposing to add a new definition, *wooden handicraft*, and to revise the definition of *regulated article*. We would define *wooden handicraft* as a commodity class of articles derived or made of natural components of wood, twigs, and vines, and including bamboo poles and garden stakes. Handicrafts would include the following products where wood is present: Carvings, baskets, boxes, bird houses, manufactured Christmas trees, garden and lawn/patio furniture (rustic), potpourri, silk trees (typically artificial ficus trees), trellis towers, garden fencing and edging, and other items composed of wood. This new definition would establish the meaning of this term in the context of the regulations.

Currently, we define a *regulated article* as ''the following articles, if they are unprocessed or have received only primary processing: Logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips; wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; and litter.'' Based on this definition, insofar as wooden handicrafts are often composed primarily of products that have undergone more than primary processing, we recognize that it is not immediately apparent that they would fall within the scope of articles regulated by the subpart.

However, we have long construed one of the clauses of the definition of *regulated article*, designating any unmanufactured or partially processed portion of a tree as a regulated article, to mean that any article that contains an unmanufactured or partially processed part that cannot feasibly be separated from the other parts of the article for the purposes of inspection and treatment is, in fact, a regulated article. For example, we would consider a crate constructed of processed (e.g., plywood) sides but unprocessed lumber bracing to be a regulated article, and thus subject to inspection and treatment. Moreover, wooden handicrafts, as we are proposing to define them, would always contain unmanufactured or partially processed parts that cannot easily be extricated from the other parts of the handicraft. Therefore, we consider wooden handicrafts to fall within the scope of regulated articles.

However, we do consider it useful to amend and clarify the definition of *regulated articles* at this time based on our long-standing interpretation of that definition. As amended, *regulated articles* would be ''the following articles, if they are unprocessed, have received only primary processing, or contain parts that are either unprocessed or have received only primary processing and are not feasibly separable from the other parts of the article: Logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips; wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; litter; and wooden handicrafts.''

Accordingly, since we have long applied the requirements of this subpart to articles that are partially processed or manufactured, we also consider it useful to amend the title of the subpart by removing the word ''unmanufactured'' from it.

Treatments

Wood boring beetles in the families Buprestidae, Cerambycidae, and Scolytidae were the pests of greatest concern identified in the pest risk assessment as likely to follow the pathway on imported wooden handicrafts from China. Because the immature stages of wood boring beetles develop completely inside wood, wood boring beetles are considered to present a high risk of entering the United States undetected within untreated wood. Until adult insects leave the wood, there is often no sign of the internally feeding pest. Therefore, to address the risks presented by those pests, we are proposing to amend the regulations to require that all wooden handicrafts from China be treated with heat treatment or heat treatment with moisture reduction. In certain instances, which we specify below, we are also proposing to allow methyl bromide as an alternative treatment method.

The requirements for heat treatment and heat treatment with moisture reduction are currently set forth in § 319.40–7(c) and (d), respectively. As provided in § 319.40–7(c), heat treatment may take place only at a facility where APHIS or an inspector authorized by the Administrator and the national government of the country in which the facility is located has inspected the facility and determined that its operation complies with the treatment specifications as follows: Heat treatment procedures may employ steam, hot water, kilns, exposure to microwave energy, or any other method (e.g., the hot water and steam techniques used in veneer production) that raises the temperature of the center of each treated regulated article to at least 71.1 °C (160 °F) and maintains the regulated article at that center temperature for at least 75 minutes.

Section 319.40–7(d) provides that heat treatment with moisture reduction may include kiln drying conducted in accordance with the schedules prescribed for the regulated article in the Dry Kiln Operator's Manual, Agriculture Handbook 188, which we have incorporated by reference into our regulations (*see* 7 CFR 300.2), or dry heat, exposure to microwave energy, or any other method that raises the temperature of the center of each treated regulated article to at least 71.1 °C (160 °F), maintains the regulated articles at that center temperature for at least 75 minutes, and reduces the moisture content of the regulated article to 20 percent or less as measured by an electrical conductivity meter.

For regulated articles that are heat treated or heat treated with moisture reduction prior to arrival in the United States, the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests, particularly the pests of greatest concern identified in the risk management document, during the entire interval between treatment and export.

