

13. Section 51.2556 is revised to read as follows:

**§ 51.2556 Grades.**

(a) "U.S. Fancy," "U.S. Extra No. 1," and "U.S. No. 1" consists of pistachio kernels which meet the following requirements:

(1) Well dried, or very well dried when specified in connection with the grade.

- (2) Free from:
- (i) Foreign material, including in-shell nuts, shells, or shell fragments.
  - (3) Free from damage by:
    - (i) Immature kernels;
    - (ii) Kernel spotting; and
    - (iii) Other defects.
  - (4) Free from serious damage by:
    - (i) Mold;
    - (ii) Minor insect or vertebrate injury;
    - (iii) Insect damage;
    - (iv) Rancidity;

- (v) Decay; and,
- (vi) Other defects.
- (5) Unless otherwise specified, kernels shall meet the size classification of Jumbo Whole Kernels (See § 51.2559).
- (b) [Reserved]

14. In § 51.2557, Table I is revised to read as follows:

**§ 51.2557 Tolerances.**

\* \* \* \* \*

TABLE I.—TOLERANCES

Factor (tolerances by weight)	U.S. fancy	U.S. extra No. 1	U.S. No. 1
	Percent	Percent	Percent
(a) Damage .....	2.0	2.5	3.0
(b) Serious Damage .....	1.5	2.0	2.5
(1) Insect Damage, mold, rancid, decay, included in (b) .....	.3	.4	.5
(c) Foreign Material .....	.03	.05	.1

15. Section 51.2559 is revised to read as follows:

**§ 51.2559 Size Classifications.**

(a) The size of pistachio kernels may be specified in connection with the grade in accordance with one of the following size classifications.

(1) Jumbo Whole Kernels: 80 percent or more by weight shall be whole kernels and not more than 5 percent of the total sample shall pass through a 24/64 inch round hole screen with not more than 1 percent passing through a 16/64 inch round hole screen.

(2) Large Whole Kernels: 80 percent or more, by weight, shall be whole kernels and not more than 2 percent of the total sample shall pass through a 16/64 inch round hole screen.

(3) Large Split Kernels: 75 percent or more, by weight, shall be half kernels split lengthwise and not more than 5 percent of the total sample shall pass through a 16/64 inch round hole screen.

(4) Whole and Broken Kernels: means a mixture of any combination of whole kernels or pieces. The percentage of whole kernels and/or pieces may be specified. Not more than 5 percent of the total sample shall pass through a 5/64 inch round hole screen.

(b) [Reserved]

16. Section 51.2560 is revised to read as follows:

**§ 51.2560 Definitions.**

(a) *Well dried* means the kernel is firm and crisp.

(b) *Very well dried* means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent or is specified (See § 51.2561).

(c) *Foreign material* means leaves, sticks, in-shell nuts, shells or pieces of

shells, dirt, or rocks, or any other substance other than pistachio kernels. No allowable tolerances for metal or glass.

(d) *Whole kernel* means 3/4 of a kernel or more.

(e) *Splits* means more than 3/4 of a half kernel split lengthwise.

(f) *Damage* means any specific defect described in paragraph (f) (1) through (2) of this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances, see § 51.2557, Table I.)

(1) *Immature kernels* are excessively thin kernels and can have black, brown or gray surface with a dark interior color and the immaturity has adversely affected the flavor of the kernel.

(2) *Kernel spotting* refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(g) *Serious damage* means any specific defect described in paragraphs (g) (1) through (5) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2557 Table I.)

(1) *Mold* which is readily visible on the kernel.

(2) *Minor insect or vertebrate injury* means the kernel shows conspicuous evidence of feeding.

(3) *Insect damage* is an insect, insect fragment, web or frass attached to the kernel. No live insects shall be permitted.

(4) *Rancidity* means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(5) Decay means one-sixteenth or more of the kernel is decomposed.

