Individual Retirement Record (IRR) and forward it to OPM within the time standards prescribed by OPM. However, if an employee transfers to another position covered under FERS—

(1) Within the same agency, and

(2) To a position serviced by another payroll office, the agency may, in lieu of forwarding an IRR to OPM at the time of the intra-agency transfer, record the transfer for future IRR certification in an internal automated system of records.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96–031–2]

RIN 0579–AA82

Importation of Wood Chips From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with changes, a proposed rule to allow the importation of *Pinus radiata* wood chips from Chile if the surfaces of the wood chips are treated with a specified pesticide mixture. This change to the regulations for importing logs, lumber, and other unmanufactured wood articles will provide another alternative for persons interested in importing wood chips from Chile while continuing to protect against the introduction of dangerous plant pests.

EFFECTIVE DATE: May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

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

On July 28, 1998, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** (63 FR 40193–40200, Docket No. 96–031–1) a proposed rule to amend the regulations to allow the importation of *Pinus radiata* wood chips from Chile if the surfaces of the wood chips are treated with a specified pesticide mixture.

We solicited comments concerning our proposed rule for 60 days ending September 28, 1998. We received 10 comments by that date. The comments were from four environmental groups (with overlapping management), three State governments, two corporations, and the Government of Chile. Seven of the commenters supported the proposed rule, although several stated that there were deficiencies in the rule that should be corrected before the rule could win their full support. The remaining commenters disagreed with the proposed rule or suggested alternatives to it. All of the issues raised by the commenters are discussed below.

Comment—Control of Stain Fungi: Several commenters questioned whether the surface pesticide treatment or other requirements of the rule would prevent the introduction of stain fungi, particularly of the genus *Ophiostoma,* that may be associated with wood chips from Chile.

Response: The surface pesticide treatment contained in the rule has been proven effective against stain fungi, including stain fungi of the genus *Ophiostoma.* Research demonstrating this effectiveness has been published (see, for example, Morrell, Freitag, and Silva, ''Protection of Freshly Cut Radiata Pine Chips From Fungal Attack,'' Forest Prod. J. 48(2):57–59).

Comment—Heat Treatment Should Be Required: Several commenters stated that the position of most experts, State regulators, and members of the public is that heat treatment of imported wood articles capable of bearing pests is the only safe and acceptable method of importation. They stated that fumigation or surface pesticide treatment are not economically feasible or effective alternatives.

Response: ''Safe'' and ''acceptable'' are terms whose meanings vary greatly depending on individual values. We are assuming that the comments refer to safety and acceptability in terms of the effectiveness of systems in preventing the introduction and dissemination in the United States of dangerous plant pests. No commenter submitted data proving that a heat treatment system is ''safer'' than the proposed surface pesticide treatment system. The new surface pesticide treatment would reduce the risk associated with any plant pest introduction to a negligible level.

Regarding the practicality of heat treating wood chips, heat treated wood chips are less useful than wood chips that have undergone less destructive treatments. Heat treatment decreases the quality of wood chips and renders them useless for many specific manufacturing purposes. Regarding the economic feasibility of the proposed surface pesticide treatment and fumigation, wood product companies have requested that they be able to utilize the surface pesticide alternative and, therefore, presumably find it economically feasible. Under normal business practices, it is not economically feasible for methyl bromide to effectively penetrate wood chips to more than 120 cubic feet. When penetration is inadequate, the requirements of the regulations are not met, and the wood chips cannot be imported under the fumigation treatment option. In theory, it is possible to effectively penetrate large piles of wood chips by using a specialized technique to distribute the fumigant (*e.g.,* a vacuum chamber or submerged gas tubes); however, the cost of utilizing such a technique is so exorbitant that it becomes economically infeasible. Consequently, no one has imported large shipments of wood chips, fumigated as a whole, under the fumigation treatment option. Fumigation remains in the regulations as a treatment option for wood chips because it is used for small shipments. One reason for developing the surface pesticide treatment in the proposal was to compensate for the unavailability of fumigation as a treatment method for large shipments of wood chips.

Comment—Pesticide Application Protocol and Quality Control: One commenter cited research by Dr. Jeffrey J. Morell of Oregon State University that was used to support the treatment in the proposed rule. The commenter noted that the only pathogens tracked for efficacy in the research were *Trichoderma* species and that there was no efficacy evaluation for insects. The commenter stated that Morell concluded the following modifications of the surface pesticide treatment system may be needed: An increase in biocide concentration; improved uniformity of the spray system; routine assessment of chip treatment quality; and a system for regular microbiological assessment of organisms present in imported wood chips.

Response: Trichoderma species were not the only pathogens tracked in the research. Treated and untreated wood chips were placed in plastic bags and incubated for 16 weeks. The bag interiors were sprayed with suspensions of spores and hyphal fragments of *Alternaria alternata, Ophiostoma piceae, Phialophora* spp., and *Aspergillus niger.* The wood chips were then regularly visually assessed for growth of the inoculum or other species. Various *Trichoderma* species caused the highest degree of wood chip discoloration in the tests, but they were not the sole organisms tracked.

The research cited did not evaluate efficacy against insects because it was not practical to do so in an experimental protocol addressing fungicidal efficacy. The report did note that while insect infestation of wood is always a risk, it is sharply reduced in wood chip shipments due to the fragmented nature of the wood and the near absence of bark. The report also noted that the presence of low levels of an insecticide such as chlorpyrifos should provide added insurance against incidental oviposition. The proposed treatment included, along with fungicides, an insecticide containing 44.9 percent of the active ingredient chlorpyrifos phosphorothioate. This, along with the regulatory requirement that the wood chips be produced from debarked, plantation-grown trees, should reduce the risk of introduction of dangerous insects with wood chips imported under the regulations to a negligible level.

The highest concentration of the proposed fungicide tested in the research was a 400:1 dilution. The research found that while this dilution achieved acceptable results in preventing fungal growth for 4 weeks after treatment, the growth levels increased during the period from 4 weeks to 16 weeks after treatment. The research suggested that for long-term protection, dilution levels around 200:1 would be more appropriate. When diluted in accordance with the label instructions, as proposed, the treatment solution would in fact be stronger than a 200:1 dilution. Since this standard exceeds that recommended by the researcher, we are making no change based on this comment.

Regarding the comment that the researcher recommended improvement to the uniformity of the spray system, the researcher specifically recommended improvement of the current spray system to increase the uniformity of treatment to at least 70 to 80 percent average coverage of the wood chips. The proposed rule actually required that the wood chips be sprayed so that all the chips are exposed to the chemical on all sides. This standard exceeds that recommended by the researcher; therefore, we are making no change based on this comment. We do not believe it is necessary to specify detailed engineering standards for how chip producers must achieve this degree of coverage (placement and number of spray nozzles, conveyer belt speed and configuration, etc.) because this would limit the producers' options for developing their own cost-effective solutions to the problem.

As noted by the commenter, the researcher also recommended establishment of two quality control and monitoring systems to check whether chips are being properly treated and to check whether dangerous fungi are present on wood chips imported under this system. Specifically, the researcher recommended routine assessment of chip treatment quality through dye tests and image analysis of chip samples and regular microbiological assessment of organisms present on wood chip shipments entering the United States. These activities fall under the category of monitoring and enforcement activities that APHIS may employ to ensure that regulated parties are complying with the regulations. Since these are internal agency activities that do not impose any requirement for action by an outside party, it is not necessary to include standards for these activities in the regulations. However, APHIS will monitor treatments to ensure that wood chips imported under the regulations have been properly treated and do not present a risk of introducing dangerous plant pests.

Comment—Time Periods Allowed Between Harvesting of Trees and Treatment of Wood Chips; Time Period Allowed Between Arrival in United States and Processing of Wood Chips: One commenter objected that the proposal would allow wood chips that were treated immediately after a tree was felled and chipped to sit for 45 days before export from Chile to the United States, and that the research on the treatment showed its efficacy declined after 4 weeks. Two commenters objected to allowing storage of wood chips from Chile for up to 60 days after arrival at a facility operating under a compliance agreement and prior to processing. They noted that even the 30-day limit in the current regulations allows too much time for potential pests to escape from stored wood chips.

Response: We are making two changes in response to these comments. The rule still will require that no more than 45 days may elapse between the time the trees used to make the wood chips were felled and the time the wood chips are exported; however, the wood chips must be treated with the surface pesticide treatment within 24 hours after the log is chipped, and they must be retreated with the surface pesticide treatment if more than 30 days elapses between the date of the first treatment and the date of export. We are also changing the requirement for when wood chips imported from Chile under the regulations must be processed by reducing the time from 60 days after arrival at the processing facility to 45 days. We believe this is a safe time frame, given the requirements of the regulations for safeguards during movement and storage of the wood chips in the United States.