Proposed § 319.40–5(o)(1) provides for the use of methyl bromide fumigation as an additional treatment option for wooden handicrafts that are less than 6 inches in diameter. The methyl bromide treatment we would prescribe, which is listed in 7 CFR part 305 as treatment schedule T404–d, is not an effective treatment for wood pieces that are larger than 6 inches in diameter.

Phytosanitary Certificate

Proposed § 319.40–5(o)(2) would require that all consignments of wooden handicrafts be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of China. The phytosanitary certificate would have to contain an additional declaration stating that the handicrafts were treated as required under § 319.40–5(o) and inspected and found free from quarantine pests. The phytosanitary certificate would serve to verify that treatment took place in China

and that the consignment was free of quarantine pests upon exportation.

Identification of Shipping Packages

Proposed § 319.40–5(o)(3) would require that all individual packages of wooden handicrafts be labeled with a merchandising tag containing the identity of the product manufacturer. We would require that the tag be applied to each package in China prior to exportation and that the identifying tag remain in place until the package reaches the store at which it will be sold in the United States. The identification tag would serve as a means for APHIS to track shipments should a recall be required.

Changes to Treatment Schedules

We are also proposing to amend § 305.28, ''Kiln sterilization treatment schedule.'' Currently, this section contains a treatment schedule, T–404–b–4, that, while correct, is ambiguous. Therefore, we would have T–404–b–4 refer to the kiln sterilization techniques prescribed in the Dry Kiln Operator's Manual, Agriculture Handbook 188, which is incorporated by reference into our regulations. The Dry Kiln Operator's Manual, Agriculture Handbook 188, would provide exporters of wood products with equivalent kiln sterilization treatment schedules that are clearer.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We have prepared an initial regulatory flexibility analysis that considers the potential economic effects of this proposed rule on small entities, as required by the Regulatory Flexibility Act.

We are proposing to amend the regulations to provide for the importation of wooden handicrafts from China under certain conditions. From 2002 to 2005, APHIS issued more than 300 emergency action notices and conducted national recalls to remove infested Chinese-origin wooden handicrafts from the U.S. marketplace. In 2005, APHIS suspended the importation of certain Chinese wooden handicrafts until further analysis of pest risk could be conducted. Based on the evidence in a recent pest risk assessment, APHIS has determined that these articles can be safely imported from China, provided certain conditions are met. This action would allow for trade in Chinese wooden handicrafts to resume while continuing to protect the United States against the introduction of plant pests.

U.S.-Chinese Trade in Wood Products

The U.S. forest products industry is among the nation's leading manufacturers. It contributes about $167 billion to the gross domestic product, with annual shipments valued at $359 billion.[1] The industry tends to locate near its resource base and therefore is important to many local rural economies. It employs directly more than 1.5 million people. Many other jobs depend on such forest-related activities as hunting, hiking, fishing, and the production and sale of alternative forest products.

The United States is one of the major players in international wood products trade. It is a top five exporter and the leading importer of wood and wood products. In 2006, the United States exported wood and wood products valued at $6.6 billion to a variety of destinations. The major destinations included Canada, Japan, Mexico, China, Spain, the United Kingdom, Italy, Germany, South Korea, and Hong Kong. That same year, the U.S. imported wood and wood products valued at $22.9 billion. Canada, Brazil, China, Chile, and Germany supplied 83 percent of U.S. total imports of wood and wood products.

According to a recent report by USDA's Foreign Agricultural Services (FAS), the United States imported wood products (including furniture and paper products) from China valued at $4.55 billion, while it exported to China wood products valued at $1.11 billion in 2006.[2] Most of the Chinese exports to the United States are value-added products such as furniture and paper, while the U.S. exports to China are mainly raw or semi-processed materials such as timber, lumber, and veneer. Trade between the two countries in all products is expanding at a rapid rate. China jumped from being the United States' fourth largest trade partner in 2002 to being our second largest partner in 2006. If this rate of expansion continues, China will likely pass Canada and become the United States' largest trading partner in the near future. China's overall mercantile exports to the United States increased from $102 billion in 2001 to $288 billion in 2006, a 181 percent increase. Over the same period of time, U.S. imports increased overall by about 62 percent. The increase in imports of Chinese wood products was even larger, about 256 percent over the same period, compared to an overall increase in U.S. imports of wood products of 53 percent.[3]