17. Section 51.2562 is added to read as follows:

**§ 51.2562 Metric Conversion Table.**

Use the following table for metric conversion:

Inches	Millimeters
5/64 .....	1.98
19/64 .....	6.35
24/64 .....	9.53
Ounces	Grams
1 .....	28.35
2 .....	56.7

Dated: May 16, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 03-12805 Filed 5-22-03; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Parts 301 and 319**

**[Docket No. 00-067-1]**

**RIN 0579-AB55**

**Gypsy Moth; Regulated Articles**

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the gypsy moth regulations by removing restrictions on the interstate movement of wood chips, which do not pose a risk of containing gypsy moth egg masses, and by adding restrictions on the movement and importation of bark and bark products, which pose a risk of containing gypsy moth egg masses. In addition, we are proposing to extend by 2 months the period during which regulated articles originating outside of any generally infested area must be safeguarded from infestation in order to be eligible for interstate movement directly through any generally infested area without a certificate or permit. These proposed changes are necessary to update the provisions in these regulations to ensure consistent actions by the Animal and Plant Health Inspection Service, our cooperators, and industry in order to limit the artificial spread of gypsy moth.

**DATES:** We will consider all comments that we receive on or before July 22, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00-067-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-067-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00-067-1" on the subject line.

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

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Weyman Fussell, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134,

Riverdale, MD 20737-1236; (301) 734-5705.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The gypsy moth, *Lymantria dispar* (Linnaeus), is an introduced, highly destructive insect of trees that, during its caterpillar stage, poses a serious threat to hundreds of species of trees and shrubs. A female gypsy moth lays a cluster of eggs (called an egg mass) on and near trees. Up to a thousand caterpillars can hatch from a single egg mass. The caterpillars feed on nearby trees and shrubs, removing much, if not all, foliage. This defoliation, when combined with other forms of stress such as drought and soil compaction, may ultimately result in the death of the tree.

The first major outbreak of gypsy moth in the United States occurred in Massachusetts in 1889. Since then, the gypsy moth has infested 19 States and the District of Columbia and has defoliated thousands of acres of hardwood forests across the northeastern United States. The infestation continues to move south and west despite ongoing eradication and control efforts.

##### **Regulated Articles**

Because eradication efforts have been largely unsuccessful, Federal and State regulations focus on limiting the artificial spread of gypsy moth, which occurs when the insect, in any of its life stages, attaches to items such as nursery stock, vehicles, outdoor household articles, and forest products that are moved long distances. The regulations in "Subpart—Gypsy Moth" (7 CFR 301.45 through 301.45-12, referred to below as the regulations) restrict the interstate movement of regulated articles from generally infested areas of States quarantined for gypsy moth. In § 301.45-1, the term "regulated articles" is defined as: (1) Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems, unless they are greenhouse grown throughout the year; (2) logs, pulpwood, and wood chips; (3) mobile homes and associated equipment; and (4) any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth infestation and the person in possession thereof has been so notified.

The Animal and Plant Health Inspection Service (APHIS) Gypsy Moth Management Team (GMMT) and our

State cooperators recently reviewed the regulations, focusing on the restrictions on the interstate movement of regulated articles. Based on the results of this review, we are proposing to amend the list of regulated articles found in § 301.45-1 by removing wood chips from that list and adding bark and bark products as regulated articles. The GMMT and State cooperators determined that wood chips do not play a role in the artificial spread of gypsy moth because the bark of the tree, where the female gypsy moth deposits her eggs, is removed prior to chipping the log. Therefore, wood chips are considered to be free of egg masses. Conversely, bark and bark products, including mulch, do pose a risk of spreading gypsy moth because egg masses may survive the debarking process. The regulations in § 301.45-4(c)(2) that set forth the requirements for the movement of logs, pulpwood, and wood chips would also be amended to replace restrictions on wood chips with restrictions on bark and bark products. These changes are necessary to update the current regulations and to relieve restrictions on wood chips, which are not necessary, and to impose restrictions on bark and bark products, which would ensure that bark and bark products do not contribute to the artificial spread of gypsy moth.

