

exists because there are no significant pests associated with Canadian-origin SWPM. There has been some concern that SWPM from other countries imported into Canada could harbor pests, and could then be moved to the United States, spreading pests. However, Canada has signed an agreement to implement regulations in the near future requiring that all SWPM imported into Canada meet the conditions of the IPPC Guidelines. Also, heat treatment of pallets is rapidly becoming a standard throughout North America, and we expect that even before Canada formally complies with the IPPC Guidelines, a substantial portion of the wood pallets and wood crating imported from Canada will meet the provisions of the IPPC Guidelines.

We propose to make substantial changes to § 319.40–3(b), which sets forth the conditions under which SWPM may be imported under general permit. Currently, § 319.40–3(b) imposes varying restrictions on imported SWPM based on whether it is free of bark or not; whether it is used to pack regulated or nonregulated articles; and whether it is in actual use as packing or is moved as cargo. It appears that these distinctions would be unnecessary under the IPPC Guidelines, where all SWPM would be heat treated or fumigated with methyl bromide, and marked with an official mark to document the treatment. Therefore, we propose to replace § 319.40–3(b) with the following requirements.

SWPM, whether in actual use as packing for regulated or nonregulated articles or imported as cargo, may be imported into the United States under a general permit in accordance with the following conditions:

(1) The SWPM must have been:

- Heat treated to achieve a minimum wood core temperature of 56 °C for a minimum of 30 minutes. Such treatment may employ kiln-drying, chemical pressure impregnation, or other treatments that achieve this specification through the use of steam, hot water, or dry heat; or

- Fumigated with methyl bromide in an enclosed area for at least 16 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter of the enclosure being fumigated:

Temperature	Initial dose (g/m <sup>3</sup> )	Minimum required concentration (g/m <sup>3</sup> ) after:			
		0.5 hrs.	2 hrs.	4 hrs.	16 hrs.
21 °C or above .....	48	36	24	17	14
16 °C or above .....	56	42	28	20	17
11 °C or above .....	64	48	32	22	19

- Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with label instructions approved by the U.S. Environmental Protection Agency. As noted in other APHIS regulations (*e.g.*, those for importing SWPM from China), when articles are fumigated, the articles must be aerated afterward to ensure that the articles are safe for handling, storage, and transportation. Aeration is required by the Environmental Protection Agency (EPA) in EPA-approved label instructions for all fumigants utilized pursuant to the regulations. Also, Occupational Safety and Health Administration (OSHA) regulations contained in title 29 of the Code of Federal Regulations require employers of cargo handlers to determine that the concentration of fumigants is below the level specified as hazardous before the cargo is loaded or discharged.

(2) The SWPM 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 that indicates that the article has been treated as required. The mark must be approved by the International Plant Protection Convention in its International Standards for Phytosanitary Measures to certify that wood packaging material has

been subjected to an approved measure, and must include a unique graphic symbol, the ISO two-letter country code for the country that produced the SWPM, a unique number assigned by the national plant protection agency of that country to the producer of the SWPM, and an abbreviation disclosing the type of treatment (*e.g.*, HT for heat treatment or MB for methyl bromide fumigation).

Importation under a general permit means that no paperwork, certificate, or importer document needs to accompany the SWPM. The mark required by the regulations would be applied by treatment facilities treating SWPM, and the contents of the mark (*i.e.*, the country and producer codes) would allow APHIS to trace SWPM back to its producer if necessary—for example, if APHIS finds that SWPM is not treated properly. We propose that the mark should be applied “preferably on at least two opposite sides of the article” because multiple marks would make inspection and enforcement easier and reduce the need to shift cargo in order to see marks. While a single mark would meet the minimum legal requirement, shippers may want to use SWPM with multiple marks to speed the inspection and clearance of their cargo.

The “unique graphic symbol” portion of this mark is not available at this time, but the IPPC should have approved such

a symbol by the time this action reaches the final rule stage. The IPPC Guidelines contain such a symbol, but its use has been suspended because the Food and Agriculture Organization has not been able to legally protect the symbol for use according to the IPPC Guidelines. Legal registration of a substitute symbol is underway.

We are proposing that APHIS inspectors at the port of first arrival could order the immediate reexport of SWPM articles that arrive without the mark required by § 319.40–3(b)(2) that indicates required treatment. In most cases involving SWPM that is not properly marked, APHIS would order such shipments to be immediately reexported, because it is not practical to treat large volumes of SWPM after arrival. Not only are the facilities for such treatment lacking, but the untreated SWPM would represent an unacceptable pest risk while it is in storage at a port awaiting treatment. Therefore, we propose to specifically authorize inspectors to order the immediate reexport of unmarked SWPM. In some cases it would also be necessary to order the reexport of the cargo associated with the SWPM, although in most cases the cargo could be separated from the SWPM at the port and moved to its destination under safeguards—with the importer charged for the costs of these services. It would

these Mexican States should be viewed as biological islands containing their own unique combination of

forest pests, not as an extension of the U.S. forest

ecosystem. APHIS has not yet taken final action on this proposal.