Benefits and Costs

The brown fir longhorned beetle, *Callidiellum villosulum*, and the Japanese cedar longhorned beetle, *Callidiellum rufipenne*, are both related to *Anoplophora glabripennis*, the Asian longhorned beetle (ALB). The ALB is a pest that is destructive of many tree species found in U.S. forests and is currently being eradicated in the United States. Its host ranges include cedar, cypress, pine, redwood, and other conifers. The host range of the tiger longhorned beetle, *Chlorophorus annularis*, includes grapes, citrus, pears, and cotton. (U.S.-produced grapes, citrus, pears, and cotton had combined domestic sales of over $12 billion in 2006.) The introduction of one of these pests to an area could result in reduced yields, reduced commodity value, and loss of both domestic and international markets. The damage caused by these pests becomes additive when there are mixed populations of closely related species. The United States is susceptible to establishment of these pests because our climatic zones are similar to those of China.

The potential destructiveness and economic impacts of these insects are exemplified by APHIS' most recent experience with ALB and *Agrilus planipennis*, the emerald ash borer (EAB). The ALB continues to attack hosts with significant commercial value, killing the host or predisposing it to destruction by other organisms. Affected areas lose aesthetic and property values as large infested trees are replaced by young and less desirable ALB-resistant trees. Eradication efforts in New York and Illinois have resulted in the destruction and removal of thousands of trees. APHIS has spent more than $300 million on eradication efforts and tree replacement. A study by Nowak *et al.* (2002), using the New York and Illinois experience as a basis, estimated that the potential national urban impact of ALB could reach a loss of 34.9 percent of total canopy cover, with 30.3 percent

[1] U.S. Census Bureau, Annual Survey of Manufactures: 2005 Statistics for industry groups and industries, November 2006. The value added and shipment values are for wood products manufacturing, paper manufacturing, and furniture and related product manufacturing.

[2] USDA/FAS, Solid Wood Products: China's Wood processing Sector and Re-exports of Imported U.S. Wood products, 2007, GAIN Report Number CH7061.

[3] World Trade Atlas, 1993–2007. Global Trade Information Services, Inc., July 2007.

tree mortality and a value loss of $669 billion.[4]

Similarly, EAB is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). This destructive pest has already killed more than 20 million ash trees since it was discovered in Michigan in the summer of 2002.[5] The mortality rate for infested trees is 100 percent. If EAB spreads from infested areas to the surrounding forests of the northeastern United States, where nursery, landscaping, and timber industries and forest-based recreation and tourism industries play vital economic roles, its impact would be severe. The pest has the potential to destroy entire stands of ash, and any incursion of the pest can result in substantial losses to forest ecosystems, urban trees, and the timber industry. Sydnor *et al.* (2007) estimate total potential losses from this one pest in one State (Ohio), including ash landscape losses, tree removal, and replacements, to be between $1.8 billion and $7.6 billion.[6]

Eradication and control costs for ALB and EAB, and potential losses that could be caused by these pests if nothing were done to prevent their spread, are similar to the costs and losses that could be incurred if the pests addressed by this proposed rule were to become established in the United States.

The cost of meeting the regulatory requirements of this proposed rule would be borne by Chinese manufacturers and exporters before the products are exported to the United States. The treatment options include heat treatment and heat treatment with moisture reduction, and for articles with a diameter of less than 6 inches, fumigation with methyl bromide. Heat treatment can increase the value of wood, while green wood products treated by methyl bromide do not gain additional value.

Reportedly, fumigation tends to be a bit more expensive than heat treatment per treated load, but it does not have the considerable upfront expenditure associated with installing a heat treatment system. The cost for a fumigation service depends on a number of factors, including distance from the nearest service center, volume, frequency, and services requested. Fumigation services can range anywhere from $175–$500 per load.[7] U.S. entities that import wooden handicraft articles from China may therefore experience some increase in prices because of the treatment requirements imposed by this rule, but the effect is not expected to be significant. For one thing, due to the treatment of wooden packing material currently required of incoming shipments from China, China already has in place the heat treatment and fumigation facilities and operations that would be needed. Therefore, while we lack information regarding the total number of treatments that would need to be conducted because of this rule, we are confident that China has in place means to minimize the cost of treatment.

