Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 04–031–1]

Pine Shoot Beetle; Interstate Movement of Pine Bark Products From Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the pine shoot beetle regulations to allow pine bark products to be moved interstate from quarantined areas during the shoot feeding stage (July 1 through October 31) of the pine shoot beetle's life cycle without treatment. We are proposing this change because pine shoot beetles are not present in pine bark products during this stage. We are also proposing to establish a management method to allow pine bark products to be moved interstate from quarantined areas during the overwintering stage (November 1 through March 31) and spring flight stage (April 1 through June 30) of the pine shoot beetle's life cycle. This action would relieve restrictions on the interstate movement of pine bark products from quarantined areas during 4 months of the year and provide for the use of a management method as an alternative to fumigation with methyl bromide for pine bark products moved interstate from quarantined areas during the rest of the year.

DATES: We will consider all comments that we receive on or before August 5, 2005.

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

- *EDOCKET:* Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 04–031–1, 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. 04–031–1.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

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

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Weyman Fussell, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–5705.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 301.50 through 301.50–10 (referred to below as the regulations) restrict the interstate movement of certain regulated articles from quarantined areas in order to prevent the spread of pine shoot beetle (PSB) into noninfested areas of the United States.

PSB is a pest of pine trees that can cause damage in weak and dying trees, where reproduction and immature stages of PSB occur. During shoot feeding, young beetles tunnel into the center of pine shoots (usually of the current year's growth), causing stunted and distorted growth in host trees. PSB is also a vector of several diseases of pine trees. Factors that may result in the establishment of PSB populations far from the location of the original host tree include: (1) Adults can fly at least 1 kilometer, and (2) infested trees and pine products are often transported long distances. This pest damages urban ornamental trees and can cause economic losses to the timber, Christmas tree, and nursery industries.

PSB hosts include all pine species (*Pinus* spp.). The beetle has been found in a variety of pine species in the United States. Scotch pine (*P. sylvestris*) is the preferred host of PSB. White pine (*P. strobus*) is the most common pine species in many of the quarantined areas, but it is not well-suited for PSB reproduction and thus is not a preferred host for PSB.[1] The Animal and Plant Health Inspection Service (APHIS) has determined, based on scientific data from European countries, that fir (*Abies* spp.), larch (*Larix* spp.), and spruce (*Picea* spp.) are not hosts of PSB.

Section 301.50–2 lists articles regulated because of PSB. Regulated articles are the following pine products: Bark nuggets (including bark chips), Christmas trees, logs with bark attached, lumber with bark attached, nursery stock, raw pine materials for pine wreaths and garlands, and stumps. Section 301.50–4 provides that regulated articles that originate within a quarantined area may be moved interstate only if they are moved with a certificate or limited permit issued and attached in accordance with §§ 301.50–5 and 301.50–8 of the regulations or they are moved by the U.S. Department of Agriculture for experimental or scientific purposes.

Section 301.50–5 sets out conditions under which an inspector will issue either a certificate or a limited permit for the interstate movement of regulated articles from a quarantined area. One of the conditions for issuing a limited permit is that the regulated article must be moved interstate to a specific destination in a nonquarantined area or to another quarantined area. In order for a regulated article to move freely once it exits a quarantined area, the conditions for the issuance of a certificate in § 301.50–5(a) must be fulfilled. Pine bark nuggets (including

[1] Ryall, K.L. and S.M. Smith. 2000. Reproductive success of the introduced pine shoot beetle, *Tomicus piniperda*, (Coleoptera: Scolytidae) on selected North American and European conifers. Proc. Ent. Soc. Ont. 131:113–121.

bark chips) are only eligible for a certificate if they are treated in accordance with § 301.50–10 and meet the transportation requirements in § 301.50–5(a)(2); fumigation with methyl bromide is the only treatment authorized in § 301.50–10 for pine bark nuggets (including bark chips) to be moved interstate from a quarantined area.