These proposed changes would also make it necessary to amend the regulations found in "Subpart—Gypsy Moth Host Material from Canada" (7 CFR 319.77-1 through 319.77-5), which are intended to limit the artificial spread of gypsy moth from infested areas of Canada into noninfested areas of the United States by restricting the importation of gypsy moth host material into the United States from Canada. Section 319.77-2 lists the following as regulated articles: (1) Trees without roots (e.g., Christmas trees), unless they were greenhouse-grown throughout the year; (2) trees with roots, unless they were greenhouse-grown throughout the year; (3) shrubs with roots and persistent woody stems, unless they were greenhouse-grown throughout the year; (4) logs with bark attached; (5) pulpwood with bark attached; (6) outdoor household articles; and (7) mobile homes and their associated equipment. Based on the recommendations of the GMMT and State cooperators, we are proposing to add bark and bark products to this list of regulated articles because, as noted previously, gypsy moth egg masses can survive the debarking process used to produce the raw bark products.

We would also amend the regulations in § 319.77-4(b), which set forth the

conditions for the importation from Canada of logs and pulpwood with bark attached, so that those conditions would also apply to bark and bark products imported from Canada. With this proposed change, bark and bark products to be moved into or through a U.S. noninfested area could be imported into the United States from Canada only under the following conditions:

- If the bark or bark products originated in a Canadian infested area, they would have to be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that they have been inspected and found free of gypsy moth or treated for gypsy moth in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, or they would have to be consigned to a specified U.S. processing plant or mill operating under a compliance agreement with APHIS for specified handling or processing.

- If the bark or bark products originated in a Canadian noninfested area, they would have to be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

These proposed changes are necessary to ensure that the importation of bark and bark products into noninfested areas of the United States from generally infested areas of Canada will not result in the artificial spread of gypsy moth from Canada into the United States.

With respect to regulated articles, there is some overlap between the regulations in "Subpart—Gypsy Moth Host Material from Canada" and the regulations in "Subpart—Lumber, Logs, and Other Unmanufactured Wood Articles" (7 CFR 319.40.1 through 319.40-11). Because of that overlap, the regulations in § 319.40-2(f) note that in addition to meeting the requirements of the unmanufactured wood regulations, logs and pulpwood with bark attached imported from Canada are subject to the inspection and certification requirements for gypsy moth in § 319.77-4. Similarly, § 319.77-4(b) of "Subpart—Gypsy Moth Host Material from Canada" includes a footnote stating that logs from Canada are also subject to restrictions under the unmanufactured wood regulations in §§ 319.40 through 319.40-11. Given that bark and bark products are already subject to restrictions under the unmanufactured wood regulations, and would also be subject to restrictions under the regulations regarding gypsy moth host material from Canada, we would update the cross references

described above in each subpart to include bark and bark products.

#### *Safeguarding*

In "Subpart—Gypsy Moth," § 301.45-4 sets forth the requirements for the interstate movement of regulated articles from generally infested areas. Paragraph (b) of § 301.45-4 provides that a regulated article that originates outside of any generally infested area may be moved interstate directly through any generally infested area without a certificate or permit if, among other things, the article has been safeguarded while in any generally infested area during the months of April through June. Based on the review of these regulations by the GMMT and State cooperators, we are proposing to extend the close of this safeguarding period from June until August. Because the female gypsy moth generally lays eggs in July and August, and because the flight period of the gypsy moth in northern States is later in the year, there is a risk that articles could become infested during transport through a generally infested area during these months. The proposed extension of the safeguarding period would help protect against this risk and would also make § 301.45-4(b) consistent with the provisions of § 301.45-5(a)(2), which require a regulated article to be inspected within 5 days of the date of movement during the months of April through August before an inspector can certify the article for movement.

