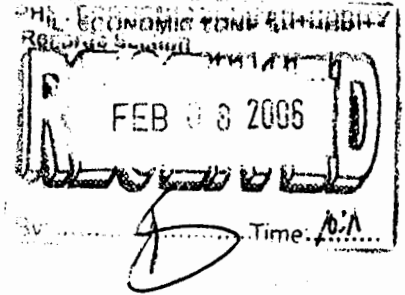




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MEMORANDUM CIRCULAR NO. 2006 005 *ylb*

TO : Economic Zone Locator Enterprises
Economic Zone Administrators and Managers

FROM : Director General LILIA B. LIMA *Lilia B. Lima*

SUBJECT : Implementation of the Regulation on Wood Packaging
Materials by the United States

DATE : 01 February 2006

We received information from Philippine Commercial Counsellor Romeo Borillo in Washington, D.C. that on 16 September 2005, the United States, with Mexico and Canada, has agreed to enforce the International Standard for Phytosanitary Measure No. 15 (ISPM 15) for all regulated wood packaging materials (WPM) entering North America. The new regulation was issued in compliance with the International Plant Protection Convention, an agreement among many countries, including the Philippines, providing for harmonized standards and regulations on use of WPM.

To enable economic zone locator enterprises, specifically those exporting to the United States, to prepare for the full implementation of the regulation, please be informed of the U.S. phasing-in schedule, as follows:

PHASE 1 : 16 September 2005 - 31 January 2006

An informed compliance period, with no detention or order to return shipment for non-compliant wood packaging materials (i.e., if WPM are not marked accordingly, the broker or importer will be informed of the non-compliance and given further information about the regulation).

PHASE 2 : 01 February 2006 – 04 July 2006

Continuation of informed compliance for all WPM except on pallets and crates. Full enforcement of the ban on non-compliant pallets and crates will commence (i.e., rejection and re-shipment of all shipments will be ordered if it is not

"Trabaho at kabuhayan sa bawat tao"
President Gloria Macapagal-Arroyo

feasible to separate the goods from the non-compliant pallets or crates)

PHASE 3 : 05 July 2006 - onwards

Full enforcement of the ban on non-compliant wood packaging materials (i.e., rejection and re-shipment of all non-compliant shipments will be ordered)

In addition to the phased-in schedule, please also take note of the following important information:

- The US regulation implementing the agreement covers most wood packaging materials, to include pallets, boxes and pieces of wood used to support or brace cargo. These materials are currently referred to as solid wood packing materials, which is defined as "wood packing materials other than loose wood packing materials, for use with cargo to prevent damage, including but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, skids."
- The approved treatments for WPM are: (1) heat treatment to a minimum wood core temperature of 56 degrees Centigrade for a minimum of 30 minutes or (2) fumigation with methyl bromide.

For more detailed information of the United States implementation of the WPM regulation, economic zone locator enterprises may download a copy of the Q&A from the PEZA website (www.peza.gov.ph).

Please feel free to call our Policy and Planning Office (Telephone Nos. 551-3429 or 551-3439) for any additional information and/or assistance you may require.

For the information and guidance of all concerned.

Frequently Asked Questions (FAQs)

Updated October 21, 2005

On September 16, 2005, the United States, in cooperation with Mexico and Canada, will begin enforcement of the international phytosanitary standard (ISPM 15) for regulated wood packaging material (WPM) entering North America.

Enforcement of the ISPM 15 standard will be conducted in accordance with Customs and Border Protection (CBP) operational guidelines and procedures. Importers are encouraged to ensure that all regulated WPM are treated and marked according to the ISPM 15 standard and U.S. regulation to avoid possible delays or rejection of WPM in cargo shipments at U.S. ports of entry due to noncompliance.

Q: Why a new rule?

A: Untreated wood poses a significant risk of introducing plant pests, including pathogens, that can be detrimental to agriculture and to natural, cultivated, and urban forest resources. U.S. Department of Agriculture (USDA) regulations contain provisions to mitigate plant pest risk presented by the importation of such wood. Because wood packaging materials (WPM) are very often reused, the true origin of any piece of WPM is difficult to determine and, thus, its treatment status cannot be ascertained.

Therefore, the USDA amended its regulations to decrease the risk of WPM introducing plant pests into the U.S. by adopting the international standard for WPM approved by the Interim Commission on Phytosanitary Measures of the International Plant Protection Convention (IPPC) on March 15, 2002. By adopting the IPPC Guidelines, the U.S. is harmonizing its trade requirements with a host of other countries that have also adopted the guidelines and have, or are preparing to, implement the requirements.

