Federal Register
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Tuesday, November 9, 1993

Presidential Documents

Title 3—

The President

Executive Order 12878 of November 5, 1993

Bipartisan Commission on Entitlement Reform

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to establish a Bipartisan Commission on Entitlement Reform, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Bipartisan Commission on Entitlement Reform ("Commission"). The Commission shall comprise 30 members to be appointed by the President. Ten members shall be Senators, five each from the Democratic and Republican parties. Ten members shall be Members of the House of Representatives, five each from the Democratic and Republican parties. Ten members shall be individuals from either the public or private sector who have experience and expertise in the areas to be considered by the Commission.

(b) The President shall designate a Chairperson and Vice-Chairperson from among the members of the Commission.

Sec. 2. *Functions.* (a) The Commission shall recommend potential long-term budget savings measures involving (1) revisions to statutory entitlement and other mandatory programs; and (2) alternative tax reform proposals. The Commission shall report its recommendations respecting potential entitlement and other mandatory program savings and tax system revisions to the National Economic Council and to the Congressional leadership by May 1, 1994.

(b) The Commission shall decide by a three-fifths vote which recommendations to include in the report. At the request of any Commission member, the report will include that Commission member's dissenting views or opinions.

(c) The Commission may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

Sec. 3. *Administration.* (a) To the extent permitted by law, the heads of executive departments, agencies, and independent instrumentalities shall provide the Commission, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head, (1) make any of the facilities and services of such agency or instrumentality available to the Commission; and (2) detail any of the personnel of such agency or instrumentality to the Commission, to assist the Commission in carrying out its duties.

(c) Members of the Commission shall serve without compensation for their work on the Commission. While engaged in the work of the Commission, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707) to the extent funds are available for such purposes.

(d) To the extent permitted by law and subject to the availability of appropriations, the Department of Health and Human Services shall provide the Commission with administrative services, funds, facilities, staff, and other support services necessary for the performance of the Commission's functions. The Secretary of Health and Human Services shall perform the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.) ("Act"), except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General Services.

(e) The Commission shall adhere to the requirements set forth in the Act. All executive branch officials assigned duties by the Act shall comply with its requirements with respect to the Commission.

Sec. 4. *General Provision.* The Commission shall terminate 30 days after submitting its report.

William J. Clinton

THE WHITE HOUSE,
November 5, 1993.

[FR Doc. 93–27733
Filed 11–5–93; 3:10 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 58, No. 215
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 335 and 511

RIN 3206–AF09

Promotion and Internal Placement

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that authorize agencies to make time-limited promotions in the competitive service. This authority replaces existing temporary and term promotion authorities with a single time-limited promotion authority for up to 5 years, eliminates the need for agencies to enter into a written delegation agreement or seek OPM prior approval to make a time-limited promotion for more than 2 years, eliminates the requirement to make these promotions in 1-year increments, and requires the agency to notify the employee in writing of the conditions of the time-limited promotion.

EFFECTIVE DATE: December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Leota Shelkey Edwards on 202–606–0960 (FAX 202–606–2329).

SUPPLEMENTARY INFORMATION: On October 15, 1992, OPM issued proposed regulations to authorize time-limited promotions for up to 5 years in the competitive service (57 FR 47279). We received written comments from eight agencies, two employee organizations, and two individuals. All but three supported the proposal.

Currently, 5 CFR part 335 permits agencies to make time-limited promotions in the competitive service under two separate authorities. Section 335.102 (f) permits an agency to promote an employee temporarily to meet a temporary need for up to 1 year and to extend the promotion for no more than 1 additional year. Further extensions require OPM prior approval.

Section 335.102(g) permits agencies, after entering into a formal written agreement with OPM, to promote an employee for a limited term in excess of 2 years but not more than 4 years to complete a designated project or as part of a planned rotational system. The agency may request OPM approval for extension for a total of 5 years.

This final regulation replaces the temporary and term promotion authorities in § 335.102 (f) and (g) with a single authority for time-limited promotions of up to 5 years. Our purpose in doing so is to increase the usefulness of the time-limited promotion mechanism and to eliminate the overlap between these two similar authorities and the resulting confusion over their use. Following is a summary of the comments received.

a. New Time Limit

One commenter expressed concern that this regulation would allow for extended employment of individuals without the full range of employees benefits such as health benefits, leave, etc. However, this is not so. The employees covered by this regulation are those under career, career-conditional, status quo, indefinite, term, and overseas limited indefinite/term appointments—all of which provide the full range of employee benefits. An employee's time-limited promotion while serving under one of these appointment types has no effect on the employee's continuing eligibility for benefits.

One commenter suggested we retain the existing requirement that temporary promotions be made in 1-year increments, and another favored retaining OPM approval for extensions. We have not adopted either suggestion. While temporary promotions now are limited to 1-year periods, term promotions are not; and elimination of increments in the new authority was intended to avoid additional personnel actions when an agency knows at the outset that the need is limited, but will be for more than 1 year. Furthermore, an agency has the authority, if it wishes, to adopt internal implementing policies that limit use of the authority to shorter periods or 1-year increments, and to require prior approval of higher agency levels for extensions.

One commenter suggested we spell out the types of situations that warrant a promotion for 3–5 years to assure proper use. We have included appropriate uses for time-limited promotions in the regulation, but we have not specified the circumstances for particular time periods. Our intent is to provide agencies with the authority to cover legitimate management needs and the discretion to determine the situations that warrant a longer time period. If an agency wishes to restrict the authority further, it may do so.

