

Frequently Asked Questions (FAQs)

Updated March 23, 2006

On September 16, 2005, the United States, in cooperation with Mexico and Canada, began enforcement of the international phytosanitary standard (ISPM 15) for regulated wood packaging materials (WPM) entering North America. On Wednesday, February 1, 2006, this enforcement moved to Phase II, with enforced compliance of the regulation requiring exportation of non-compliant WPM. 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.

The U.S. Department of Agriculture has recently notified CBP that its position on marked WPM found to be infested with actionable wood boring pests is as follows: If an actionable wood boring pest is found living in marked wood packaging materials, the wood packaging materials are to be considered to be in violation of the WPM regulation and must be exported.

Treatment, in these cases, will be conducted only as a safeguarding measure if such treatment is required to minimize pest dispersal. Whether or not treatment is applied, if an actionable wood boring pest is found living in marked WPM, the WPM are to be considered violative and must be required to be exported.

In accord with USDA's interpretation of their WPM regulation, effective with the implementation of Phase III on July 5, 2006, CBP will require the export of any marked or unmarked WPM determined to be infested with any live wood boring pest of the families *Cerambycidae*, *Buprestidae*, *Siricidae*, *Cossidae*, *Curculionidae*, *Scolytidae*, *Platypodidae*, or *Sesiidae*.

Additional questions have been raised, and we would like to address those now.

Q: What is the United States?

A: There are many different definitions of the United States. For purposes of importing WPM into the U.S., CBP uses the USDA definition, as this is a USDA regulation. For purposes of this regulation, the United States consists of the 50 states, American Samoa, District of Columbia, Federated States of Micronesia, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands of the United States. WPM traveling solely between ports in the above-listed areas will, for purposes of enforcement of the WPM regulation, be considered to be domestic WPM.

Please take special note of the fact that CBP defines the “Customs territory of the United States” as the 50 states, District of Columbia, and Puerto Rico. Therefore, some goods coming from outside the Customs territory will be considered to be using domestic WPM.

Finally, other countries will use other definitions. Canada, for example, exempts only continental U.S. WPM. In other words, WPM from Hawaii or any U.S. territory or commonwealth will need to be treated and marked for transit into Canada; only WPM from the contiguous 48 states, Alaska, and the District of Columbia are exempt from marking when going directly to Canada. If you have questions about a particular country’s implementation of the ISPM 15, please contact the appropriate NPPO officer. A list of contacts is maintained at <https://www.ippc.int/IPPEn/nppo.jsp>

Q: Cruise ships load stores in the U.S. before going foreign and then bring the empty pallets back to the U.S. Since these pallets started out in the U.S., do they have to be marked?

A: These pallets need to be properly marked. There is no special exception granted by USDA for cruise ships. Therefore, CBP views WPM from cruise ships to be the same as any other WPM. Empty pallets must be treated and marked when coming from foreign.

Q: Sometimes the IPPC mark is not visible on dunnage because of in-transit damage or on bracing if smaller pieces are cut from one 4x4. What is going to happen in those cases?

A: Dunnage presents unique challenges. Often, pieces of dunnage are cut to fit a load and may, during that process, be separated from the IPPC marking. Other times, during the course of transit, dunnage is broken, crushed, abraded, or otherwise damaged; in these cases, too, pieces of dunnage will likely be separated from their compliance mark.

For purposes of enforcement of this regulation as it relates to dunnage, CBP intends to exercise its discretionary authority so that if CBP believes that cut or damaged pieces of dunnage are part of a larger piece of properly marked wood, CBP will determine that the unmarked dunnage has been treated and marked, and consider the unmarked dunnage to be non-violative.

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 for dunnage.

Q: Can separation of violative WPM from merchandise be authorized for a shipment that can be identified by a separate bill as a part of NVOCC consolidated cargo?

A: As is the case with any shipment held by CBP for non-compliance with the WPM rule, the importer or other party of interest may request that CBP allow the separation of WPM from the imported commodities. The requesting party must submit a completed CBP 3499 with all evidentiary materials required by the Implementation Plan. Part of the required material is evidence of commitment to export the non-compliant WPM that is separated from the merchandise referenced in the CBP 3499. In the case of a consolidated shipment, any affected importer or other party of interest may make application for separation. Export of any shipment (and export of the violative WPM separated from any shipment) remains the responsibility of the importer or other party of interest.

