

MORE ABOUT THE SWPM REGULATIONS - ENFORCEMENT

If you import goods into the U.S. which run afoul of the wood packing materials (WPM) regulations, they will have to be promptly exported. As everyone knows by now, enforced compliance took effect on February 1, 2006. Customs' perspective is that even in the face of certificates of compliance, shipments are being inspected and found to contain insects, bugs and other contaminants. This is true even with pallets which are stamped as properly treated. Therefore, traders can expect WPM will remain an area for high enforcement by Customs/Ag for quite some time. The consequences of infestation are simply too great for the Government to act any differently. However, it is also important to keep in mind that while the total shipment must be exported, that does not necessarily mean back to origin. U.S. Customs can only insist on exportation, not the destination. The U.S. does not allow segregation or fumigation, although other countries do.

WPM problems can also arise where goods are exported from the U.S. and refused admission at destination. Those shipments may be returned to the U.S. provided they are of U.S. origin and have not left the custody of the rejecting country's customs service. Additionally, the refusal reason must accompany the shipment. If the buyer is able to segregate the WPM from the goods and retain the goods, but must export the WPM, that WPM will be allowed reimportation into the U.S. so long as there is documentation tying the WPM to the original export. If not, it will be refused entry.

There is also an agreement between the U.S. and Canada to allow each other's originating WPM to be returned to the other country, but that agreement is limited to shipments between the two countries. There is also an exemption for imports into Canada of untreated/unmarked U.S. WPM and into the U.S. of untreated/unmarked Canadian WPM. For these purposes, origin is determined by the origin of the product being transported, meaning if the goods themselves are of Chinese origin, the WPM will be deemed to be of Chinese origin. To establish any other origin, additional documentation is required.

Shipments are already being rejected and ordered exported. Customs has advised it has neither the manpower nor the ability to assist with non-compliant goods. Therefore,

traders are reminded they need to make sure their WPM is marked in a permanent and legible manner. If the label bleeds, it could be seen to be neither, so the goods could be ordered exported.

In ordering export, Customs is generally requiring importers to sign Emergency Action Notices whereby they agree to export within 72 hours.

Traders are also reminded that exceptions do apply:

- 1) Manufactured wood materials such as fiber board, plywood, whisky and wine barrels, polywood, strandboard and veneer;
- 2) Pieces of wood that are less than 6 mm (0.24 in) in any dimension;
- 3) Sawdust, wood wool, and wood shavings, produced as a result of sawing or shaving wood into small, slender, and curved pieces of less than 6 mm in any dimension;
- 4) WPM used by the U.S. Dept. of Defense (DOD) to package non-regulated articles, including commercial shipments pursuant to a DOD contract;
- 5) 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;
- 6) Wine crates for vintage years 2005 and older are also exempt from treatment and marking; crates for all later vintages must be treated and marked; and
- 7) Articles of wood manufactured to transport a specific non-regulated commodity, such as fuel gauges, armaments, and ammo boxes, are not considered WPM and so need not be treated or marked.

To claim one of these exemptions, the necessary supporting documents should be presented at time of entry.