Definition of Pine Bark Products

Some confusion exists as to which products produced from pine bark are included in the term ''pine bark nuggets (including bark chips).'' We intend to regulate the movement of mulch and compost produced from pine bark in the PSB regulations, as the interstate movement of PSB-infested mulch and compost could contribute to the spread of PSB from quarantined areas. To clarify this matter, we are proposing to add a definition of *pine bark products* to § 301.50–1 that would read ''Pieces of pine bark including bark chips, bark nuggets, bark mulch, and bark compost.'' We would also replace the term ''pine bark nuggets (including bark chips)'' everywhere it occurs in the regulations with ''pine bark products.'' We will use the term ''pine bark products'' in our discussion of the other changes we are proposing to make to the regulations.

Mitigating the Risks Associated With the Interstate Movement of Pine Bark Products From a Quarantined Area

As discussed above, fumigation with methyl bromide is currently the only treatment for pine bark products provided for by the regulations. However, we have reexamined the risks associated with the interstate movement of pine bark products from a quarantined area based on the habitats and activities of PSB during each stage of its life cycle:

- Overwintering (November 1 through March 31): During this stage, adult PSB bore into the bark of pine trees and overwinter at the base of those trees.
- Spring flight (April 1 through June 30): During this stage, adult PSB emerge from the base of pine trees and form broods in dead and dying pine logs. Larvae develop under the bark, feeding on the inner bark and cambium. They emerge as adult beetles in about 4 to 8 weeks.
- Shoot feeding (July 1 through October 31): During this stage, adult PSB are only found in pine branch shoots, where they feed, and are no longer present in pine bark.

Given these changing habitats and activities, different procedures to mitigate the risk of spreading PSB from a quarantined area via the interstate movement of pine bark products are appropriate for each stage in the PSB life cycle. In addition, recent research indicates that combinations of mechanical procedures and, in some cases, composting are effective at killing PSB that may be present in pine bark products. Finally, the fact that PSB is not present in pine bark during the shoot feeding stage means that no specific risk mitigation measures are necessary for pine bark products that are produced from trees felled during the shoot feeding stage and moved interstate from a quarantined area.

Accordingly, staff from the Maine Department of Agriculture, the Maine Forest Service, and plant regulatory staff in other States developed a management method for the interstate movement of pine bark products from a quarantined area that could be used as an alternative to fumigation with methyl bromide to mitigate the risk of the spread of PSB via such movement. After it was proposed to APHIS in 2002, the management method underwent numerous revisions and was subsequently submitted to the National Plant Board, a group composed of plant regulatory officials from the 50 States, for review in the summer of 2003. In October 2003, the National Plant Board's Board of Directors voted unanimously to support the use of the management method. APHIS has reviewed the management method and the research behind it and concurs in the judgment of the other reviewers. (For further information on the management method, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.)

Therefore, we are proposing to amend the regulations in § 301.50–5(a)(1)(v) to allow a certificate to be issued for the interstate movement of pine bark products produced from trees felled during the shoot feeding cycle, without mandatory treatment or inspection. We are also proposing to add to the regulations in § 301.50–10 a management method for pine bark products generated from trees of four pine species: White pine, Scotch pine, red pine (*P. resinosa*), and jack pine (*P. banksiana*). Under this proposed rule, pine bark products that are produced from pines of those species felled during the period November 1 through June 30 and that have been produced in accordance with these management methods would satisfy the conditions for the issuance of a certificate for interstate movement from a quarantined area if they meet the transportation requirements in § 301.50–5(a)(2).

Interstate Movement During the Shoot Feeding Stage (July 1 Through October 31)

The regulations in § 301.50–5(a)(1)(v) provide that a certificate will be issued for the interstate movement of a pine log with bark attached, pine lumber with bark attached, or a pine stump from a quarantined area if the source tree has been felled during the period of July through October; § 301.50–5(a)(2)(iii) additionally provides that articles meeting that condition may be transported without restrictions if they are shipped interstate during the period of July through October. No treatment or inspection is required; these measures are presumed not to be necessary due to the fact that adult PSB are only found in pine branch shoots during the shoot feeding stage. This fact also means that PSB would not be present in any pine bark products generated from logs that were felled and debarked during the period of July through October and moved interstate from a quarantined area during that same period, especially considering that stockpiles of loose bark are not known to attract PSB. However, we neglected to include pine bark products in § 301.50–5(a)(1)(v) when we established that paragraph in an interim rule effective and published in the **Federal Register** on May 13, 1993 (58 FR 28333–28335, Docket No. 92–139–3).