Q: How is CBP going to enforce this regulation?

A: The USDA regulation allows for enforcement discretion. CBP has completed its implementation plan and posted information to the trade at www.cbp.gov.

Q: When does the law go into effect? Is it possible to delay implementation?

A: The effective date of the regulation is September 16, 2005. CBP, USDA and our counterparts in Canada and Mexico have agreed to a phase-in schedule for the WPM rule. The phase-in periods are as follows:

- From September 16-January 31, there will be a period of informed compliance. No noncompliant shipments will be required to be exported.
- From February 1-July 4, the WPM requirement will be in place for pallets and crates.
- From July 5th forward, WPM requirements will be enforced for all WPM, including dunnage.

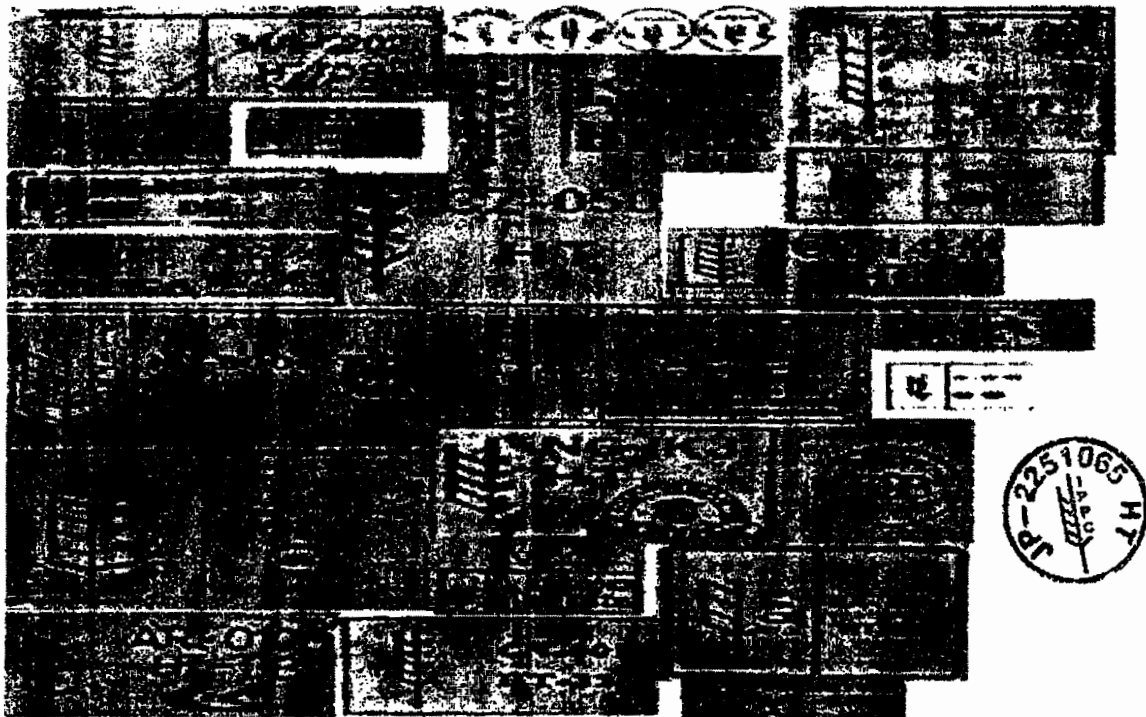
Q: What are the actual treatment and marking requirements?

A: There are two treatment options, heat treatment or fumigation with methyl bromide. For heat treatment, WPM must be heat treated to achieve a minimum wood core temperature of 56°C for a minimum of 30 minutes. For fumigation, the WPM must be fumigated with methyl bromide in an enclosed area for at least 16 hours at the regulated dosage and then must be aerated to reduce the concentration of fumigant below hazardous exposure levels.

After either of these treatments, the WPM must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark, approved by the IPPC, to certify that wood packaging material has been subjected to an approved treatment.

Q: What does the approved mark look like?

A: Marks will vary by country and treatment establishment. Here are some examples:



As you can see, the marks may vary in size, shape, and color. What the mark must include is the IPPC trademarked graphic symbol, the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the

producer of the wood packaging material, and an abbreviation disclosing the type of treatment.

Q: What happens when untreated or unmarked WPM arrives in the U.S.?