After separation, the cargo and non-violative WPM will be released. Export of violative WPM will be at the expense of the importer or other party of interest and may be accomplished via any carrier. The importer or other party of interest responsible for the exportation is not limited to using the services of the importing carrier, whether VOCC or NVOCC. Ordinarily, this will mean that entry will be denied and an IE will be cut. If movement outside of the original U.S. port becomes necessary to cause the ordered exportation, it will be on a restrictive T&E in conjunction with an appropriately executed USDA Emergency Action Notification (EAN) (PPQ-523). The EAN will provide and document restrictions as to routing, diversion, and authorized timeframe to complete the restricted T&E movement.

Q: Do you have a sense for the level of compliance with the requirement to annotate shipping documents with a statement regarding Canada or U.S. origin wood?

A: Not all shipments need a statement to be considered compliant under the Canada-U.S. exception. Only non-Canadian origin merchandise coming directly to the U.S. on Canadian-origin WPM needs a statement to be considered for the exception. CBP does not have data to indicate the number of shipping documents with statements. Overall, Canada is extremely compliant. For example, since February 1, 2006, examined lines of Canada origin merchandise have approached 100% compliance.

Q: What if I export goods from the U.S. and the importing country refuses to let them in because the WPM are not marked?

A: The answer to this question is dependent on circumstances. Basically, CBP will permit return of U.S. origin goods another country has rejected because of violative WPM as long as the shipment has not left customs custody or control in the other country and the entry refusal reason accompanies the shipment.

A shipment that consists only of supposedly returned non-compliant U.S. WPM (that is, the violative WPM have been removed from the merchandise), is to be allowed entry only if there is acceptable proof that ties the WPM to the original export from the U.S. Any shipments of supposedly returned U.S. WPM that do

not have acceptable documentation will be treated as foreign WPM and refused entry.

Q: We are considering the feasibility of taking advantage of the Canada origin exemption by maintaining a stockpile of Canada and U.S. origin WPM in the EU and using only that WPM for cargo to the U.S. and Canada. Is this a good idea?

A: The Canada and U.S. origin wood exception is based on a reciprocal agreement between these two countries only. The exception applies only to U.S. or Canada origin wood in commerce between the U.S. and Canada. In other words, the WPM need to be transiting directly into the U.S. from Canada or directly into Canada from the U.S.

Q: There are concerns with third-country maritime containers arriving on a T&E at a Canada-U.S. land border port. If such a container has violative WPM and is refused entry by the destination country, how should it be handled?

A: In cases of other country non-compliant WPM that have transited Canada or Mexico en route to the U.S. and are discovered at a U.S. port of entry, Canada or Mexico may allow the shipment to move in bond and under close scrutiny to an exit port.

The reciprocal is also true; that is, other country non-compliant WPM that have transited the U.S. en route to Canada or Mexico and are discovered at a Canadian or Mexican port of entry, may transit the U.S. on a T&E as long as any pest risk is mitigated and a PPQ Form 523 (clearly stating the transit and export conditions) accompanies the shipment. If there is a paper inbond CBP document, it must be marked to indicate the intended disposition of the shipment.

Q: Part of the implementation plan is a section about exemptions for boxes made to house ammo, fuel gauges, etc. Would this include boxes made to house any machinery, like on a cruise ship, or aircraft parts, etc.?

A: No. This exemption refers to worked wood boxes, usually containing hinges, handles, and a molded or partitioned interior cradling feature, which are reused for the life of the non-regulated commodity. These boxes are usually (but not always) manufactured at the time of initial shipment of the commodity and generally are used for a unique item. They may, for example, house a unique antique armament or a specific, numbered fuel gauge.

The exemption does not refer to WPM used to contain articles on a one-time basis even if the box is made specifically for the commodity (for example, to ship a motorcycle, a generator, or airplane parts, or for articles being returned for repair).

Q: Because of high levels of condensation inside many containers, the IPPC stamp is sometimes not readable. If the stamp is not legible, should

the WPM in the shipment be considered noncompliant? Should these markings be considered counterfeit?

A: The regulation says that the mark must be permanent and legible. Therefore, if the mark is not permanent or not legible, the WPM are violative. CBP will not validate any mark; this activity is left to USDA. CBP's responsibility under the regulation is to ensure that the WPM are legibly and permanently marked.