Comment—Adequacy of Environmental Assessment: Several commenters questioned whether the environmental assessment adequately dealt with human health and ecological risks that may be posed by pesticide residues on wood chips imported under the regulations. Specific concerns were raised about ammonium chloride, carbamate, and chloropyrifos residues, including carcinogenic effects and these substances' propensity for leaching into groundwater.

Response: The environmental assessment (EA) was revised in May 1999, and a finding of no significant impact (FONSI) has been signed. The revised EA provides information on the toxicity of the pesticides and the protective measures that reduce the potential for human and nontarget wildlife exposure to those pesticides. Copies of the EA and FONSI are available from the person identified under **FOR FURTHER INFORMATION CONTACT**, and will also be available at the following Internet address until at least March 1, 2000: http://www.aphis.usda.gov/ppd/eachips.pdf.

The main pesticides planned for treating wood chips are a fungicide with the active ingredients 64.8 percent didecyl dimethyl ammonium chloride (DDAC) and 7.6 percent 3-iodo-2-propynyl butylcarbamate (IPBC) and an insecticide with the active ingredient 44.9 percent chlorpyrifos phosphorothioate. The U.S. Environmental Protection Agency (EPA) approved these pesticides for specific uses on wood articles. The current label instructions call for these pesticides, when used as a spray treatment, to be diluted before use in the ratios of one gallon fungicide to 25–50 gallons of water for the fungicide, and one gallon of the insecticide to 50 gallons of water. When mixed together, the amounts of fungicide, insecticide, and water must be calculated so that each of the

fungicide and insecticide achieve a dilution within the range specified on its respective label. When diluted to a 1:50 ratio, the fungicide-insecticide mixture contains no more than 1.3 percent DDAC, 0.15 percent IPBC, and 0.9 percent chlorpyrifos phosphorothioate. The label for each pesticide carries exact information with detailed directions, including any restrictions for use or special precautions, and specifies any special equipment that must be used when applying these chemicals. The label also gives special disposal instructions for pesticide waste and containers. All pesticides used to treat wood chips for export from Chile to the United States are required to be applied according to the EPA-approved pesticide label.

The pesticides do leave residues, which would maintain the pest-free status of the wood chips while they are in transit to the United States. Although the degradation of IPBC and its primary degradation products is rapid (half lives of less than a week) (Troy Corporation, 1999), the caustic nature of the ammonium chloride on the wood chips prevents any potential for fungal reinfestation. The ammonium chloride in the pesticide is relatively volatile, and residues would mostly dissipate before arrival in the United States. The chlorpyrifos residues are more persistent and would continue to eliminate insect pest risks during transit.

The physical and toxicological properties of the pesticides determine the potential for nontarget hazards. The caustic nature of ammonium chloride can be highly irritating to eyes, skin, and the respiratory system. Unlike most carbamates, IPBC has not been shown to inhibit plasma and red blood cell acetylcholinesterase *in vitro* at concentrations as high as 1×10^{-4} molar (Troy Corporation, 1999). As a result, the acute toxicity of IPBC is low by all routes of exposure. However, IPBC can be an eye and skin irritant. Chronic dietary studies of IPBC have not found any evidence of carcinogenicity in either rats or mice (Troy Corporation, 1999) and have found adverse effects only at high exposures (40 milligram IPBC per kilogram body weight per day or greater). IPBC is of slight acute toxicity to birds but is highly to very highly toxic to fish and other aquatic organisms. Chlorpyrifos phosphorothioate is an organophosphate insecticide that is moderately toxic to mammals (Smith, 1987). The toxicity occurs primarily through inhibition of acetylcholinesterase activity (Klaassen *et al.,* 1986). The studies of chlorpyrifos phosphorothioate have not found any evidence of carcinogenic effects. Chlorpyrifos phosphorothioate is moderately to severely toxic to birds and very highly toxic to fish and other aquatic invertebrates (Smith, 1987; Mayer and Ellersieck, 1986).