A: If WPM are unmarked, they are considered to be untreated and non-compliant. The regulation allows for immediate reexport of non-compliant WPM. It does not allow for fumigation. It does not allow for any alternative disposal methods. Other countries may have other options, but the U.S. regulation allows only for export of the non-compliant WPM. Exportation of non-compliant WPM will be the responsibility of the importer of the merchandise.

If it is feasible to separate merchandise from non-compliant WPM, all expenses associated with that separation are the responsibility of the importer or importers of the merchandise. Separation of non-compliant WPM from compliant WPM or associated merchandise is not an absolute right; it is an option left to the government's discretion. All expenses related to the movement, inspection, separation, safeguarding, storage, and ultimate disposition of non-compliant WPM are the responsibility of the importer and at their expense. Specific protocol for this process will be posted at this site when approved.

Q: What if the wood is marked but bugs are found?

A: The enforcement of the WPM regulation is a separate process from the normal course of pest interdiction duties conducted by CBP Agriculture Specialists. In every case of discovery of a pest infestation, the protocol associated with safeguarding or eradication of the pest threat will supersede WPM enforcement. Once a pest threat has been eliminated, the WPM enforcement will be applied.

Q: What kinds of WPM are covered by this rule?

A: Most wood packaging materials are covered by the new rule including wooden packaging materials such as pallets, crates, boxes, and pieces of wood used to support or brace cargo. These materials are currently referred to as solid wood packing material (SWPM), which is defined as "[w]ood packing materials other than loose wood packing materials, used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids."

Q: Are there any exceptions to the rule?

A: There are certain exceptions, yes. They are:

- Manufactured wood materials such as fiber board, plywood, whisky and wine barrels, polywood, strandboard, and veneer,
- Pieces of wood that are less than 6 mm (0.24 in) in any dimension,
- Sawdust, wood wool, and wood shavings, produced as a result of sawing or shaving wood into small, slender, and curved pieces less than 6 mm in any dimension, and

- WPM used by the U.S. Department of Defense (DOD) to package non-regulated articles, including commercial shipments pursuant to a DOD contract.

Firewood, mesquite wood for cooking, and small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal purposes will continue to be allowed to enter directly from Mexican border states.

In addition, by reciprocal regulations in the U.S. and Canada, WPM made entirely from Canadian origin wood or U.S. origin wood are exempt from the treatment and marking requirements in trade between the two countries. Please see additional detail in the next few questions for shipments to and from Canada.

USDA has grandfathered in all wine crates for vintage years preceding 2006. This means that wine crates for any wine with a vintage year through 2005 are exempt from treatment and marking requirements regardless of when entry is made. Wines of vintage year 2006 and beyond will be required to be in crates that have been treated and marked.

Articles of wood that are manufactured to transport a specific non-regulated commodity (for example, fuel gauges, armaments, ammo boxes, etc.) are not considered to be WPM and are not required to be treated and marked.

WPM that are part of any bundle of imported lumber are exempt from the rule. Other WPM used in the transport of bundled lumber (for example, pallets or planks) are not exempt and are regulated WPM.

There is no requirement for treatment or marking of WPM in domestic circulation.

Q: Please explain the Canada exception to the rule.

A: WPM made entirely of Canadian origin wood or U.S. origin wood are exempt from the treatment and marking requirements in trade between the two countries. The exception only pertains to WPM coming directly to the U.S. from Canada or directly to Canada from the U.S.

For purposes of enforcement of the USDA WPM rule, CBP has decided that the country of origin of the commodity is the country of origin of the WPM on all shipments coming from Canada absent an indication to the contrary. In other words, WPM in shipments of Chinese-made goods coming from Canada will be considered Chinese and must be treated and marked unless there is documentation to prove the WPM is Canadian. WPM in shipments of Canadian-made goods coming from Canada will be considered Canadian and need not be marked.

Q: I still don't understand the Canada rule—am I required to have a statement or not?

A: CBP has decided for operational purposes that the country of origin of the associated merchandise is the country of origin of the WPM absent indication to the contrary. Therefore,

- If the country of origin of the goods is Canada, and the goods are coming directly from Canada into the U.S., we will hold that the country of origin of the WPM is also Canada absent an indication to the contrary. Canada origin WPM are exempt from the regulation, so nothing more is required.
- If the country of origin of the goods is, say, China, and the goods are coming directly from Canada into the US, we will hold that the country of origin of the WPM is also China absent an indication to the contrary; China origin WPM need to be treated and marked.
- If the country of origin of the merchandise, to follow through on this example, is China, but it has been repackaged in Canada on Canada WPM, and the shipment is coming directly from Canada into the U.S., we will still hold that the country of origin of the WPM is China absent an indication to the contrary. A statement is the simplest way to provide CBP with an indication to the contrary.