#### **Executive Order 12866 and Regulatory Flexibility Act**

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

In this document, we are proposing to amend the gypsy moth regulations by removing restrictions on the interstate movement of wood chips, which do not pose a risk of containing gypsy moth egg masses, and by adding restrictions on the movement and importation of bark and bark products, which pose a risk of containing gypsy moth egg masses. In addition, we are proposing to extend by 2 months the period during which regulated articles originating outside of any generally infested area must be safeguarded from infestation in order to be eligible for interstate movement directly through any generally infested area without a certificate or permit. These proposed changes are necessary to update the provisions in these regulations to ensure consistent actions

by APHIS, our cooperators, and industry in order to limit the artificial spread of gypsy moth.

The U.S. forest industry employs close to 1.4 million people and contributes approximately \$200 billion annually to the national economy.<sup>1</sup> Although the United States is a net importer of wood and wood products, wood exports totaled \$5.24 billion in 2001. The gypsy moth is a pest of concern for the U.S. forest industry. Defoliation of trees by gypsy moths often results in the death of the trees, which leads to economic loss, changes in ecosystems and wildlife habitat, and disturbed water flow and water quality. Economic costs to the U.S. forest industry, in addition to the costs of timber losses and pest control, can also arise from trade reductions as importers impose protective restrictions on access to their markets for wood products. Gypsy moths are already causing losses in quarantined areas in the United States. Annual losses attributable to gypsy moths are estimated to be about \$22 million.<sup>2</sup> Thus, any spread of gypsy moth to nonregulated areas could have a negative economic and environmental impact. The changes in this proposed rule are necessary to limit the artificial spread of the gypsy moth.

#### *Interstate Movement Restrictions*

The proposed changes to the domestic gypsy moth regulations would affect sawmills, pulp mills, and nurseries and garden centers that are involved in the interstate movement of wood chips and bark and bark products from gypsy moth generally infested areas. Restrictions would no longer apply to the movement of wood chips, but entities involved in the interstate movement of bark and bark products would be required to have each shipment of bark or bark products inspected or treated under the direction of an inspector, or self-inspect and certify each shipment in accordance with the Gypsy Moth Program Manual, no more than 5 days prior to moving it from a generally infested area to an area that is not generally infested. While self-inspection minimizes regulatory costs and time delay costs, other costs associated with time, salary, and recordkeeping could be incurred.

The Small Business Administration (SBA) has established size standards

<sup>1</sup> Southeastern Lumber Manufacturing Association, Inc., U.S. Forest Industry Statistics (<http://www.slma.org/consumers>).

<sup>2</sup> David Pimentel, Lori Latch, Rodolfo Zuniga, and Doug Morrison, "Environmental and Economic Costs Associated with Non-indigenous Species in the United States," College of Agriculture and Life Sciences, Cornell University, Ithaca, NY 14850-0901, June 12, 1999.

based on the North American Industry Classification System (NAICS) to determine and to classify which economic entities can be considered small entities. The SBA classifies sawmills as small if they employ 500 or fewer employees. Pulp mills are considered small if they employ 750 or fewer employees. Nursery and garden centers are considered small if their annual sales are less than \$6 million. In 1997, the most recent year for which data are available, there were 1,678 sawmills (NAICS code 321113) in quarantined States,<sup>3</sup> 9 pulp mills (NAICS code 322110) in generally infested areas, and 3,446 nursery and garden centers (NAICS code 444220) in generally infested areas of the United States. Approximately 93 percent of those sawmills, 95 percent of those nursery and garden centers, and 93 percent of those pulp mills are considered to be small entities under the SBA's standards.<sup>4</sup>

In 1997, sawmills in quarantined States produced 2,896,170 tons of primary bark residue (see table 1), which was approximately 12 percent of the national total.<sup>5</sup> However, these data do not include the bark residue produced in urban areas and by land clearing operations. Additionally, most commercially available bark and mulch products are not produced at sawmills. Independent bark and mulch producers buy bark and wood residue from sawmills, reprocess the material, and then sell it in bulk or bagged. The number and size of these independent entities are not available. The impact upon these entities would depend upon what proportion of their business is bark mulch and what percentage of that is shipped to areas that are not generally infested. The higher the percentage shipped to areas that are not generally infested, the greater the negative effect would be.

TABLE 1.—POTENTIALLY AFFECTED ENTITIES AND BARK RESIDUE PRODUCTION

	Generally infested areas	U.S. total
Sawmills* .....	1,678	4,390
Pulp mills .....	9	36
Nursery and garden centers ...	3,446	16,432
Primary bark residue production (tons)	2,896,170	24,528,380

\* Information about the number of sawmills is available at the State level only. County data is withheld to avoid disclosing data for individual establishments. This may result in an overestimate of the number of affected entities because not all counties within quarantined States are in generally infested areas.

Source: U.S. Census Bureau, 1997 Economic Census: Manufacturing and Retail Geographic Area Series, November 1999 (revised November 2002).

**Note:** Primary bark residue production data from USDA/FS, "Bark and wood residue production in gypsy moth quarantined States in 2000," Lew R. McCreery, Economic Action Program USDA/FS Northeastern Area.

The potential economic effects of these proposed changes would vary by State, depending on the number and size of entities to be regulated, the levels of infestation, the quantity of shipments to areas that are not generally infested, and whether delays occur and whether treatment is needed. Entities most likely to be affected by the proposed changes are those that produce bark products and wood chips and independent mulch and bark producers. There would be opposing results. Removal of wood chips from the list of regulated articles would result in savings, if there had been costs before the proposed changes, while the imposition of restrictions on the movement of bark and bark products may result in additional costs. Since entities located in generally infested areas produce a relatively smaller share of bark residue, as shown in table 1, most shipments of bark products are likely to be small in quantity and to be contained within generally infested areas with very few shipments to areas that are not generally infested.

If the inspection of a shipment intended for movement to an area that is not generally infested reveals the presence of gypsy moths, the infested articles would not be eligible for movement unless they were treated or consigned to a facility operating under a compliance agreement with APHIS for specified handling or processing. If treated, fumigation could cost between \$100 and \$150 per truck load, depending upon the size of the shipment. The need to treat infested bark or bark products may increase

business for certified fumigant applicators located in generally infested areas. However, overall, the results of removing wood chips and adding bark and bark products to the list of regulated articles may cancel each other out, resulting in no increase of business for certified applicators. Regional variation is possible.

The proposed changes are expected to cause a slight increase in the costs of business for the affected entities. The negative economic impact that may result from the proposed changes is small compared to the potential for harm to related industries and to the U.S. economy as a whole that would result from an increase in the artificial spread of the gypsy moth, however. Benefits from the unrestricted movement of wood chips are expected to either cancel out or be greater than any negative effects of new restrictions on the movement of bark and bark products. Since the proposed changes would not prohibit their movement, regulated articles that meet the requirements of the regulations would continue to enter the market. The overall impact on price and competitiveness is expected to be relatively insignificant.

#### Import Restrictions

Under the unmanufactured wood regulations in § 319.40–3, regulated articles, which include bark and bark products, to be imported into the United States from Canada are subject to the inspection and other requirements in § 319.40–9 and must be accompanied by an importer document stating that the articles are derived from trees harvested in, and have never been moved outside, Canada. Under § 319.40–9, regulated articles must have been inspected and found free of plant pests or have been treated for pests as required by the inspector before the regulated article may be moved from the port of first arrival. Adding bark and bark products as a regulated articles under the regulations related to gypsy moth host material from Canada would mean that bark and bark products to be moved into or through a noninfested area of the United States from an infested area of Canada would have to be accompanied by an officially endorsed Canadian phytosanitary certificate confirming that they have been inspected and found free of gypsy moth or have been treated in accordance with the PPQ Treatment Manual prior to importation. Because the restrictions that would apply under the regulations for gypsy moth host material from Canada are only slightly more restrictive than the restrictions that already apply under the

<sup>3</sup> Information on the number of sawmills is available at the State level only. County information is withheld to avoid disclosing data for individual establishments. This may result in an overestimate of the number of affected entities because not all counties within quarantined States are in generally infested areas.