Accordingly, this proposed rule would amend § 301.50–5(a)(1)(v) to add pine bark products generated from source trees felled and debarked during the period of July through October to the list of regulated articles for which a certificate for interstate movement from a quarantined area may be issued without treatment or inspection if the source tree has been felled during the period of July through October. We would also amend § 301.50–5(a)(2)(iii) to add pine bark products generated from source trees felled and debarked during the source feeding stage to the parallel list of regulated articles in that paragraph.

In addition, we would make two minor changes to paragraph § 301.50–5(a)(2)(iii). We would add language to indicate that the articles from trees felled during the period of July through October must be moved interstate during the period of July through October of the year in which the source tree was felled in order to be eligible under that paragraph to move under a certificate. This change would clarify the regulations. We would also replace all the references in the regulations to the period July through October with references to the period July 1 through

October 31, to make the duration of the period of time in question clearer.

Management Method for the Interstate Movement of Pine Bark Products

The management method APHIS has determined to be effective for pine bark products moved interstate during the overwintering and the spring flight stages draws on several means of mitigating the risk of spreading PSB that is associated with such movement, including mechanical debarking of the pine logs, grinding of the pine bark into pieces of 1 inch or less in size, and composting.

Mechanically debarking pine logs, a common process which produces pine bark as a byproduct, can be assumed to kill almost all PSB that may be present in the pine logs when a ring debarker or a Rosser head debarker is used. Ring debarkers consist of a ring of cutting heads or knives that are mounted on a series of arms in a circular position; the cutting heads rotate around the log as it is fed through the ring. The rings have a variable pressure capacity, so they relax or constrict to accommodate the different dimensions and contours of each log. Rosser head debarkers consist of a unit in which the log is turned while a moving cutter head debarks it.

While no research has yet been conducted regarding the mortality rate for PSB that results from mechanical debarking, research on mortality rates for two beetles that are of a size similar to PSB, *Ips typographus* and *I. calligraphus*, indicates that mechanical debarking produces mortality rates of 93 percent and 99 percent, respectively, for those beetles.[2]

After pine logs are debarked, the resulting pine bark products may be processed, either by bark grinding or by composting. If the pine bark is ground into pieces of 1 inch in diameter or less, we believe the grinding process is sufficient to mitigate the risk of spreading PSB via the interstate movement of the pine bark. One study using unprocessed, composted pine bark whose surface was infested with *Tribolium confusum* duVal (Coleoptera; Tenebrionidae) found no survivors after the bark was ground in a manner simulating final bark mulch processing.[3] Another investigator reported similar results using loblolly pine with infestations of *Ips* spp.[4]

Composting procedures can raise the temperature of pine bark products to 120 °F (49 °C), which is sufficient to kill PSB. However, experiments by APHIS's Center for Plant Health Science and Technology (CPHST) indicate that care must be taken to ensure that all parts of a pile of composting pine bark reach this temperature, as the exterior portions of a pile will not compost. CPHST has developed a procedure for composting pine bark that addresses this problem and ensures that the composting process is lethal to PSB:

- The pile of pine bark to be composted must be at least 200 cubic yards in size.
- The compost pile must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days.
- After the 4-day period is completed, the outer layer of the compost pile must be removed to a depth of 3 feet.
- A second compost pile must be started using the cover material previously removed as a core. Core material must be removed from the first compost pile and used to cover the second compost pile to a depth of 3 feet.
- The second compost pile must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days. After this 4-day period, the composting procedure is complete.
- Previously composted material generated using this procedure may be used as cover material for subsequent compost piles. A compost pile that uses previously composted material as cover material must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days. After this 4-day period, the composting procedure is complete.