The proposed regulation provided that an agency could make a time-limited promotion retroactively only with OPM's prior approval. Two commenters were confused over this provision, and another noted that it should not prevent an agency from correcting unwarranted or unjustified personnel actions. We agree and have dropped the OPM prior approval provision from the final regulation. Agencies could use this authority to effect retroactive temporary promotions consistent with the back pay law.

We wish to clarify several additional issues about the time limit. The 5-year limit applies to the total continuous time an employee is temporarily promoted without new competition. If an employee is promoted temporarily and later competes and is selected for a second temporary promotion (either at the same or a higher grade), the 5-year period starts running anew with the second temporary promotion. Also, if an employee is noncompetitively promoted for 120 days, and the promotion is extended after competition has been held, the first 120 days counts towards the 5-year limit.

If a legitimate need were to extend beyond 5 years, OPM could approve an extension of a promotion. However, the 5-year limit should satisfy the great majority of agency situations. If a need appears to extend beyond 5 years, agencies should consider whether a permanent promotion is more appropriate.

b. Agency Delegation

The proposed regulation did not require agencies to enter into written delegation agreements with OPM, as is now the case for term promotions. We received no comments on this issue. The final regulation, as proposed, grants the authority to all agencies without the need for individual delegations.

c. Employee Notice

The proposed regulation required agencies to give employees advance written notice of the conditions of a time-limited promotion. One commenter suggested that agencies should obtain an employee's written acknowledgement of receipt of this notice. We have not adopted this suggestion. Other provisions where advance notice is required, such as proposed adverse action, do not require agencies to obtain written acknowledgement, and we think such a requirement is not necessary here either. The final regulation leaves to agency discretion the decision of how it would show that advance notice was given, should this become necessary. If an agency obtains a written acknowledgement, the acknowledgement would be a temporary document appropriate for filing on the left side of the employee's Official Personnel Folder.

In some situations, it will not be possible to give advance notice of the conditions of a time-limited promotion. For example, an agency's policy may require it to temporarily promote an employee who has served in a position on detail for a particular period of time. Compliance with these nondiscretionary provisions sometimes requires agencies to make temporary promotions before they can provide an advance notice. The final regulation provides that in these situations an agency should give the notice as soon as possible after the promotion is made.

We have also changed the final regulation to require that the reason for making the promotion time limited be included in the notice along with the requirement for competition for promotions beyond 120 days, where applicable.

d. Documentation

The proposed regulation require agencies to document the specific reason for the time-limited promotion on the SF 50, Notification of Personnel Action, documenting the action. One commenter found this requirement unnecessary since the employee receives advance notice of the conditions, while another commenter found this documentation to be insufficient. We agree that a remark on the SF 50 is not necessary if the written notice to the employee provides it. We have changed the regulation accordingly.

e. Right To Return to Former Grade

The proposed regulation provided that a time-limited promotion could be ended at any time an employee returned to the position from which promoted, or to a different position of equivalent grade and pay, without following the procedures in 5 CFR parts 351, 432, 752, or 771, if advance notice of the conditions had been given to the employee.

One commenter questioned OPM's authority to allow promotions for extended periods and then to end the promotions without due process or procedures of statute. The commenter noted that statutory law does not cite as an exception to either the adverse action or reduction in force procedures the right to avoid those laws by using a temporary promotion status.

OPM believes this regulation is within its authority and is consistent with applicable case law. This regulation reflects *Phipps* v. *Department of Health and Human Services*, 767 F.2d 895 (Fed. Cir. 1985). In that case, the U.S. Court of Appeals for the Federal Circuit held that if agencies had informed employees in advance that a promotion was only temporary, they are not required to follow adverse action procedures when terminating a temporary promotion at any time.

OPM notes also that the term promotion authority—which allows agencies to promote employees for 4 years, and longer with OPM approval—has been in effect since 1980 and has withstood legal challenge. Also, the Merit Systems Protection Board has affirmed and applied Phipps in the case of *Mosley* v. *Department of the Navy*, 31 M.S.P.R. 689 (1986). In *Mosley*, the employee was returned to his former position after termination of a temporary promotion of approximately 3 years and 3 months. In citing Phipps, the Board found the employee had not been the subject of an adverse action appealable to the Board.

Another commenter noted that the Supplementary Information, which accompanied the proposed regulation, seemed to suggest that temporary promotions and the termination of temporary promotions are not subject to labor agreements or negotiated grievance procedures. The regulation itself does not refer to any grievance procedure negotiated under 5 U.S.C. 7121 or to any negotiated agreements concerning temporary promotions. The revision of § 335.102(f) does not relieve an agency of its obligation to comply with any applicable contract provision.

Several commenters suggested that we discuss, either in regulation or elsewhere, how an employee's pay is set on return to the grade from which promoted. On return to the former grade, an agency, may set an employee's pay based on:

(1) The highest previous rate rule, provided that the employee's time-limited promotion lasted for 1 year or more in a General Schedule position (see 5 CFR 531.203(c)); or

(2) The step in the former grade the employee would have held had he or she remained in that grade (see 5 CFR 531.407(c)(5) and 532.417).

An employee is not eligible for grade retention or pay retention on return to the former grade (see 5 CFR 536.105(b)).

f. Noncompetitive Actions

In the notice of proposed rulemaking, OPM invited comment on the existing requirement that time-limited promotions for more than 120 days are subject to merit promotion competition. OPM proposed to revise Federal Personnel Manual Chapter 335 to provide that prior service during the preceding 12 months must be counted toward the 120 days only when it was under a noncompetitive time-limited promotion or detail to a higher grade. Time served after competitive selection would not be included.