<sup>4</sup> U.S. Census Bureau, 1997 Economic Census: Manufacturing and Retail Geographic Area Series, November 1999 (revised November 2002).

<sup>5</sup> W.B. Smith, John S. Visage, David R. Darr, and Raymond M. Sheffield, Forest Resources of the United States, 1997.

unmanufactured wood regulations, requiring certification or treatment prior to importation rather than at the port of first arrival, we do not believe that they will have a significant economic impact. In addition, we could not find any data on the importation of bark or bark products into the United States from Canada, which indicates that there is not a high volume of trade in these articles.

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

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) State and local laws and regulations will not be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### List of Subjects

7 CFR Part 319

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

Accordingly, 7 CFR parts 301 and 319 would be amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

#### § 301.45–1 [Amended]

2. In § 301.45–1, in the definition of *regulated articles*, paragraph (2) would be amended by removing the words “wood chips” and adding in their place the words “bark and bark products”.

#### § 301.45–4 [Amended]

3. In § 301.45–4, paragraph (b) would be amended by removing the word “June” and adding in its place the word “August”, and paragraph (c)(2) would be amended by removing the words “wood chips” and adding in their place the words “bark and bark products”.

#### PART 319—FOREIGN QUARANTINE NOTICES

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

**Authority:** 7 U.S.C. 450, 7711–7714, 7718, 7731, 7732, 7751–7754, and 7760; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

#### § 319.40–2 [Amended]

5. In § 319.40–2, paragraph (f) would be amended by adding the words “bark and bark products and” before the word “logs”.

6. Section 319.77–2 would be amended by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and by adding a new paragraph (f) to read as follows:

#### § 319.77–2 Regulated articles.

\* \* \* \* \*

(f) Bark and bark products;

\* \* \* \* \*

7. In § 319.77–4, the introductory text of paragraph (b), including footnote 2; paragraph (b)(1); the introductory text of paragraph (b)(2); the introductory text of paragraph (b)(2)(i); and paragraph (b)(2)(ii) would be revised to read as follows:

#### § 319.77–4 Conditions for the importation of regulated articles.

\* \* \* \* \*

(b) *Bark and bark products and logs and pulpwood with bark attached.*<sup>2</sup> (1) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. infested area and that will not be moved through any U.S. noninfested area other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (*i.e.*, areas in those counties that are not listed in 7 CFR 301.45–3) may be imported from any area of Canada without restriction under this subpart.

<sup>2</sup> Bark, bark products, and logs from Canada are also subject to restrictions under “Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles” (§§ 319.40 through 319.40–11 of this part).

(2) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the bark, bark products, logs, or pulpwood originated in a Canadian infested area, they must be either:

\* \* \* \* \*

(ii) If the bark, bark products, logs, or pulpwood originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

\* \* \* \* \*

Done in Washington, DC, this 16th day of May 2003.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–12985 Filed 5–22–03; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 02–049–1]

#### Importation of Fragrant Pears From China

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation of fragrant pears from China under certain conditions. As a condition of entry, fragrant pears from China would have to be grown in the Korla region of Xinjiang Province in a production site that is registered with the national plant protection organization of China. The fragrant pears would be subject to inspection. In addition, the pears would have to be packed in insect-proof containers that are labeled in accordance with the regulations and safeguarded from pest infestation during transport to the United States. This action would allow fragrant pears to be imported from China while continuing to provide protection against the introduction of plant pests into the United States.

**DATES:** We will consider all comments that we receive on or before July 22, 2003.