The potential for human exposure to pesticides used in treatment of the wood chips is minimized by adherence to label requirements for proper application and to provisions in the rule regarding handling of the wood chips. The required adherence to the pesticide label prevents excessive exposure to applicators. The EPA has determined that the potential for adverse effects on human health is minimal when pesticides are applied according to label instructions. The rapid degradation of the pesticides results in steadily decreasing residues during transit. A covered conveyor belt moves the wood chips during unloading to expedite the process and minimize potential human exposure. Workers associated with the unloading activity are required to wear protective clothing and safety glasses. The covered conveyor belt is designed to prevent wood chips from spilling, falling, or being blown from the means of conveyance.

Although the wood chips may still have some residual pesticide residues before processing, the heat treatment and bleaching associated with the pulp and paper process would eliminate any remaining residues. Therefore, the potential for exposure to pesticide residues is limited to the personnel involved in treating the wood chips in Chile and to the personnel involved in moving the treated wood chips. The required safety precautions, protective clothing, and safety glasses preclude unacceptable pesticide exposures.

Exposure of nontarget species to residues from treated wood chips is minimal. The treatment and transport procedures preclude the presence of nontarget wildlife. Although wood chips that have been unloaded may be stored on a paved surface for up to 45 days, the remaining residues would be low. Birds and other terrestrial nontarget wildlife are unlikely to bother the wood chips with the frequent human activity on the property. The remaining residues (primarily chlorpyrifos) strongly adsorb to the organic matter in the wood chips, and this adsorption minimizes movement of residues in runoff following precipitation. In addition, water runoff is collected from the paved pads where the wood chips would be stored and is treated to prevent any environmental contamination of surrounding water bodies. This prevents any potential exposure to aquatic organisms.

Comment—Fumigated Wood Chips From Brazil Allowed Importation Into Louisiana. One commenter stated that wood chips from Brazil are currently being imported through Mobile, AL, into Louisiana subject only to fumigation in the ship's hold. The commenter asked whether such importation is safe without the surface pesticide treatment in the proposed rule and, if so, why the surface pesticide treatment, instead of fumigation, would be needed for wood chips from Chile.

Response: Based on the permit issued for this importation and records obtained from the State Plant Health Director in Louisiana, we have determined that two shipments of Caribbean pine chips from Brazil were imported into Mobile, AL, in 1997, and were then trucked to a paper mill in Bogaloosa, LA, where the chips were processed. The wood chips were derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas, and, therefore, were not required by APHIS to be fumigated, in accordance with § 319.40–6(c)(1)(i) of the regulations. The shipments also met all of the other requirements of § 319.40–6(c) (*e.g.,* no other regulated articles in the holds; movement to the paper mill under a compliance agreement designed to prevent spread of plant pests during and after movement to the mill; processed within 30 days after arrival at the mill). The wood chips moved in sealed trucks from the port of entry to the destination paper mill where they were processed into manufactured goods. This importation was therefore in compliance with the regulations. As discussed in the proposed rule, the surface pesticide treatment was proposed as another alternative for importing wood chips from Chile, not a replacement for the current requirements contained in § 319.40–6(c) for importing wood chips from all sources. Therefore, this importation does not affect the basis for the proposed rule for importing wood chips from Chile subject to a surface pesticide spray and other requirements.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the changes discussed in this document.

Executive Order 12866

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

Set forth below are the economic analysis and cost-benefit analysis prepared for this rule in accordance with Executive Order 12866, as well as the final regulatory flexibility analysis regarding the economic effects of this rule on small entities, prepared in accordance with 5 U.S.C. 604.

Discussion

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

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

APHIS regulations in place until now have called for, along with other requirements, heat treatment or fumigation of imported wood materials. While these safeguards are appropriate for most wood materials, they are less useful for wood chips. Heating of wood chips is time consuming and decreases the quality of the chips. Fumigation of large shipments of wood chips is not economically practicable. Therefore, importation of *Pinus radiata* wood chips from Chile will be allowed following their surface treatment with a specified pesticide mixture. As discussed below, the efficacy of this treatment is demonstrated by 16 trial shipments of surface-treated *Pinus radiata* wood chips from Chile that have arrived without pests since February 1995.