All three commenters who specifically addressed this change supported it. OPM is adopting the change as proposed to be effective on the same date as this final regulation. We also issue notice of the change through the Federal Personnel Manual.

One commenter suggested that the 120-day limit should apply only to assignments to the same or identical position or duties. We have not adopted this suggestion. The noncompetitive 120-day period is intended to help meet the needs of management to obtain the services of an employee quickly while at the same time assuring that an employee does not gain an undue advantage over other candidates if the position is filled later on a permanent basis.

One commenter suggested the 120-day period should start anew for a detail or time-limited promotion above a grade to which an employee has been permanently promoted or received a competitive time-limited promotion. We agree. Another commenter suggested allowing additional noncompetitive 120-day periods at successively higher grade levels. We have not adopted this suggestion because it would allow subsequent noncompetitive promotions to multiple grade levels for periods much longer than 120 days.

OPM notes also that an agency may noncompetitively promote an employee on a time-limited basis if it can take the same action on a permanent basis. Examples: When an employee previously held the grade on a

permanent basis in the competitive service and did not lose it for performance or conduct reasons; when an employee is in a career ladder and has higher grade promotion potential; or when an employee's position is reclassified at a higher grade because of additional duties and responsibilities.

g. Miscellaneous

One commenter suggested that service under a time-limited promotion should count toward satisfying supervisory or managerial probation. The Federal Personnel Manual allows agencies to require probation for temporary promotions of more than 120 days to supervisory or managerial positions. Agencies also may credit time under temporary promotion toward satisfying supervisory or managerial probation.

One commenter was concerned that an employee who is compensably disabled while on a time-limited promotion would be returned to the former grade level, resulting in injury compensation at the lower salary. This is not correct. The Office of Workers' Compensation Programs, Department of Labor, advises that injury compensation is computed based on the grade of the position held at the time of an injury.

Another commenter expressed a need for OPM guidance on whether an agency could permanently fill the position of an employee who is serving on a time-limited promotion. Under this regulation, an employee is entitled to be returned to his or her former position or one of equivalent grade and pay. Therefore, procedures for filling the former position would be addressed appropriately through agency administrative policy or negotiated agreement.

Another question was whether an individual selected for a second promotion while serving under a time-limited promotion must first be returned to the former grade level before the second promotion is processed. Unless the employee actually will return to the former position, there is no need or requirement to process a change to lower grade personnel action before processing the second promotion.

h. Parts 432 and 752 Exclusions

Although this authority to make time-limited promotions covers only employees in the competitive service, agencies may promote excepted service employees for temporary periods if the appointment authorities covering these employees permit it. Both parts 432 and 752 of 5 CFR exclude from covered actions the termination of "temporary or term promotions" where agencies have informed the employees that the promotions were to be of limited duration, and returned the employees to the positions from which they were temporarily promoted or to ones of equivalent grade and pay. These provisions apply to all competitive and excepted service employees covered by parts 432 and 752. (See 5 CFR 432.102(b)(13) and 752.401(b)(12).)

The reference to "temporary or term promotions" under parts 432 and 752 includes time-limited promotions and, thus, excludes time-limited promotions under this regulation. Conforming language changes will be made in the future.

i. Extension of Current Temporary and Term Promotions

For employees under temporary or term promotions of less than 5 years on the effective date of this regulation, agencies are authorized to extend their promotions for up to a total of 5 years. However, time served prior to such extension counts towards the total 5-year limit.

j. Conforming Change in Part 511

A conforming change, that was not included in the proposed regulation, is made in 5 CFR part 511 dealing with position classification appeals. Under part 511, an employee may request an OPM decision on the series or grade of the employee's position, although certain classification-related matters may not be the subject of an appeal or grievance. Under § 511.607(b)(3), an employee may not appeal to OPM or grieve the class, grade, or pay system of a position to which detailed or temporarily promoted, but an employee on a term promotion for more than 2 years may appeal the classification of the position to OPM. OPM has made a conforming change in § 511.607(b)(3) to give the equivalent right to employees who have served under time-limited promotions for 2 years or more.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

List of Subjects

5 CFR Part 335

Government employees.

5 CFR Part 511

Administrative practice and procedure, Freedom of information, Government employees, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending parts 335 and 511 of title 5, Code of Federal Regulations, as follows:

PART 335—PROMOTION AND INTERNAL PLACEMENT

1. The authority citation for part 335 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.

2. In § 335.102, the introductory text is republished for the convenience of the reader, paragraph (g) is removed, introductory text is added to paragraph (f), and paragraph (f)(1) is revised to read as follows:

§ 335.102 Agency authority to promote, demote, or reassign.

Subject to § 335.103 and, when applicable, to part 319 of this chapter, an agency may:

* * * * *

(f) Make time-limited promotions to fill temporary positions, accomplish project work, fill positions temporarily pending reorganization or downsizing, or meet other temporary needs for a specified period of not more than 5 years, unless OPM authorizes the agency to make and/or extend time-limited promotions for a longer period.