Finally, the cost of heat treatment or fumigation is expected to be small in comparison to the value of the wooden handicrafts that would be shipped. Wooden handicrafts are a value-added product for which there is an established market in the United States, as indicated by imports of wooden handicrafts from China prior to 2005. Accordingly, we expect that any portion of treatment costs that may be passed on to U.S. consumers would be minor compared to the benefits that would be accrued by U.S. consumers based on consumer access to a product for which there has been a clear market in recent years. Moreover, we expect these costs to be less than benefits that may be accrued based on the aggregate value of the handicrafts themselves and the potentiality, based on this value, for the facilitation of greater trade between the United States and China.

Effects on Small Entities

As a part of the rulemaking process, APHIS evaluates whether regulations are likely to have a significant economic impact on a substantial number of small entities. The Small Business Administration has established guidelines for determining the number of firms considered small under the Regulatory Flexibility Act. The entities that may be affected by this proposed rule are those engaged in wood product manufacturing, importing of the regulated articles, or furniture and related products manufacturing.[8] These establishments are considered small if they employ 500 or fewer workers.[9] There were 2,129 establishments engaged in other miscellaneous wood product manufacturing (North American Industry Classification System (NAICS) Code 321999), of which only 4 establishments (less than 0.2 percent) could be considered to be large. The average annual value of their shipments in 2002 was $154 million. The 2,125 small establishments had an average annual shipment value in 2002 of $1.9 million.

Alternatives

The Agency does not foresee any significant impact of the proposed rule and therefore has not set forth any significant alternatives to minimize the impact on small entities. Any costs due to the treatments required by the proposed rule would be directly borne by the manufacturer or exporter in China. A portion of this cost may be passed on to the U.S. importer, but it would not be significant.

Summary

The application of the required treatments would take place in China before the products are exported to the United States. The entities that would be directly affected by the rule are Chinese manufacturers and exporters of wooden handicrafts. Domestically, the entities that may be marginally affected by the rule would be those engaged in wood product manufacturing, and importers and users of wooden handicrafts from China. These establishments are considered small if they employ 500 or fewer workers. In 2002, there were 2,129 establishments engaged in other miscellaneous wood product manufacturing (NAICS Code 321999), of which 4 establishments (less than 0.2 percent) could be considered to be large. The average annual value of their shipments in 2002 was $154 million. That same year, small establishments had an average annual shipment value of $1.9 million. We expect any indirect impact of the rule for U.S. entities large or small, in terms of increased prices for wooden handicrafts from China because of the treatment requirements, to be minor. The U.S. forest industry has an important role in the U.S. economy, and the proposed amendments would help protect the industry from the establishment of pests introduced in wooden handicrafts imported from China.

[4] Nowak, D.J., D.E. Crane, and J.F. Dwyer. July 2002. ''Compensatory Value of Urban Trees in the United States.'' Journal of Arboriculture, Vol. 28: 194–199.

[5] *http://www.ca.uky.edu/AGC/NEWS/2006/Dec/ashborer.htm.*

[6] Sydnor, T.D., M. Bumgardner, and A. Todd, (January 2007). ''The potential economic impacts of emerald ash borer (*Agrilus planipennis*) on Ohio, U.S., communities.'' Arboriculture and Urban Forestry, Vol. 33: 48–54.

[7] Pallet Enterprise Web site: *http://www.palletenterprise.com/pests/fumigation101.asp.*

[8] U.S. Census Bureau, 2002 economic census, Manufacturing-Subject Series.

[9] U.S. Small Business Administration Table of Small Business Size Standards. (*http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*).

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

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of wooden handicrafts from China, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (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).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Use of Methyl Bromide

The United States is fully committed to the objectives of the Montreal Protocol, including the reduction and ultimately the elimination of reliance on methyl bromide for quarantine and pre-shipment uses in a manner that is consistent with the safeguarding of U.S. agriculture and ecosystems. APHIS reviews its methyl bromide policies and their effect on the environment in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and Decision XI/13 (paragraph 5) of the 11th Meeting of the Parties to the Montreal Protocol, which calls on the Parties to review their ''national plant, animal, environmental, health, and stored product regulations with a view to removing the requirement for the use of methyl bromide for quarantine and pre-shipment where technically and economically feasible alternatives exist.''

