

be necessary to order the reexport of the cargo as well as the SWPM associated in cases where it is impossible to safely separate cargo from SWPM without substantial risk that pests would be spread during the process, or when pests would likely move with the cargo even after it is separated from the SWPM. This authority would be in addition to the authority inspectors already have in accordance with § 319.40–9 to inspect regulated articles, order their cleaning or treatment, and refuse them entry under certain conditions.

We are proposing special conditions for SWPM used by the Department of Defense (DOD) to move material from foreign locations into the United States. DOD often moves material in SWPM fashioned by its own woodworkers, rather than SWPM produced at the type of facilities that produce and treat SWPM for general commercial use. Also, DOD must often produce unusual or unique SWPM to safely pack its material. For reasons of security, practicality, and timeliness, it would be inappropriate to require DOD to use only SWPM that was produced and treated commercially and marked as meeting the IPPC Guidelines. Instead, we propose that SWPM used by DOD must meet the heat treatment or fumigation requirements of the IPPC Guidelines, but need not bear the proposed mark. We believe that this requirement will be as effective as the IPPC Guidelines with regard to SWPM used by DOD. While we do not propose to require a marking on such DOD SWPM, we would employ APHIS inspectors who already work in concert with DOD to monitor their use of SWPM and ensure that it is properly heat treated or fumigated.

In § 319.40–5, “Importation and entry requirements for specified articles,” we propose to remove paragraphs (g) through (k). This would remove all of the requirements established in 1998 and 1999 for importation of SWPM from the People’s Republic of China, including Hong Kong, since the new requirements for complying with the IPPC Guidelines would apply to the People’s Republic of China, including Hong Kong, as well as the rest of the world.

Finally, current § 319.40–9 describes inspection and other requirements at the port of first arrival. This proposal would not change this section, but it should be noted that this section has implications for anyone who imports SWPM that has not been properly treated and marked in accordance with § 319.40–3(b) of this proposed rule. APHIS inspectors at ports would examine SWPM for the

IPPC-approved international mark required by the regulations. In accordance with the IPPC Guidelines, each national plant protection organization is expected to develop procedures to ensure that SWPM treated and marked in each country complies with the IPPC Guidelines. Therefore, the international mark is, in effect, a certificate verifying proper treatment. Persons who forge, alter, or fraudulently use the mark would be subject to administrative or criminal penalties.

References

- Barak, Al 2002. Personal communication. USDA, APHIS, PPQ, CPHST, Otis Laboratory, Otis MA.
- Dwinell, L.D. 1995. Colonization of heat-treated pine logs by *Bursaphelenchus xylophilus* and its *Monochamus* vectors. *Journal of Nematology* 27(4):98.
- Dwinell, L.D. 1996. Methyl bromide alternatives for decontaminating softwood chips, lumber, and logs. *Proceedings of the Annual International Research Conference on Methyl Bromide Alternatives and Emissions Reductions*, November 4–6, 1996, Orlando, Florida. p. 64–1 to 64–3.
- Dwinell, L.D. 1997. The pinewood nematode: Regulation and mitigation. *Annual Review of Phytopathology* 35: 153–166.
- Dwinell, L.D. 2001a. Potential use of elevated temperatures to manage pests in transported wood. *Exotic Forest Pests Online Symposium*, April 16–29, 2001.
- Dwinell, L.D. 2001b. Potential use of fumigation to manage the risks of pests in transported wood. *Exotic Forest Pests Online Symposium*, April 16–29, 2001.
- Hanula, J.L., and C.W. Berisford 1982. Methyl bromide fumigation destroys broods of the smaller European elm bark beetle (Coleoptera: Scolytidae) in elm logs. *Journal of Economic Entomology* 75(4): 688–690.
- Latta, R. and C.H. Gaddis 1941. The destruction of dormant egg clusters of the gypsy moth by methyl bromide fumigation. Unpublished report. USDA Bureau of Entomology and Plant Quarantine, Washington DC. 13p.
- Mack, Ron 2002. Personal communication. USDA, APHIS, PPQ, CPHST, Otis Laboratory, Otis MA.
- McMullen, M.J. 1952. The sterilization of timber by fumigation. *Tech. Notes*, Forest Commission, Division of Wood Technology, NSW, Australia 6(3/4): 20–24.
- Michelsen, A. 1964. Diffusion of methyl bromide into pine wood during fumigation against *Hylotrupes bajulus*. *Holzforschung und Holzverwertung* 16: 66–71.
- Robertson, J. 1997. Polo Probit PC Software. LeOra Software, Inc., Berkeley, CA.
- USDA 1991. An Efficacy Review of Control Measures for Potential Pests of Imported Soviet Timber. Miscellaneous Publication No. 1495, USDA/APHIS, Riverdale, MD.
- USDA, 1994. Importation of Logs, Lumber, and Other Unmanufactured Wood Articles, Environmental Impact Statement, July 1994. USDA/APHIS, Hyattsville, MD 86p.
- Yu, K.Y., Y.W. Chung, H.H. Lee, and J.W. Jae 1984. Study on shipboard fumigation of the imported logs. *Korea Journal of Plant Protection* 23(1): 37–41.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Below is a summary of the economic analysis for the changes in SWPM import requirements proposed in this document. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis is available for review at the location listed in the ADDRESSES section at the beginning of this document, or on the Internet at <http://www.aphis.usda.gov/ppq/swp/>.

We do not have enough data for a comprehensive analysis of the economic effects of this proposed rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis for this proposed rule. We are inviting comments about this proposed rule as it relates to small entities. In particular, we are interested in determining the number and kind of small entities who may incur benefits or costs from implementation of this proposed rule and the economic impact of those benefits or costs.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

This analysis evaluates a proposed rule that would adopt the International Plant Protection Convention (IPPC) standards on wood packaging materials, which are guidelines on globally accepted measures that may be applied to solid wood packing material (SWPM) to reduce the entry of pests via this pathway. The IPPC guidelines require SWPM to be heat treated at 56 °C for 30 minutes, or fumigated with methyl bromide.

We believe it is appropriate and necessary to adopt the IPPC Guidelines because they were developed as an international standard to control pests associated with SWPM. The types of