(1) The agency must give the employee advance written notice of the conditions of the time-limited promotion, including the time limit of the promotion; the reason for a time limit; the requirement for competition for promotion beyond 120 days, where applicable; and that the employee may be returned at any time to the position from which temporarily promoted, or to a different position of equivalent grade and pay, and the return is not subject to the procedures in parts 351, 432, 752, or 771 of this chapter. When an agency effects a promotion under a nondiscretionary provision and is unable to give advance notice to the employee, it must provide the notice as soon as possible after the promotion is made.

* * * * *

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

3. The authority citation for part 511 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338. 5351.

4. In § 511.607, paragraph (b) introductory text and paragraph (b)(3) are revised to read as follows:

§ 511.607 Nonappealable issues.

* * * * *

(b) The following issues are neither appealable nor reviewable:

* * * * *

(3) The class, grade, or pay system of a position to which the employee is detailed or promoted on a time-limited basis, except that employees serving under time-limited promotion for 2 years or more may appeal the classification of their positions to the Office under these procedures.

* * * * *

[FR Doc. 93–27384 Filed 11–8–93; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 91–074–5]

Importation of Monterey Pine Logs From Chile and Monterey Pine and Douglas-Fir Logs From New Zealand

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending our foreign quarantine regulations by adding restrictions on the importation of Monterey pine logs from Chile. This change requires that Monterey pine logs from Chile meet certain treatment, handling and other requirements to be eligible for importation into the United States. We are also making minor changes to the current regulations for importation of Monterey pine and Douglas-fir logs from New Zealand. These changes appear necessary because there is increased interest in importing large volumes of logs into the United States, and restrictions are necessary to control plant pest risks associated with importing these logs.

DATES: Interim rule effective November 2, 1993. Consideration will be given only to comments received on or before January 10, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–074–5. 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 encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Orr, Entomologist, Planning and Design, Plant Protection and Quarantine, APHIS, USDA, room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8939.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) published an interim rule in the **Federal Register** on February 16, 1993 (58 FR 8524–8533, Docket No. 91–074–4). That interim rule (referred to below as the New Zealand interim rule), which was effective January 19, 1993, established "Subpart—Logs From New Zealand," 7 CFR 319.40–1 through 319.40–8, to control the plant pest risks presented by the importation into the United States of Monterey pine and Douglas-fir logs from New Zealand.

As noted in an advance notice of proposed rulemaking published in the **Federal Register** on September 22, 1992 (57 FR 43628–43632, Docket No. 91–074–2), we are also developing comprehensive regulations to control the plant pest risks presented by the importation of logs, lumber, and other unmanufactured wood from anywhere in the world. We expect to propose these comprehensive regulations in the near future. However, in the course of developing the comprehensive regulations, we identified plant pest risks associated with current importations of logs from New Zealand, and also identified regulatory requirements that would control these pest risks. Therefore, to reduce these plant pest risks as soon as possible, we promulgated the interim rule imposing regulatory requirements for certain logs from New Zealand.

We have since identified plant pest risks associated with Monterey pine logs from Chile. We have determined that Monterey pine logs from Chile may be imported under conditions similar to those applicable to Monterey pine and Douglas-fir logs from New Zealand, without presenting a significant risk of introducing plant pests into the United States.

There are no APHIS regulations currently in effect restricting importation of Monterey pine logs from Chile. Requests to import these logs are being reviewed on a case-by-case basis, and any shipments arriving at United States ports are subject to inspection and any treatment or special handling that our inspectors find necessary. This interim rule will provide standard regulatory requirements for importing Monterey pine logs from Chile.

During the development of this rule, the Forest Service of the United States Department of Agriculture completed a pest risk assessment for the importation of Monterey pine from Chile[1] (referred to below as the Chile Assessment). APHIS employed a great deal of the information generated by this assessment in developing this rule. The study helped us expand and refine a model for addressing plant pest risks associated with importing Monterey pine logs from Chile.

We are, therefore, adding requirements to the regulations for importation of Monterey pine logs from Chile. In addition, we are making two minor changes to the regulations that will affect logs imported from both Chile and New Zealand. These changes, which are discussed below, concern storage of logs with other wood articles in vessel holds or containers during movement, and the heat treatment required for logs after they arrive in the United States.

We are also adding a provision, affecting log imports from both Chile and New Zealand, which requires the importer to give APHIS 7 days notice prior to the expected date of arrival of log shipments.

Requirements for Importation of Monterey Pine Logs From Chile

We have determined that the requirements for importing Monterey pine and Douglas-fir logs from New Zealand, if applied to importing Monterey pine logs from Chile, will be sufficient to prevent the introduction and dissemination of plant pests associated with these logs from Chile.

The importation requirements established for Monterey pine logs from Chile will control the plant pest risks identified in "Pest Risk Assessment of the Importation of *Pinus radiata, Nothofagus dombeyi* and *Laurelia philippiana* Logs from Chile" (the Chile assessment; see Footnote 1). The Chile

[1] "Pest Risk Assessment of the Importation of *Pinus radiata, Nothofagus dombeyi* and *Laurelia philippiana* Logs from Chile," USDA, Forest Service, Miscellaneous Publication No. 1517, September 1993. This publication can 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

assessment studied the plant pests that have been recorded on Monterey pine in Chile, and included detailed studies of the risks associated with 10 insects and 4 pathogenic diseases that were identified as representative of the groups of organisms posing a potential plant pest problem.