The procedures we are proposing to allow as an alternative to fumigation with methyl bromide for the management of pine bark products generated from trees felled during the overwintering stage and the spring flight stage of the life cycle of PSB are described below.

Management Procedure For the Overwintering Stage (November 1 Through March 31)

During this stage, PSB bore into the bark of pine trees and overwinter at the base of those trees. Research on PSB overwintering behavior in small-diameter Scotch pine trees indicates up to 97 percent of adults choose overwintering sites on the bases of those trees that are 4 inches or less above the duff layer.[5] Pine trees are typically cut 4 to 6 inches above the duff layer when harvested; thus, if any PSB are present in pine trees that are harvested during the overwintering period, most or all of them are not present in the pine logs that are removed from the harvesting site.

As mentioned above, Scotch pine is the preferred host for PSB. In general, PSB prefers to overwinter in 2–3 needle hard pines, such as Scotch pine, red pine, and jack pine, rather than white pine, which is a 5-needle soft pine. When overwintering, PSB chooses sites close to the ground on preferred hosts first. If those sites are too crowded, it will either overwinter higher on the tree in a preferred host or close to the ground in a nonpreferred host. Thus, in crowded conditions, PSB may be present at locations higher than 4 inches above the duff layer on hard pines. However, it is unlikely that PSB would be present in high concentrations on soft pines, regardless of crowding conditions, and it is highly unlikely that PSB would be present more than 4 inches above the duff layer.

Given the above considerations, we are proposing to allow inspectors to issue a certificate for the interstate movement of pine bark products from white pines from a quarantined area during the overwintering period if the pines are harvested with a stump height of 4 inches above the duff layer and the pine logs are subsequently mechanically debarked with a ring debarker or a Rosser head debarker. PSB is highly unlikely to be present in white pines at more than 4 inches above the duff layer, and the debarking process further mitigates the risk of spreading PSB via interstate movement of pine bark products from quarantined areas.

Because PSB is more likely to be present 4 inches above the duff layer in hard pines, we are proposing to allow inspectors to issue a certificate for the interstate movement of pine bark products from Scotch pines, red pines, and jack pines from a quarantined area during the overwintering period if the pines are harvested with a stump height of 4 inches above the duff layer, the pine logs are subsequently mechanically debarked with a ring debarker or a Rosser head debarker, and the resulting pine bark products are either ground

[2] Dubbel, V. 1993. Survival rate of spruce bark beetles with machine debarking. Allgemeine Forst Zeitschrift: 48(7): 359–360; and Haack, R.A. (unpublished data).

[3] Barak, A.V. 1999. Pine Shoot Beetle compliance: Cooperative Investigation with Webb Brothers Inc., Sherburne, NY. USDA/APHIS unpublished report, USDA/APHIS Otis Plant Protection Center, Otis ANGB, MA.

[4] Haack, R.A. (unpublished data).

[5] Petrice, T.R., R.A. Haack and T.M. Poland. 2002. Selection of overwintering sites by *Tomicus piniperda* (Coleoptera: Scolytidae) during fall shoot departure. J. Entomol. Sci. 37(1): 48–59.

into pieces of 1 inch or less in size or composted in accordance with the procedure described above.

Management Procedure for the Spring Flight Stage (April 1 to June 30)

During this period, PSB attempts to establish broods in dead and dying pine logs, meaning that any pine logs or any material generated from pine logs may be infested with PSB. Therefore, we are proposing to allow an inspector to issue a certificate for the interstate movement of pine bark products generated from white pine, Scotch pine, red pine, and jack pine from a quarantined area if the logs from which the pine bark products were generated were mechanically debarked with a Ring debarker and the pine bark was subsequently either ground into pieces of 1 inch or less in size or composted in accordance with the procedure described above.