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

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

The demand for wood chips used by pulp mills is a derived demand, depending on the market for pulp.[5] While the long-term demand for pulp in the United States and internationally is expected to continue to expand (with increasing reliance on wood from plantation forests), pulp and wood chip prices can be volatile in the short term, causing relatively abrupt market changes. The variable demand for wood chips during the few years the Chilean test shipments have taken place illustrates how rapidly market conditions can change. Coniferous wood chip imports in 1995 by the United States nearly tripled those of 1994, with imports from Canada rising more than threefold, and test shipments from Chile doubling and displacing 1994 imports from Mexico.[6] The increase in demand was reflected in a 60 percent increase in the price paid in the United States for Chilean wood chips, from $42 per ton in 1994, to $67 per ton in 1995.[7] Comparable U.S. prices for domestically produced wood chips in these 2 years were $56 per ton in 1994 and $72 per ton in 1995.[8] Since then, prices have receded due to the current abundant supply of wood chips.

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

	Metric tons	Percent of imports
1994	168	00.05
1995	339,665	48.29
1996	329,387	44.06

In 1994, 57 percent of coniferous wood chip imports by the United States were from Mexico and 43 percent were from Canada. In 1995, pulp prices reached record levels, with U.S. coniferous wood chip imports more than doubling from the year before, to 703,000 metric tons from 331,000 metric tons. That year, no coniferous wood chips were imported from Mexico, 48 percent of imports came from Chile, 49 percent came from Canada, and 3 percent came from Brazil. In 1996, Canada's share of U.S. coniferous wood chip imports increased to 56 percent, 44 percent came from Chile, and none was received from Brazil.

Production of *Pinus radiata* wood chips in the United States is essentially nil, due to the relatively small region in which it grows well, about 6 miles inland along the coastal fog belt of central California (hence its common name, the Monterey pine). There may be some production from sawmill residues, but the quantity, if any, is negligible. No pulp mills are currently using domestically produced *Pinus radiata* wood chips.[10]

Economic effects on the U.S. wood chip industry of potential Chilean imports, therefore, depend on the substitutability of *Pinus radiata* wood chips for other softwood or for hardwood chips. Instances in which *Pinus radiata* and hardwood chips

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

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

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

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

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

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

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

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

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

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

might substitute for each other are relatively few. However, *Pinus radiata* wood chips can generally be used in place of other coniferous chips such as lodgepole pine and ponderosa pine, although milling adjustments may be required—and costs incurred—due to differences in resin content.[11]

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

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

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

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

Japan was, by far, the principal importer of Chilean wood chips from 1990 to 1996. (Country destinations by species are not known for these years.) From 1990 to 1994, an average of 96 percent of Chile's wood chip exports were received by Japan. With the test shipments of *Pinus radiata* to the United States in 1995 and 1996, Japan's share of Chile's wood chip exports fell to 87 percent and 83 percent, respectively; and the U.S. share for these 2 years was 9 percent and 11 percent.

From January to August, 1997, Japan's share of Chile's wood chip exports was 89 percent. The United States and Japan each received about one-half of Chile's *Pinus radiata* wood chip exports during this 8-month period.

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

One set of projections describing the volume of *Pinus radiata* wood chips that could be exported to the United States over the coming 4 years, assuming favorable prices, is as follows:[15]

POTENTIAL *Pinus radiata* WOOD CHIP EXPORTS

[in million tons]

Year	From Chile to the United States
1999	0.60 to 1.00.
2000	1.00 to 1.20.
2001	0.90 to 1.00.
2002	0.85 to 0.90.

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

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

Summary

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

Test shipments of *Pinus radiata* wood chips from Chile to the Pacific Northwest during recent years have demonstrated the effectiveness of phytosanitary safeguards in this rule, as well as the economic feasibility of chip imports from Chile for the region's pulp mills. Chile's large and expanding forestry plantations are expected to provide a reliable source for future wood chip imports when there is sufficient demand. At present, the abundant supply of wood chips in the Pacific Northwest precludes imports, a market situation that differs dramatically from that of 4 years ago when wood chip prices reached an all-time high. Pacific Northwest pulp mills depend primarily on domestic wood

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

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

[13] Information on Chile's *Pinus radiata* wood chip exports from APHIS, IS.