The insects studied in detail are bark weevils of the genus *Ryephenes*, introduced pine bark beetles (*Hylurgus ligniperda, Hylastes ater*, and *Orthotomicus erosus*), a pine bark anobiid (*Ernobius mollis*), a siricid (*Urocerus gigas gigas*), wood-boring beetles (*Buprestis novemmaculata, Colobura alboplagiata, Callideriphus laetus*), termites (*Cryptotermes brevis, Neotermes chilensis, Porotermes quadricollis*), the spiny pine caterpillar (*Ormiscodes cinnamomea*), a bagworm (*Thanatopsyche chilensis*), white grubs (*Hylamorpha* spp., *Brachysternus* spp., *Sericoides* sp.), and the European pine shoot moth (*Rhyacionia buoliana*).

The diseases of Monterey pine in Chile studied in detail are Diplodia shoot blight (*Sphaeropsis sapinea*), needle diseases (*Dothistroma pini*, among others), stain fungi (*Ophiostoma* spp.), and root/stem rots (*Armillaria* spp., *Phellinus* spp.).

The importation requirements and treatments needed to control the risk of introducing these 10 insects and 4 diseases into the United States will also serve to prevent the introduction of other plant pests that were identified in the Chile assessment. For example, this rule requires methyl bromide fumigation of the logs to control the 10 insects named above, because other treatments or requirements (short of heat treatment) cannot ensure that the subsurface wood of a log is free from these plant pests. The required methyl bromide fumigation will also destroy other plant pests identified in the Chile assessment, eliminating the need to develop separate requirements to address the risks presented by these plant pests. Similarly, this rule requires that logs must be sent to facilities in the United States that will subject the lumber derived from the logs to a specific heat treatment. This requirement primarily addresses pathogenic fungi, but the heat treatment will also destroy any other plant pests associated with the logs.

The requirements for importation of Monterey pine logs from Chile are discussed below. Some of the handling and treatment requirements apply prior to importation, some at the port of first arrival, and some at a facility where the logs are processed in the United States. (The New Zealand interim rule contains additional background concerning how these requirements were first developed and applied to New Zealand logs.)

Definitions

We will continue to use most of the definitions established by § 319.40–1 of the New Zealand interim rule. This section contains basic definitions of terms used throughout the regulations. The definitions of "Administrator," "APHIS," "Compliance agreement," "Import (imported, importation)," "Inspector," "Permit," "Plant pest," "Port of first arrival," "Treatment Manual," and "United States" are consistent with our use of these terms in other foreign quarantine regulations in part 319, and describe the framework in which we propose to conduct operations to enforce our regulations.

A key definition, "Log," has been changed from the New Zealand interim rule so it now reads "The bole of a *Pinus radiata* (Monterey pine) or *Pseudotsuga menziesii* (Douglas-fir) tree from New Zealand; the bole of a *Pinus radiata* (Monterey pine) tree from Chile; trimmed timber from such a tree that has not been further sawn." These logs are the articles to which the requirements of the rule apply. We are changing this definition to regulate logs and trimmed timber of Monterey pine from Chile because importers plan to bring substantial volumes of these logs to the United States, and the Chile assessment has identified significant plant pests associated with these logs.

We are amending the definition of "Certificate" that was employed in the New Zealand interim rule, to remove the word "phytosanitary" and to allow the certificate to be signed by any authorized official of the New Zealand or Chile governments, rather than only plant protection officials. We have learned that New Zealand and Chile may assign employees from outside their plant protection agencies (e.g., their forestry agencies) to perform duties and sign certificates in connection with log exports. We believe certificates signed by any authorized official of the New Zealand or Chile governments will serve the purposes of the regulations, and are changing the definition of "certificate" accordingly. Since the definition of "Phytosanitary Certificate" in the International Plant Protection Convention is limited to certificates issued by employees of national plant protection services, we are removing the word "phytosanitary" from the definition in our regulations, since the certificate we require would not be a phytosanitary certificate.

Requirements Prior to Importation; Tree Health, Debarking, Fumigation

Logs imported from Chile must be accompanied by a permit issued by APHIS, a certificate issued by the government of Chile, and other documentation that must accompany the logs.

The permit requirement ensures that for each request to allow importation of logs, APHIS has determined the logs are eligible for importation in accordance with the regulations and has given permission for movement of the logs into the United States.

The certificate requirement ensures that imported logs are accompanied by a certificate that documents that the logs meet requirements in this rule that can be verified by the government of Chile. In addition, the certificates issued by Chile usually contain the following information: The genus and species of the tree from which the logs were derived; the country of origin; the quantity of logs to be imported, and any treatments of the logs which are required by the regulations and were performed prior to arrival at the port of first arrival in the United States.

In some cases, all of this information may not be contained in the certificate. Where this is so, any of the required information not contained in the certificate must be contained in an additional document signed by the importer and accompanying the logs.

The requirements that apply to logs prior to importation include a requirement that the logs must be from live, healthy trees that are apparently free of plant pests, plant pest damage, and decay organisms. This requirement reduces the potential for shipping logs that present a significant risk of introducing plant pests into the United States. Another pre-importation requirement is that the logs must be debarked and fumigated with methyl bromide in accordance with the standards established by § 319.40–5(d). If fumigation is done in a sealed container, it must be the same sealed container which is used to export the logs to the United States. This minimizes the chance that logs fumigated in one container could become contaminated with plant pests while being transferred to another, unfumigated container. Fumigation is required because it effectively destroys many plant pests of concern. Debarking removes plant pests associated with the bark, increases the penetration into the log of methyl bromide, and makes holes made by borer plant pests visible to inspection.

Requirements at the Port of First Arrival

Monterey pine logs from Chile will be subject to the same requirements at the port of first arrival that currently apply to Monterey pine logs or Douglas-fir logs from New Zealand. The logs must be inspected at the port of first arrival and cleaned or treated as required by an inspector. An inspector may inspect any log, at a time and place determined by the inspector; and the inspector may order the logs to be treated, or may refuse entry of the logs, if the logs do not comply with the regulatory requirements or are contaminated with plant pests, soil, or prohibited contaminants. Logs must meet certain marking and identity requirements designed to assist inspection of logs at the port of first arrival. Inspectors may take samples from logs for the purpose of determining whether the logs contain plant pests that are not apparent to visual inspection, but can be detected in a laboratory.

The following specific port of arrival requirements apply to regulated logs from Chile and New Zealand:

Procedures for All Logs

All logs imported are required, as a condition of entry into the United States, to be inspected, and are subject to any cleaning or treatment at the port of first arrival that is required by an inspector, and the logs and any products of the logs shall be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

Logs shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector. If an inspector finds that a shipment of logs imported into the United States is so infested with a plant pest that, in the judgment of the inspector, the logs cannot be cleaned or treated, or contain soil or other prohibited contaminants, the entire shipment may be refused entry into the United States.

No person shall move any logs imported into the United States from the port of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the logs have been inspected and found to be apparently free of plant pests, and are in compliance with all regulations in this subpart.

Visual Examination of Logs at Port of First Arrival

Logs imported into the United States which have been debarked in accordance with § 319.40–5(b) and can be safely and practically inspected would be visually examined for plant pests at the port of first arrival. Treatment appropriate to the logs and contained in the Plant Protection and Quarantine Treatment Manual (incorporated by reference in accordance with 7 CFR 300.1) will be required if plant pests are found.

Marking and Identity of Logs

Logs, at the time of importation, must bear on the outer container (if in a container), on the logs (if not in a container), or on a waybill or other shipping document accompanying the logs the following information:

1. Identity and quantity of the logs;
2. Country where the trees from which the logs were derived were grown;
3. Name and address of the person importing the logs;
4. Name and address of consignee of the logs;
5. Identifying shipper's mark and number; and
6. Number of written permit authorizing the importation of the logs into the United States.

Sampling for Plant Pests at Port of First Arrival

Any imported logs may be sampled by an inspector for plant pests at the port of first arrival

Requirements After Importation

After importation, the logs must be moved directly to a sawmill or other processing facility that operates under a compliance agreement in accordance with § 319.40–6. At the facility, lumber sawn from the logs must immediately be heat treated with moisture reduction in accordance with § 319.40–5(c). Products other than lumber must be immediately heat treated, but moisture reduction is not required. This immediate heat treatment reduces the opportunity for deep-wood pests that might be exposed by the cutting operation to move from the freshly-cut lumber. Other products generated from the logs must be disposed of by burning, heat processing, or other processing that will destroy any plant pests associated with the articles. Composting and use as mulch are prohibited unless preceded by fumigation in accordance with § 319.40–5(d) or heat treatment with moisture reduction in accordance with § 319.40–5(c). Mulching or composting of untreated chips would distribute the chips in soil and enhance opportunities for pest movement. Wood chips and sawdust may be moved in enclosed trucks for processing at another facility operating under a compliance agreement in accordance with § 319.40–6, if they are moved in enclosed trucks to control pest risk in transit.

The logs and other products from the logs must be processed at the facility operating under a compliance agreement within 60 days from the time the logs are released from the port of entry. This time requirement would reduce opportunities for the logs to be processed other than in accordance with the regulations; reduce the possibility of introduction of plant pests and diseases; and would reduce the time during which our inspectors monitor compliance to a manageable span of time for each shipment.

Segregation of Logs During Movement

The New Zealand interim rule required that logs be kept segregated from other wood articles during movement to the United States through the time the logs have been processed at a facility in the United States. This requirement was established to help prevent possible movement of plant pests from the logs to other wood articles that could host the pests, and from other wood articles to the logs. The only exception the New Zealand interim rule granted was that wood packing materials that have been fumigated in accordance with § 319.40–5(d) may be in the same ship's hold with uncontainerized logs, or in the same container with containerized logs.

We are broadening this exception so that imported logs may be moved in the same hold or sealed container with any wood articles that have been fumigated in accordance with § 319.40–5(d) or kiln dried. Either of these treatments will sufficiently control the risk of plant pest spread during movement. This change will facilitate normal commercial practices, e.g., moving kiln dried lumber and fumigated logs together in the same hold.

Heat Treatment

The New Zealand interim rule provided that, after the logs arrived at a sawmill in the United States, lumber and other products sawn from the logs must immediately be heat treated with moisture reduction in accordance with § 319.40–5(c). This immediate heat treatment reduces the opportunity for deep-wood pests that might be exposed by the cutting operation to move from the freshly-cut lumber.

Heat treatment with moisture reduction was specified primarily because we believed that in addition to being effective, it would be consistent with the processing intended for all logs imported under the regulations. However, we have learned that some sawmills intend to produce wood products (for example, veneer) from the imported logs that cannot be produced if moisture reduction is employed.

The purpose of the heat treatment is to destroy pests that could otherwise spread with the finished wood products. We have determined that heat treatment of logs from Chile and New Zealand will do so, even if moisture reduction is not required. Therefore, we are changing the regulations to allow use of either a wet or dry heat process, as long as the process raises the temperature of the center of each treated article to at least 56 °C. and maintains the treated articles at that center temperature for at least 30 minutes. In addition to preventing the spread of plant pests, this change is consistent with the processing commonly used for the two major products sawmills will be deriving from these logs (kiln drying for lumber; hot water and steam processing for veneer).