Miscellaneous Changes

We are proposing to add the management method described above for the overwintering and spring flight stages to § 301.50–10 in a new paragraph (d). Currently, the section heading for § 301.50–10 is ''Treatments.'' Because the management method requires mitigations that are not typically classified as treatments, such as mechanical debarking, we would amend this section heading to read ''Treatments and management method.'' In addition, paragraph (a)(1)(i) of § 301.50–5 currently requires that regulated articles to be moved interstate must be treated in accordance with § 301.50–10; we would amend this paragraph to reflect the fact that § 301.50–10 would contain a management method in addition to treatments.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in information on the costs of the stump cutting, debarking, bark grinding, and composting processes that serve as components of the management plan described in this proposed rule.

In accordance with the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to promulgate regulations to prevent the dissemination of plant pests or noxious weeds within the United States.

We are proposing to amend the PSB regulations to allow pine bark products to be moved interstate from quarantined areas during the shoot feeding stage (July 1 through October 31) of the PSB's life cycle without treatment. We are proposing this change because PSB is not present in pine bark products during this stage. We are also proposing to establish a management method to allow pine bark products to be moved interstate from quarantined areas during the overwintering stage (November 1 through March 31) and spring flight stage (April 1 through June 30) of the PSB's life cycle.

The regulations currently require that pine bark products be fumigated with methyl bromide before a certificate can be issued allowing the interstate movement of pine bark products from a quarantined area into a nonquarantined area. The pine logging and processing industry does not consider fumigation with methyl bromide a viable treatment option due to its costs. This proposed rule would establish a pine bark product management method under which a certificate would be issued for the interstate movement of pine bark products from a quarantined area without the use of methyl bromide. Only mechanical procedures or composting would be required, and at some times pine bark products would be allowed to move without treatment. This proposed rule has the strong backing of the pine bark industry as well as the National Plant Board. APHIS, along with the National Plant Board, has found that the mechanical methods, composting, and specific handling procedures this proposal would require provide the necessary protection against the artificial spread of PSB into noninfested areas.

The groups affected by this action would be any logging, sawmill, paper mill, wood chip-energy, and wood chip-mulch operations in the 405 counties currently quarantined because of PSB.[6] The proposed rule would benefit all of these operations, allowing them to move pine bark products out of a quarantined area without the economic burden of first fumigating the bark products with methyl bromide.

States in the northeast region, specifically Maine, New Hampshire, New York, and Vermont, would benefit from this regulation due to the significant contribution the forest industry makes to their economies. According to a study published by the North East State Foresters Association in March 2001, forest-based manufacturing in this 4-State region provides employment for almost 97,000 people and generates $15.7 billion annually in receipts.[7]

The forest industry relies heavily on the wood chip processors to remove waste bark. The waste pine chips are used for landscaping material, burned to produce energy, or used to produce paper. Not only do the sawmill and logging operations benefit from this waste removal, but the wood chip industry is able to package and sell the bark to consumers for landscaping needs. Turning this waste into mulch or other products is financially and environmentally beneficial to the forest industry and consumers.

Treatment Costs

Putting aside the environmental impact of using methyl bromide and the consumer's possible reluctance to purchase mulch treated with methyl bromide, the treatment costs alone of fumigation with methyl bromide are prohibitive. The average cost of fumigating a 48-foot tractor-trailer loaded with mulch with methyl bromide according to the treatment schedule in § 301.50–10(a) is estimated to be $1,435.[8] Considering that a 48-foot tractor trailer holds between 82 and 96 yards of mulch, the cost of fumigation with methyl bromide is approximately $14.95 to $17.50 per yard.

The treatment costs are so high that the wood chip industry is unable to absorb these costs, as pine mulch retails for $16 a yard. The wood chip industry would have to pass these treatment costs on to consumers, approximately doubling the retail price of mulch to $32 per yard. Wood chip processors in areas quarantined for PSB are unable to compete with wood chip processors in nonquarantined areas due to the treatment costs. Sawmill and logging

[6] Under § 301.50–3, part or all of 13 States are quarantined for PSB: Illinois, Indiana, Maine, Maryland, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin.

[7] The Economic Importance of the Northeast's Forests, North East State Foresters Association (NESFA), March 2001.

