

CBP Issues
“Operating Procedures” for
July 5th Full Enforcement of WPM Regulation
(Contains Protocol for Separation of Violative WPM)

U.S. Customs and Border Protection (CBP) has issued an 18-page document entitled “Operating Procedures for Implementation of the Wood Packaging Materials Regulation” which focuses on the procedures that need to be followed under Phase III, full enforcement of the wood packaging material (WPM) regulation, which begins July 5, 2006.

Much of the information provided in the Operating Procedures document is new, and pertains to i) the actions that will be taken under Phase III if violative WPM is discovered, ii) the protocol for separating violative WPM from compliant WPM or associated merchandise, iii) procedures for processing returning WPM to the U.S., as well as returns to or from Canada and Mexico, iv) unacceptable or fraudulent markings, v) pest interceptions, vi) etc.

However, some of the information in the document is also contained in CBP’s Frequently Asked Questions (FAQ) on WPM Enforcement, which CBP states will be updated as necessary to provide guidance to the trade. *(See ITT’s Online Archives or 03/31/06 news, (Ref: 06033105) for BP summary of March 23, 2006 update.)*

Selected Information from this Operating Procedures document includes *(partial list)*:

Phase III Operating Procedures for Enforced Compliance in Situations of Violative WPM

CBP details the operating procedures that must be followed, and other relevant information, if CBP Officers or Agriculture Specialists discover violative WPM (i.e., WPM that lacks the proper marking or WPM that is found to be infested with certain timber pests) during the course of any visual examination of any cargo. These procedures include *(partial list)*:

- actions to be taken if CBP Officers or Agriculture Specialists discover violative WPM.

- actions to be taken if separation is not requested or if the Port Director determines that separation of the violative WPM is not feasible.
- steps to be taken if the Port Director determines that separation of the violative WPM is feasible.
- enforcing the WPM regulation as it relates to dunnage.

(See *Operating Procedures* for full details.)

Protocol for Separation of Violative WPM

Appendix C contains the protocol for separating violative WPM from compliant WPM or associated merchandise, and details the procedures importers and others must follow when an importer, its representative, or other party of interest requests separation (see Appendix C for details).

The appendix also states that such separation is not an absolute right; it is an option left to the government's discretion.

In addition, the appendix states that exportation of violative WPM is the only recourse available to importers under U.S. regulation. (However, the USDA has authorized an exception to this requirement – to allow the U.S. government or its contractor to destroy violative WPM that accompanies a seized shipment.)

Procedures for Processing Returning WPM

Appendix I states that if CBP encounters a shipment of returned U.S. merchandise that contains violative WPM (e.g., where another country determined that the WPM accompanying U.S. exports was violative and ordered its return to the U.S.), CBP will provide a sectional release for the merchandise and WPM upon reasonable submission of proof that the merchandise did not enter the foreign country's commerce.

(See Appendix I for further details, as well as instructions regarding shipments that consist only of supposedly returned U.S. WPM, returns to or from Canada and Mexico, etc.)

Exemptions and Exceptions to the WPM Regulations

Appendix B contains the definition of regulated WPM, as well as the five regulatory exemptions (e.g., manufactured wood materials, certain WPM used by the Department of Defense, certain loose wood materials (e.g. sawdust), etc. Exceptions are provided for certain shipments containing WPM made entirely of Canada origin wood, certain wine crates, certain worked wood boxes (e.g. to

transport certain articles), WPM that is part of bundles of imported lumber, etc. (See Appendix B for full details.)

(See Operating Procedures for full details of the above selected information, as well as other information, other appendices, etc. See ITT's Online Archives or 06/27/06 news, (Ref: 06062705) for BP reminder on July 5, 2006 implementation of Phase III.)

CBP "Operating Procedures for Implementation of the Wood Packaging Materials (WPM) Regulation", dated 06/27/06, available at http://www.cbp.gov/linkhandler/cgov/import/commercial_enforcement/wpm/trade_implement.ctt/trade_implement.doc.

BP Note

The U.S. and other countries have committed to enforce the International Standards for Phytosanitary Measures (ISPM) 15 entitled, "Guidelines for Regulating Wood Packaging Material in International Trade." ISPM 15 calls for affected WPM to be either heat treated or fumigated with methyl bromide and marked in a certain way certifying treatment (i.e., marked with the IPPO logo, the 2-letter ISO code for the country of treatment, the treatment facility number, and either HT for heat treatment or MB for methyl bromide), unless exempted or excepted.

Affected WPM includes wood or wood products (excluding paper products) used in supporting, protecting or carrying a commodity, including dunnage, other than manufactured wood material, loose wood packing materials (e.g. sawdust), and wood pieces less than 6 mm thick in any dimension, that are used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids. (See ITT's Online Archives or 07/08/05 news, (Ref: 05070810), for BP reminder on these WPM treatment/marketing requirements.)

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