Other Treatments and Safeguards

Section 319.40–5 describes the methods for conducting heat treatment, and several other treatments that are required in connection with importing logs from Chile. APHIS has studied these treatments and determined that they are effective means for reducing plant pest risk in logs from Chile.

Logs may only be imported if accompanied by a certificate issued by Chile that certifies that the logs have been subjected to treatments required prior to arrival of the logs in the United States. Section 319.40–5(a) concerns APHIS actions in the event that APHIS determines that certificates or other documents required for the importation of logs are inaccurate. If APHIS determines that a certificate or other document required for the importation of logs is inaccurate, the logs that are the subject of the certificate or other document may be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of logs in accordance with this subpart, and APHIS may determine not to allow the importation of any or all logs from a country that issues an inaccurate certificate until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

There is no general requirement in these regulations that treatments performed outside the United States must be performed under the supervision of an APHIS inspector. To ensure the proper application of treatments and safeguards that do not occur under direct APHIS supervision, APHIS will conduct monitoring inspections of treatments and safeguards applied in Chile in accordance with this section.

Paragraphs (b) through (d) of § 319.40–5 contain the minimum requirements for the following treatments: Debarking; heat treatment; and methyl bromide fumigation. Various combinations of these treatments are required for the importation of logs in accordance with § 319.40–4. The requirements for performing heat treatment were discussed above. The requirements for performing debarking and fumigation are discussed below.

Debarking

The standard is that no more than 2 percent of the surface of all logs in a shipment may retain bark, with no single log retaining bark on more than 5 percent of its surface.

Debarking is effective in eliminating many plant pests and pathogens on the surface of the logs, as well as most found within and immediately beneath the bark itself. Debarking also facilitates inspection for the presence of boring insects at the port of first arrival. Inspecting bark on large quantities of logs is a difficult, time-consuming process and is not practical.

To be effective, bark removal must be thorough. From a practical viewpoint, APHIS recognizes that complete removal of every scrap of bark is not practical. A tolerance level of 2 percent, with no single log retaining bark on more than 5 percent of its surface, appears reasonable to us based on our experience inspecting shipments at ports of first arrival and observing debarking operations. We believe that the plant pest risk associated with the remaining 5 percent of bark on an imported log would be minimized by the other regulatory controls applicable to the importation of logs, such as fumigation, kiln drying, consuming, or manufacturing products of the logs.

Methyl Bromide Fumigation

Methyl bromide is very effective against plant pests, including all stages of insects, mites, snails, slugs, and nematodes, as well as most fungi. Its effectiveness as a fumigant was discovered in 1932. Since then, it has become the fumigant of choice in quarantine treatments.

Methyl bromide diffuses laterally and downward readily, and upward slowly. These characteristics make blower or fan circulation essential, at least during the first 15–60 minutes, to ensure thorough gas distribution. In addition, circulation enhances penetration. A volatilizer is required when introducing methyl bromide. Products to be fumigated must be enclosed.

Studies have shown that methyl bromide fumigation effectively kills plant pests if conducted in a way that ensures exposure of the entire article to the necessary gas concentration for the necessary time. However, circumstances during treatment can reduce the effectiveness of the fumigation.

The following minimum standard for methyl bromide fumigation treatment is required for logs. Any method of fumigation that meets or exceeds the specified temperature/time/concentration standards is acceptable. Information on the effectiveness of methyl bromide fumigation for regulated logs when used in accordance with the specified temperature/time/concentration standards is available through the office identified in the "FOR FURTHER INFORMATION CONTACT" section of this document.

The logs and the ambient air must be at a temperature of 5 °C. (41 °F.) or above throughout fumigation. The fumigation must be conducted using schedule T–404 contained in the Treatment Manual, or, using any fumigation method with an initial methyl bromide concentration of at least 120 g/m^3 with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial dosage.

Processing at Facilities Operating Under Compliance Agreements

This rule allows the importation of logs that may continue to present a low level risk of introducing plant pests into the United States until the time the logs are processed. To prevent the introduction of plant pests from these logs into the United States, we require that the logs be moved from the port of first arrival directly to a processing facility and processed there, under conditions that would minimize the introduction of plant pests.

To ensure that such facilities operate in a manner that will prevent introduction of plant pests, we require that such facilities operate under a compliance agreement with APHIS. The compliance agreement would specify safeguards necessary to prevent spread of plant pests from the processing facility, such as disinfestation practices,

covering or container requirements, requirements for disposal of waste wood or byproducts, requirements to ensure the processing method effectively destroys plant pests, and application of chemical materials in accordance with the Treatment Manual.

Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict. Rules of practice governing the hearing will be adopted by the Administrator. These provisions will provide a fair method of resolving disputes regarding withdrawal.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Logs from Chile pose a serious threat of introducing plant pests into the United States. Losses caused by these plant pests represent a serious threat to the timber industry and the plant resources of the United States. Any delay in implementing these regulations could result in the introduction of plant pests from Chile into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12866. Based on information compiled by the Department, we have determined that this rule: (1) Will have an effect on the economy of less than $100 million; (2) will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The United States has become the world's leading importer of wood and wood products. In 1990, the United States imported the equivalent of 34.4 million cubic meters of logs, lumber, and other wood products valued at about $5.1 billion. Total imports nearly tripled between 1950 and 1990, with most of this increase occurring after 1970. Historically, virtually all wood product imports have been from Canada.