[8] Based on information provided by the Michigan State University, Agricultural Extension Service. Cost includes labor and materials; sealing of 48-ft. trailer; monitoring of fumigant (4–5 lbs. per 1,000 cubic ft.); aeration of trailer; and loading and unloading of pine mulch and nuggets.

operations are forced to dispose of the wood chips themselves.

Precise cost estimates for the management plan for pine bark products could not be obtained. However, for 4 months of the year, pine bark products would be able to be moved without restrictions. With regard to the other mitigations that would be required in the pine bark products management plan, most loggers already cut pine trees more than 4 inches above the stump, and most pine logs are already debarked using a mechanical debarker, meaning that the costs associated with these procedures should be low, if they impose any new burden at all. Pine bark mulch is typically made either by bark grinding or composting; without data on bark processors' current bark grinding and composting procedures, it is difficult to estimate what, if any, costs would be associated with implementing the management method for pine bark processors. However, we believe that any additional costs would still be far lower than the cost of fumigation with methyl bromide.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their regulations on small entities. The Small Business Administration (SBA) has established size criteria using the North American Industry Classification System (NAICS) to determine which economic entities meet the definition of a small firm.

Most businesses that would be affected by this proposed rule belong to one of two NAICS categories: (1) Logging firms, which would fall within NAICS category 113310, ''Logging,'' and (2) sawmills and other wood processing firms, which would fall within NAICS category 321113, ''Sawmills.'' Firms in both of these categories are considered by the SBA to be small entities if they employ fewer than 500 people. Using the data provided by the National Agricultural Statistics Service's 2002 Census of Agriculture, we can assume that most firms in these categories would be considered small entities. We do not have any specific data regarding how many firms that would be affected by the proposed rule are considered to be small entities; we invite public comment on this issue.

We believe that this proposed rule would have a positive impact on all affected entities, because we believe the management method in this proposed rule would dramatically lower treatment costs for pine bark products derived from trees during 8 months of the year and eliminate such costs entirely for pine bark products derived from trees felled during 4 months of the year. We welcome comments from affected entities on the possible economic impacts of this proposed rule.

This proposed rule contains no new information collection or recordkeeping requirements (see ''Paperwork Reduction Act'' below).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

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 in 7 CFR Part 301

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

Accordingly, we proposed to amend 7 CFR part 301 to read 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).

2. In § 301.50–1, a new definition of *pine bark products* would be added in alphabetical order to read as follows:

§ 301.50–1 Definitions.

* * * * *

Pine bark products. Pieces of pine bark including bark chips, bark nuggets, bark mulch and bark compost.

* * * * *

§ 301.50–2 [Amended]

3. In § 301.50–2, paragraph (a) would be amended by removing the words ''Bark nuggets (including bark chips)'' and adding the words ''Bark products'' in their place.

4. Section 301.50–5 would be amended as follows:

a. In paragraph (a)(1)(i), by adding the words '', or, if pine bark products, produced according to the requirements of the management method in § 301.50–10(d) of this subpart'' after the word ''subpart''.

b. In paragraph (a)(1)(v), by removing the words ''July through October'' and adding the words ''July 1 through October 31'' in their place; and by adding the words ''or if the regulated article is pine bark products produced from a tree felled and debarked during the period of July 1 through October 31'' before the word ''; and''.

c. By revising paragraph (a)(2)(iii) to read as set forth below.

§ 301.50–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) * * *

(iii) The pine log with pine bark attached, pine lumber with bark attached, or pine stump from a tree felled during the period of July 1 through October 31, or the pine bark products produced from a tree felled and debarked during the period of July 1 through October 31, will be shipped interstate from the quarantined area during the period of July 1 through October 31 of the same year in which the source tree was felled; and

* * * * *

5. Section 301.50–10 would be amended as follows:

a. By revising the section heading to read as set forth below.

b. In paragraph (a), by removing the words ''pine bark nuggets (including bark chips)'' and adding the words ''pine bark products'' in their place.

c. By adding a new paragraph (d) to read as set forth below.

§ 301.50–10 Treatments and management method.