In a nutshell, then, if other-than-Canada origin merchandise is coming directly from Canada into the U.S. with Canada origin WPM, CBP needs some way to know that the WPM are Canada origin. This can most simply be a statement that the officer will see when the load arrives.

Q: Are there any invoice or certificate requirements?

A: Paper certifications of treatment will no longer be required or accepted. Invoice statements are no longer required for importation into the U.S. The only exception is noted above, where non-Canadian merchandise entering directly from Canada on Canadian-origin WPM will experience fewer delays at the Canada-U.S. border if entry documents contain a statement as to the origin of the WPM. Other countries may require or accept certificates, statements, or treatment and marking.

Q. What about ABI requirements?

A: The formerly-required ABI field on SWPM from China and Hong Kong is now an optional field. An ADMIN message was posted on October 5, 2005, under the title "SOLID WOOD PACKING MATERIAL SYSTEM CHANGES FOR CN/HK COMPLETED". This ADMIN message explains that the SWPM field was made an optional field to give the trade time to make necessary changes. It also contains contact information should ABI participants have systems or operational questions on this change.

Q: Is there a list of compliant countries and approved fumigators?

A: There is a list of signatory countries. Signing the Agreement and being in compliance are not necessarily the same. All WPM arriving in the U.S. on or after September 16, 2005, are subject to the regulation. A list of signature countries is maintained at <http://www.nwpc.com/ExportTreatment/ProgramOverview.htm>.

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Contact information for international treatment facilities outside the United States may be requested from the appropriate country's plant protection agency. A listing of international plant protection agencies is maintained at the IPPO website. (<https://www.ippc.int/IPP/En/nppo.jsp>)

USDA has designated two entities to manage the treatment programs in the U.S. The National Wooden Pallet & Container Association (NWPCA) manages the fumigation program and the American Lumber Standards Committee (ALSC) manages the heat treatment program.

A list of approved U.S. fumigators is maintained at the NWPCA website. (<http://www.nwpc.com/ExportTreatment/ProgramOverview.htm>). A list of approved U.S. heat treatment facilities may be found at the ALSC website. (http://www.alsc.org/WPM_facsimile_mod.htm).

Q: If a shipment contains non-compliant WPM and the country of export or the country of origin will not take it back, what then?

A: The regulation does not state that violative WPM must be returned to any particular country. It simply states that the violative WPM may not come into the U.S. and may be re-exported. It will be the responsibility of the importer to determine an alternate destination that will accept the untreated WPM.

Q: How often does the WPM need to be re-treated?

A: Acceptable treatments (*i.e.*, heat treatment or fumigation with methyl bromide) need only be done once. Once the WPM are properly treated and marked by an approved treatment facility in any country, the mark will be accepted as proof of compliance for the life of the WPM.

Q: How will CBP handle WPM in consolidated shipments, mixed loads, bulk cargo, and any merchandise traveling in bond or on a carnet?

A: All regulated WPM must be treated and marked; the regulation does not differentiate among types of loads or types of entry document. All regulated WPM is either compliant or non-compliant and will be handled accordingly.

Q: Where can I get more information?

A: A careful reading of these FAQs will provide an answer for most of your questions. Other answers will be found in the Implementation Plan, also posted on www.cbp.gov.

Q: Is treatment the same for noncompliant WPM in all 137 signatory countries?

A: Not necessarily. For example, fumigation is allowed in Mexico and Phytosanitary certificates are allowed in Canada in certain circumstances.

Q: I understand that Canada allows a workaround for the marking requirement for treated dunnage.

A: Yes, Canada allows for the presentation of phytosanitary certificates in the dunnage situation.

Q: Are Guam, American Samoa, and U.S. Virgin Islands considered U.S. territory for the purposes of the Wood Packaging Rule?

A: Yes

Q: How will you handle T&E and IT shipments that are not in compliant?

A: Once full enforcement of the WPM rules begins, the violative WPM will be required to be exported.

If, after reading all the materials on this site, you have questions about the regulation itself, you may contact USDA. USDA has set up a toll free phone line to answer questions about the regulation. That number is **1-866-738-8197**.

Please note that USDA will not answer any questions about CBP operational issues. Those issues are most appropriately directed to your local port if your question has not been answered on www.cbp.gov.