Domestic production of logs, lumber, and other wood products has increased steadily since 1950. In roundwood equivalents, production in 1990 was 1.6 times greater than in 1950. Most timber production occurs in southern and western States. In 1990, Oregon and Washington accounted for about 16 percent of the total U.S. tree harvest.

Domestic logging companies are facing increasing challenges from conservation groups. Conservationists are opposed to many tree harvesting practices, especially clear cutting. In addition, concern over habitats for wildlife has raised questions about replacement of old growth/diversified forests with monoculture. Conservation issues are likely to limit future tree harvests in several northwestern States.

Nationally, commercial forest lands are projected to decrease by about 4 percent over the next 50 years. Production is likely to decline in the Pacific Northwest and increase in the South and Rocky Mountain States. Over the next 50 years, new technologies may allow wood products companies to remove larger amounts of wood products from each tree. A slightly limited domestic harvest combined with higher consumer demand would likely result in an increased demand for imported wood and wood products. Wood imports from alternative sources have the potential to introduce and disseminate exotic plant pests and diseases throughout the United States.

Alternative supplies of logs and other wood products have been located in Chile and other countries. This rule amends the foreign quarantine regulations by imposing new restrictions to regulate the importation of Monterey pine logs from Chile. This rule requires that Monterey pine logs from Chile meet specific requirements before being allowed entry into the United States. These new regulations are necessary to minimize the potential for the entry and dissemination of exotic plant pests and pathogens into the United States.

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of regulations on small entities. At present, there are approximately 4,307 sawmills in the United States. According to Small Business Administration (SBA) data, 4,289 domestic sawmills (99.5 percent) are classified as small entities. Sawmills that employ fewer than 500 people are classified as small according to SBA criteria. Total sales volume for these small sawmills averages about $2.2 million annually.

The United States has historically imported a negligible amount of Monterey pine from Chile. APHIS estimates that the annual import volume of Monterey pine from Chile could total about 100,000 cubic meters. Imported Chilean logs will likely supplement lumber production in Washington, Oregon, and northern California. Therefore, the economic impact will be concentrated in the Pacific Northwest.

Domestic log prices vary widely depending on species and wood quality. Current domestic prices for Monterey pine average about $60 per cubic meter. Therefore, if 100,000 cubic meters of logs are imported, APHIS estimates that the annual value of Chilean log imports would be approximately $6 million, although the value of imports would likely be lower than $6 million during the initial year. This represents far less than 1 percent of the annual multi-billion dollar U.S. timber harvest.

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

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. State and local laws and regulations regarding logs imported under this rule will be preempted while the logs are in foreign commerce. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court.

National Environmental Policy Act

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

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule has been submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 7 CFR Part 319

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

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 is revised to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

2. The heading for the subpart consisting of §§ 319.40–1–319.40–8 is revised to read as follows:

Subpart—Logs From Chile and New Zealand

3. In § 319.40–1, the definitions of "Certificate" and "Log" are revised to read as follows:

§ 319.40–1 Definitions.

* * * * *

Certificate. A certificate of inspection relating to logs, which is issued by an official who is authorized by the national government of Chile or New Zealand to issue certificates for the purposes of this subpart, and which: contains a description of the logs; certifies that the logs have been inspected, are believed to be free of plant pests, and are believed to be eligible for importation pursuant to the laws and regulations of the United States; and contains any specific additional declarations required under this subpart.

* * * * *

Log. The bole of a *Pinus radiata* (Monterey pine) or *Pseudotsuga menziesii* (Douglas-fir) tree from New Zealand; the bole of a *Pinus radiata* (Monterey pine) tree from Chile; trimmed timber from such a tree that has not been further sawn.

* * * * *

§ 319.40–2 [Amended]

4. In § 319.40–2, paragraph (a) is amended by adding the words "Chile or" immediately before the words "New Zealand".

§ 319.40–4 [Amended]

5. In § 319.40–4, paragraph (a)(4) is amended by adding the words "or kiln dried" immediately after "§ 319.40–5(d)" both places it appears.

6. In § 319.40–4, paragraph (c)(1) is amended by removing the words "with moisture reduction".

7. In § 319.40–5, paragraph (c) is revised to read as follows:

§ 319.40–5 Treatments and safeguards.

* * * * *

(c) *Heat treatment.* This may employ wet or dry heat, 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 article to at least 56 °C and maintains the treated articles at that center temperature for at least 30 minutes.

* * * * *

8. In § 319.40–7, paragraph (b) is revised to read as follows:

§ 319.40–7 Inspection and other requirements at port of first arrival.

* * * * *

(b) *Notice of arrival; visual examination of logs at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of logs imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in the permit issued by APHIS. This notice may be in writing or by telephone. The notice must include the number of the permit issued for the logs; the name of the vessel carrying the logs; the type and quantity of the logs; the expected date of arrival; the country of origin of the logs; the name and the number, if any, of the dock where the logs are to be unloaded; and the name of the importer or broker at the port of arrival.

(2) Logs imported into the United States that can be safely and practically inspected will be visually examined for plant pests at the port of first arrival. Treatment appropriate to the logs and contained in the Treatment Manual will be required if plant pests are found or if the logs cannot be safely or practically inspected.

* * * * *

Done in Washington, DC, this 2nd day of November 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–27444 Filed 11–8–93; 8:45 am]

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