* * * * *

(d) *Management method for pine bark products.* The following procedures are authorized for use with pine bark products derived from white pine (*Pinus strobus*), Scotch pine (*P. sylvestris*), red pine (*P. resinosa*), and jack pine (*P. banksiana*) trees. Pine bark products will only be considered to have been produced in accordance with this management method if the following procedures are followed:

(1) For pine bark products produced from trees felled during the period November 1 through March 31:

(i) The trees must be harvested at a height of 4 inches or more above the duff line; and

(ii) The trees must have been mechanically debarked with a ring debarker or a Rosser head debarker; and

(iii) For Scotch pine, red pine, and jack pine, the bark must either be ground into pieces of 1 inch or less in size or composted in accordance with the procedure in paragraph (d)(3) of this section.

(2) For pine bark products produced from trees felled during the period April 1 through June 30:

(i) The trees must have been mechanically debarked with a ring debarker or a Rosser head debarker; and

(ii) The bark must either be ground into pieces of 1 inch or less in size or composted in accordance with the procedure in paragraph (d)(3) of this section.

(3) Composting for pine bark products for the management method in this paragraph (d) must be performed as follows:

(i) The pile of pine bark to be composted must be at least 200 cubic yards in size; and

(ii) The compost pile must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days; and

(iii) After the 4-day period is completed, the outer layer of the compost pile must be removed to a depth of 3 feet; and

(iv) A second compost pile must be started using the cover material previously removed as a core. Core material must be removed from the first compost pile and used to cover the second compost pile to a depth of 3 feet; and

(v) The second compost pile must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days. After this 4-day period, the composting procedure is complete.

(vi) Previously composted material generated using this procedure may be used as cover material for subsequent compost piles. A compost pile that uses previously composted material as cover material must remain undisturbed until the interior temperature of the pile reaches 120 °F (49 °C) and remains at or over that temperature for 4 consecutive days. After this 4-day period, the composting procedure is complete.

Done in Washington, DC, this 31st day of May 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–11150 Filed 6–3–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20836; Directorate Identifier 2005–NM–028–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–200 and 727–200F Series Airplanes; 737–200, 737–200C, 737–300, and 737–400 Series Airplanes; 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP Series Airplanes; 757–200 and 757–200PF Series Airplanes; and 767–200 and 767–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This document extends the comment period for the above-referenced NPRM, which proposes the adoption of a new airworthiness directive (AD) that applies to certain Boeing transport category airplanes. The NRPM would require replacing any insulation blanket constructed of polyethyleneteraphthalate (PET) film, ORCON Orcofilm® AN–26 with a new insulation blanket. The NPRM results from reports of in-flight and ground fires on certain airplanes manufactured with insulation blankets covered with AN–26, which may contribute to the spread of a fire when ignition occurs from sources such as electrical arcing or sparking. This extension of the comment period is necessary to ensure that all interested persons have ample opportunity to submit any written relevant data, views, or arguments regarding the NPRM.

DATES: We must receive comments on this NPRM by August 3, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sue Rosanske, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6448; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the ''original NPRM'') for certain Boeing Model 727–200 and 727–200F series airplanes; 737–200, 737–200C, 737–300, and 737–400 series airplanes; 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP series airplanes; 757–200 and 757–200PF series airplanes; and 767–200 and 767–300 series airplanes. The original NPRM was published in the **Federal Register** on April 4, 2005 (70 FR 16986). The original NPRM proposed to require replacing any insulation blanket constructed of polyethyleneteraphthalate (PET) film, ORCON Orcofilm® AN–26 with a new insulation blanket. The original NPRM also invites comments on its overall regulatory, economic, environmental, and energy aspects.

Events Leading to Extension of Comment Period

Since the issuance of that original NPRM, a commenter has requested a 60-day extension of the comment period because of the extensive scope and significant potential impact of the original NPRM, the lack of associated service information, and the need for proper review of the results of prototype efforts. The commenter states that the additional time would provide operators time to study the proposed requirements of the original NPRM, to assess and compare compliance concepts with the manufacturers, to develop initial plans for developing and getting FAA approval of service information, and to prepare comments for the Rules Docket.