The United States Government encourages methods that do not use methyl bromide to meet phytosanitary standards where alternatives are deemed to be technically and economically feasible. In some circumstances, however, methyl bromide continues to be the only technically and economically feasible treatment against specific quarantine pests. In addition, in accordance with Montreal Protocol Decision XI/13 (paragraph 7), APHIS is committed to promoting and employing gas recapture technology and other methods whenever possible to minimize harm to the environment cause by methyl bromide emissions. As noted above, we welcome data or other information regarding other treatments that may be efficacious and technically and economically feasible that we may consider as alternatives to methyl bromide.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2007–0117. Please send a copy of your comments to: (1) Docket No. APHIS–2007–0117, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 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.

We are proposing to amend the regulations to provide for the importation of wooden handicrafts from China under certain conditions. This action would allow for trade in Chinese wooden handicrafts to resume while continuing to protect the United States against the introduction of plant pests. Allowing the importation of wooden handicrafts from China would necessitate the use of certain information collection activities, including the completion of phytosanitary certificates and identification tags of packages of wooden handicrafts.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.003984 hours per response.

Respondents: Chinese exporters.

Estimated Annual Number of Respondents: 140.

Estimated Annual Number of Responses per Respondent: 2,259.

Estimated Annual Number of Responses: 316,260.

Estimated Total Annual Burden on Respondents: 1,260 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

Lists of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 305.2 is amended as follows:

a. In the introductory text of paragraph (v), in the first sentence, by adding the word ''handicrafts,'' after the word ''containers,''.

b. In the table in paragraph (v), by adding, in alphabetical order, a new entry for ''wooden handicrafts'' to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(v) * * *

Material	Pest	Treatment schedule
* *	* *	* *
Wooden handicrafts	Wood-boring beetles (including the families Buprestidae, Cerambycidae, and Scolytidae) and other pests associated with wooden handicrafts.	MB–T404-d (less than 6 inches in diameter), heat treatment (§ 319.40–7(c) of this chapter), or heat treatment with moisture reduction (§ 319.40–7(d) of this chapter).

3. Section 305.28 is revised to read as follows:

§ 305.28 Kiln sterilization treatment schedule.

T404–b–4: See kiln sterilization treatments contained in the ''Dry Kiln Operator's Manual,'' which is incorporated by reference at § 300.2 of this chapter.

PART 319—FOREIGN QUARANTINE NOTICES

4. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

5. Following § 319.37–14, the subpart heading ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles'' is amended by removing the word ''Unmanufactured''.

6. Section 319.40–1 is amended by revising the definition of *regulated article* and adding, in alphabetical order, a definition for *wooden handicraft* to read as follows:

§ 319.40–1 Definitions.

* * * * *

Regulated article. The following articles, if they are unprocessed, have received only primary processing, or contain parts that are either unprocessed or have received only primary processing and are not feasibly separable from the other parts of the article: Logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips; wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; litter; and wooden handicrafts.

* * * * *

Wooden handicraft. A commodity class of articles derived or made from natural components of wood, twigs, and vines, and including bamboo poles and garden stakes. Handicrafts include the following products where wood is present: Carvings, baskets, boxes, bird houses, manufactured Christmas trees, garden and lawn/patio furniture (rustic), potpourri, silk trees (typically artificial ficus trees), trellis towers, garden fencing and edging, and other items composed of wood.

* * * * *

7. Section 319.40–5 is amended by adding a new paragraph (o) to read as follows:

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

* * * * *

(o) *Wooden handicrafts from China.* Wooden handicrafts may be imported into the United States from China only in accordance with this paragraph and all other applicable provisions of this title.

(1) *Treatment.* (i) Wooden handicrafts must be treated with heat treatment in accordance with § 319.40–7(c) or heat treatment with moisture reduction in accordance with § 319.40–7(d).

(ii) Wooden handicrafts that are less than 6 inches in diameter may also be treated with methyl bromide fumigation in accordance with part 305 of this chapter.

(2) *Phytosanitary certificate.* All consignments of wooden handicrafts must be accompanied by a phytosanitary certificate issued by the national plant protection organization of China. The phytosanitary certificate must contain an additional declaration stating that the handicrafts were treated in accordance with this section and inspected and found free from quarantine pests.

(3) *Identification tag.* All individual packages of wooden handicrafts must be labeled with a merchandise tag containing the identity of the product manufacturer. The identification tag must be applied to each package in China prior to exportation and remain attached to the package until it reaches the location at which the wooden handicraft will be sold in the United States.

Done in Washington, DC, this 3rd day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–8102 Filed 4–8–09; 8:45 am]

BILLING CODE 3410–34–P