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

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

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

chip suppliers but turn to overseas sources when domestic wood chip prices are high. Chilean imports can be expected to be competitively marketed when the domestic wood chip supply is low, since *Pinus radiata* wood chips can substitute for most other softwood chips. Some domestic wood chip producers may be adversely affected by Chilean imports, but the effect is not likely to be widespread; most domestic wood chip producers who cannot compete may adjust their product mix away from wood chips to other mill products.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 603, we performed an initial regulatory flexibility analysis, which was included in the proposed rule and which invited submission of comments and data to assist in a comprehensive analysis of the effects of this rule on small entities. We received one comment addressing the initial regulatory flexibility analysis. This comment stressed that the economics of domestic industries that might import wood chips are dynamic and change almost monthly; and, therefore, any prediction of import volume would be solely a guess. The comment also stated that if Chilean wood chips cost more than domestic supplies, they will be sought only if domestic supplies diminish below the amount required, and that at that point the owners of pulp mills (the major user of wood chips) will make a financial decision whether to pay higher prices for imported supplies or close mills. The comment also suggested that only a few wood chip consuming businesses located near seaports will be likely to import wood chips from Chile, but that some of these businesses do require the option of importing Chilean wood chips to stay in business.

We largely agree that these points correctly describe the current economic situation regarding importation of Chilean wood chips, and have taken the comment into account in the final regulatory flexibility analysis set out below. However, we note that if for any reason there is a significant decrease in domestic wood chip production, or a significant increase in their price, many more wood chip consumers, regardless of whether they are located near seaports, may decide to import wood chips from Chile.

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

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

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

It is estimated that less than 5 percent of wood chip producers in the Pacific Northwest are ''chipping'' mills devoted solely to wood chip production.[19] However, during periods of high wood chip demand, such as 4 years ago, many sawmills may be converted largely to wood chip production.

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

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

Test shipments of *Pinus radiata* wood chips from Chile have been successfully imported by pulp mills in the Pacific Northwest. This rule will enable such shipments, using a surface pesticide treatment, to continue to take place when economically feasible. Although *Pinus radiata* wood chip production in the United States is negligible, this species can substitute for other species as a pulp fiber, given certain milling adjustments. Off-shore wood chip sources to supplement domestic supply are advantageous to pulp mills, given

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

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

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

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

the volatility of pulp prices. Chile's wood products industry has a large export component and is expected to be a reliable source when pulp prices prompt wood chip exports to the United States. Adverse economic effects for wood chip producers in the Pacific Northwest will be felt by those producers who are unable to reduce costs to meet import competition and who rely heavily on revenues from wood chips.

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

The pest risk assessment reported that in sharp contrast to native forests in Chile, that country's *Pinus radiata* plantations are relatively free of major insect and disease problems. Exceptions include the recently introduced European pine shoot moth (*Rhyaccionia buoliana*), *Hylurgus ligniperda* and two other species of European bark beetles, several needle disease fungi (*Dothistroma pini* and *Lophodermium* spp., among others), diplodia shoot blight (*Sphaeropsis sapinea*), and two species of blue stain fungi (*Ophiostoma picea* and *O. piliferum*). The wood wasp *Sirex noctilio* (considered to be the most important pest on *Pinus radiata* logs exported from New Zealand) and pine wood nematodes (*Bursaphelenchus* spp.) have yet to be found in Chile.

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

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

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

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

Concerning consumer and producer effects of allowing *Pinus radiata* wood chips to be imported from Chile, data are insufficient to permit confident estimation of welfare changes. Time-series data for the estimation of elasticities of supply and demand are not available. Circumstantial evidence, however, suggests that pulp producers and pulp product consumers benefit from *Pinus radiata* wood chip imports from Chile, when their relative price is low compared to that of other wood chip species or sources. The test shipments from Chile resulted in U.S. wood chip imports worth $22.8 million and $19.3 million in 1995 and 1996, respectively. These shipments represented over 48 and 44 percent of all U.S. coniferous wood chip imports in those 2 years.[22]

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

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

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

We considered taking no action as an alternative to this rule. The no action alternative was rejected because we believe that the provisions of this rule will provide more supply alternatives for wood chip consumers, and make compliance easier for regulated individuals, without increasing the risk of introducing a plant pest into the United States.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the importation of *Pinus radiata* wood chips from Chile under the conditions specified in this rule will not present a 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

[21] ''Importation of Logs, Lumber, and Other Unmanufactured Wood Articles: Final Supplemental to the Environmental Impact Statement, May 1988,'' USDA APHIS.

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

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

prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0135.

List of Subjects in 7 CFR Part 319

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

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

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

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

§ 319.40–1 Definitions.

* * * * *

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

* * * * *

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

§ 319.40–6 Universal importation options.

* * * * *

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

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

(A) The wood chips were treated with a surface pesticide treatment in accordance with § 319.40–7(e) within 24 hours after the log was chipped and were retreated with a surface pesticide treatment in accordance with § 319.40–7(e) if more than 30 days elapsed between the date of the first treatment and the date of export to the United States.

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

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

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

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

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

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

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

(D) The wood chips must be processed within 45 days of arrival at the facility. Any fines or unusable wood chips must be disposed of by burning within 45 days of arrival at the facility.

(2) *From locations other than certain places in Asia.* Wood chips and bark chips from any place except places in Asia that are east of 60° east longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

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

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

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

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

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

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

composting, they must first be fumigated in accordance with § 319.40–7(f)(3), heat treated in accordance with § 319.40–7(c), or heat treated with moisture reduction in accordance with § 319.40–7(d).

* * * * *

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

§ 319.40–7 Treatments and safeguards.

* * * * *

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

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

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

* * * * *

Done in Washington, DC, this 17th day of April 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–9937 Filed 4–19–00; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

RIN 3052–AB97

Regulatory Burden

AGENCY: Farm Credit Administration (FCA).

ACTION: Statement on regulatory burden.

SUMMARY: This is the second phase of our recent initiative to reduce regulatory burden on the Farm Credit System (FCS or System). Many System institutions responded to our August 1998 request for comments by identifying regulations that they considered burdensome. We deleted several unnecessary or obsolete regulations in the first phase of this project. This document informs the public of those regulations that we will retain without amendment because they either: Implement or interpret the Farm Credit Act of 1971, as amended (Act); or protect the safety and soundness of the System. We also identify pending or future actions that will respond to remaining regulatory burden issues.

FOR FURTHER INFORMATION CONTACT:

Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4479;

or

Richard A. Katz, Senior Attorney, or Beth Salyer, Attorney-Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

On August 18, 1998, we published a document in the **Federal Register** inviting you to identify existing regulations and policies that impose unnecessary burdens on the FCS. *See* 63 FR 44176. On November 18, 1998, we extended the comment period to January 19, 1999. *See* 63 FR 64013. We specifically asked you to focus on those regulations and policies that are ineffective, duplicate other governmental requirements, or impose burdens that are greater than the benefits received. We took this action in our continuing effort to improve the regulatory environment so System institutions can more effectively serve farmers, ranchers, aquatic producers, their cooperatives, and other rural residents.

In the first phase of our effort to reduce regulatory burden on the FCS, we repealed or revised 16 regulations. *See* 64 FR 43046, Aug. 9, 1999.

The purpose of this document is to inform you of those regulations that we will retain without amendment. In most cases, these regulations are either required by statute or are necessary to ensure the safety and soundness of System institutions. For these reasons, the FCA will not make the suggested changes to the following regulations: §§ 613.3020; 613.3030; 613.3300; 614.4200(b)(1); 614.4335(c)(1)(i); 614.4359; and 614.4920. The next section explains our reasons for retaining these regulations.

II. Regulations that We Will Retain Without Revision

A. Farm-related Businesses

Seven commenters asked us to amend § 613.3020 so the FCS can finance farm-related businesses that supply only goods to farmers and ranchers. Sections 1.11(c)(1) and 2.4(a)(3) of the Act limit eligibility to businesses that furnish farm-related services to farmers and ranchers. Businesses that sell only farm-related goods to agricultural producers do not qualify for FCS financing under these provisions of the Act. Therefore, we cannot grant this request.

Two Farm Credit banks and one association asked us to amend § 613.3020(b)(2) to allow businesses that derive less than 50 percent of their income from farm-related services to obtain System financing for all of their credit needs. The FCA updated this regulation in 1997 to expand financing opportunities for farm-related businesses that offer both goods and services. At that time, the FCA Board determined that a 50-percent threshold gave appropriate effect to the Act. *See* 62 FR 4429, Jan. 30, 1997. This standard ensures that only businesses that primarily provide farm-related services receive full financing from System lenders. The United States Court of Appeals recently upheld the provisions in § 613.3020(b) that limit System financing to eligible businesses that derive less than 50 percent of their income from furnishing farm-related services to farmers and ranchers.[1] We continue to believe that the current regulation strikes the best balance for securing the credit needs of farm-related business within the limitations of the Act.

B. Rural Housing

Many System institutions assert that § 613.3030 unnecessarily restricts the System's ability to finance housing for rural residents who are not farmers,

[1] *Independent Bankers Association of America* v. *Farm Credit Administration,* 164 F.3d 661 (D.C. Cir. 1999).