Q: What is the reason for this 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

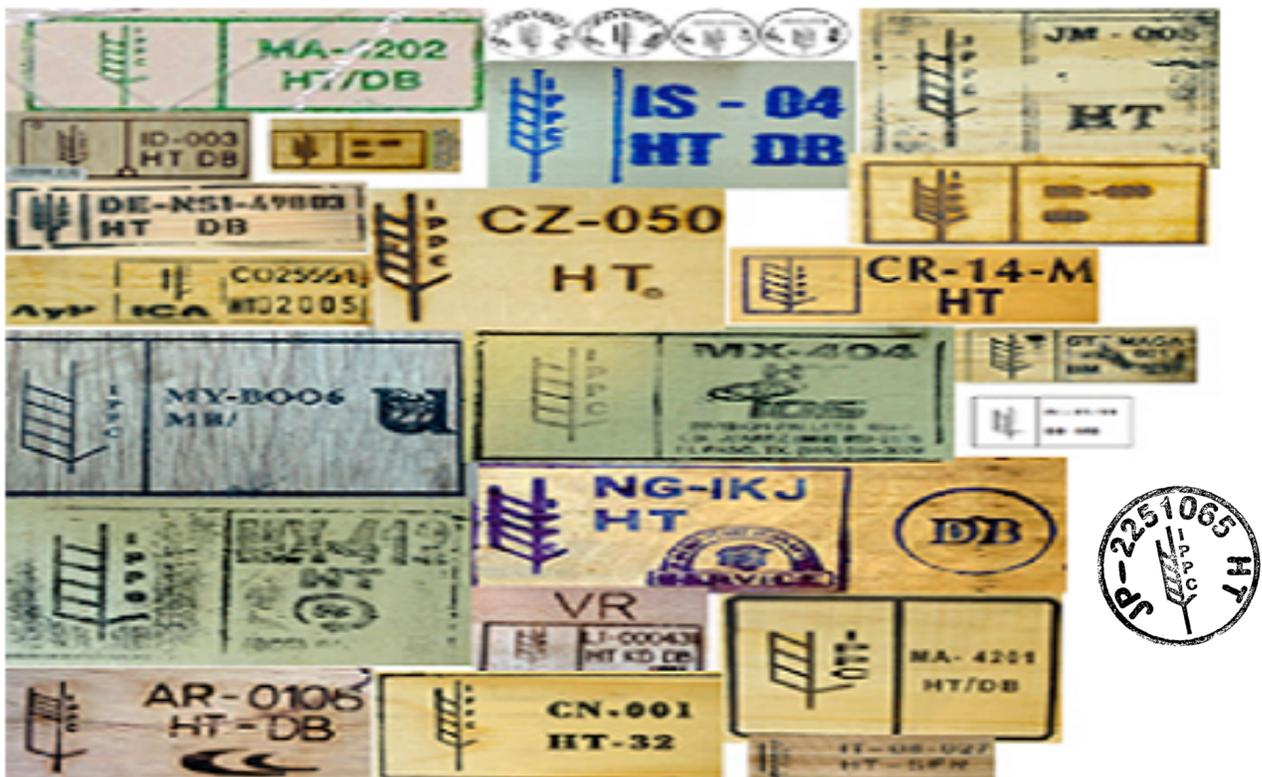
wood core temperature of 56°C for a minimum of 30 minutes. For fumigation, the WPM must be fumigated with methyl bromide in an enclosed area for at least 16 hours at the regulated dosage and then must be aerated to reduce the concentration of fumigant below hazardous exposure levels.

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. Following 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. In addition to these four required components, marks may also include other information.

APHIS has stated that they recognize the Guatemalan “TT” and “BM” markings as being valid indicators of treatment type. Based on this, shipments with such markings from Guatemala will be considered compliant.



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 export 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 pests 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. (as defined by USDA) from Canada or directly to Canada from the U.S. (as defined by Canada).

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. You do not need a mark or a statement.
- If the country of origin of the goods is, say, China, 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 China absent an indication to the contrary; China origin WPM need to be treated and marked. You need a mark, not a statement.
- 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. A list of signature countries is maintained at <http://www.nwpc.com/ExportTreatment/ProgramOverview.htm>.

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

A: No. For example, fumigation is allowed in Mexico and phytosanitary certificates are allowed in Canada in certain circumstances.

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.

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.

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.