

their views will be asked to provide the name of each member of the panel and the organizations the panel members represent.

Persons or panels wishing to speak at one or more of the public hearings may register in advance by phone or e-mail. Persons wishing to register by phone should call the Regulatory Analysis and Development voice mail at (301) 734-8138. Callers must leave a message clearly stating (1) the location of the hearing the registrant wishes to speak at, (2) the registrant's name and organization, and, if registering for a panel, (3) the name of each member of the panel and the organization each panel member represents. Persons wishing to register by e-mail must send an e-mail with the same information described above to richard.r.kelly@usda.gov. Please write "Public Hearing Registration" in the subject line of your e-mail. Advance registration for any hearing must be received by 3 p.m. on Thursday, June 19, 2003.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

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

The Animal and Plant Health Inspection Service (APHIS) is proposing to amend the regulations to decrease the risk of solid wood packing material (SWPM) introducing plant pests into the United States. SWPM is defined in the regulations 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." Introductions into the United States of exotic plant pests such as the pine shoot beetle and the Asian longhorned beetle have been linked to the importation of SWPM. These and other plant pests that are carried by some imported SWPM pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests.

The introduction of pests associated with SWPM is a worldwide problem.¹ Because SWPM is very often re-used, recycled or re-manufactured, the true origin of any piece of SWPM is difficult to determine and thus its phytosanitary status cannot be ascertained. This often precludes national plant protection organizations from conducting useful specific risk analyses focused on the pests associated with SWPM of a particular type or place of origin, and imposing particular mitigation measures based on the results of such analysis. For this reason, there is a need to develop globally accepted measures that may be applied to SWPM by all countries to practically eliminate the risk for most quarantine pests and significantly reduce the risk from other pests that may be associated with the SWPM.

Such issues are generally addressed under the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures (1994, World Trade Organization, Geneva) (the Agreement). The Agreement fosters the use of harmonized sanitary and phytosanitary measures developed by international standards organizations. In the case of phytosanitary standards, the authorized standard-setting organization is the International Plant Protection Convention (IPPC). Article 3 of the Agreement states, "To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist," except when Members opt to impose a higher level of sanitary or phytosanitary protection than the international standards provide. The same Article also states, "Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994."

¹ Problems with pests associated with SWPM have also been addressed on a regional level, e.g., when the North American Plant Protection Organization, acting on behalf of the United States, Canada, and Mexico, approved the document "NAPPO Standards for Phytosanitary Measures: Import Requirements for Wood Dunnage and Other Wood Packing Materials into a NAPPO Member Country." The Secretariat of the North American Plant Protection Organization, Ottawa, August 12, 2001. Also, the three NAPPO countries have agreed to a target date of June 1, 2003, to implement the IPPC Guidelines among them; this announcement is on the NAPPO Web site at <http://www.napppo.org/Standards/Desicions-e.htm>.

We propose to adopt the international standard² approved by the IPPC on March 15, 2002 (referred to below as the IPPC Guidelines).³ The IPPC Guidelines were developed after the IPPC determined that worldwide, the movement of SWPM made of unprocessed raw wood is a pathway for the introduction and spread of a variety of pests (IPPC Guidelines, p. 5). The IPPC Guidelines list the major categories of these pests, and establish a heat treatment and a fumigation treatment determined to be effective against them (IPPC Guidelines, p. 10). As many of these pests have been associated with SWPM inspected at U.S. ports, we propose to adopt the IPPC Guidelines because they represent the current international standard determined to be necessary and effective for controlling pests in SWPM. The need to adopt the IPPC Guidelines is further supported by analysis of pest interceptions at ports that show an increase in dangerous pests associated with certain SWPM. This increase in pests was found in SWPM that does not meet the IPPC Guidelines (e.g., SWPM from everywhere except China). There has been a decrease in pests associated with SWPM material from China since we began requiring that material be treated prior to importation.

Another reason to adopt the IPPC Guidelines at this time is that adopting them would simplify and standardize trade requirements. China, Canada, the European Union, and many other countries are preparing to implement the IPPC Guidelines requirements. Given the difficulty of identifying the source of SWPM and the recycling of SWPM in trade, successful reduction of the pest risk posed by SWPM requires all trading partners to take action on a similar timeline. Furthermore, if the United States does not do so, U.S. companies will need to comply with one set of SWPM requirements for goods exported from the United States and another set of requirements for goods imported into the United States. Companies engaged in both import and export would have particular difficulties

² "International Standards for Phytosanitary Measures: Guidelines for Regulating Wood Packaging Material in International Trade," Secretariat of the International Plant Protection Convention, Food and Agriculture Organization of the United Nations, Rome: 2002.

³ Regarding "guidelines" vs. "standards": While the IPPC document refers to itself as "Guidelines" in the title, it refers to itself as a "standard" throughout its body. The distinction does not appear to be meaningful; cf. IPPC Convention, Art. 3, "Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist * * *."