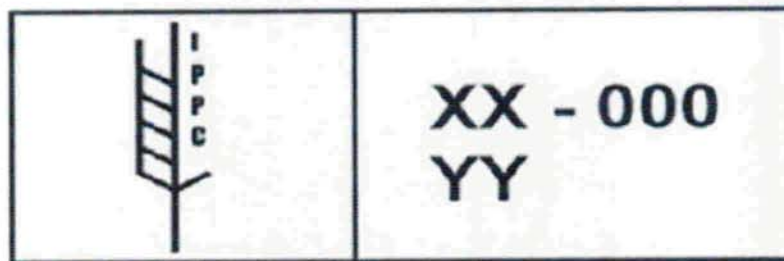


Issuance of Wood Packaging Material Penalty

Pursuant to U.S. Code of Federal Regulations 7 CFR § 319.40-3 (effective since September 16, 2005), non-exempt wood packaging material (WPM) imported into the United States must have been treated at approved facilities at places of origin to kill harmful timber pests that may be present. The WPM must display a visible, legible, and permanent mark certifying treatment, preferably in at least 2 sides of the article. The mark must be approved under the International Plant Protection Convention (IPPC) in its International Standards of Phytosanitary Measures (ISPM 15) Regulation of wood packaging material in international trade (<https://www.ippc.int/en/publications/640/>). Any WPM from foreign origin found to be lacking appropriate IPPC-compliant markings or found to be infested with a timber pest is considered not properly treated to kill timber pests and in violation of the regulation. The responsible party (importer, carrier, or bonded custodian) for the violative WPM must adhere to the Emergency Action Notification stipulations and be responsible for any costs or charges associated with disposition.



The purpose of the WPM requirement is to prevent the introduction of exotic timber pests. Introduced exotic pests lack the natural environmental controls that may be found in their respective native lands to keep them in check. When exotic timber pests go unchecked they can cause widespread tree mortality with detrimental ecological impacts. Additionally, there may be economic impact for the lumber, fruit, and nut industries, as well as the loss of horticultural trees. Eradication efforts can prove to be very expensive and ineffective once an exotic pest is introduced, as is the case with the Emerald Ash Borer and Asian Longhorn Beetle which were introduced with infested WPM. Therefore, preventing introduction is critical with these exotic pests.

During the past 10 years, it has become apparent that WPM continues to be a significant pest risk pathway. U.S. Customs and Border Protection is responsible for enforcing the regulation at ports of entry. Therefore, in an effort to motivate WPM compliance, effective November 1st, 2017:

- The importer, carrier, or bonded custodian that failed to comply with 7 CFR § 319.40-3 on WPM that is associated with merchandise and the violation has been documented and notice of violation given to the responsible party, then CBP personnel may issue a penalty under Title 19 United States Code § 1595 a (b) – *Penalty for aiding unlawful importation*, or under § 1592 – *Penalties for fraud, gross negligence, and negligence*, assessed at the domestic value of the merchandise.
- The carrier or shipping line discharged dunnage that is independent of shipments and failed to comply with 7 CFR § 319.40-3, and an EAN was issued for immediate

remediation, then CBP personnel may issue a penalty for a "technical violation" under Title 19 United States Code § 1592 assessed from \$1,000 to \$2,000 for first time violation, and from \$2,000 to \$10,000 for subsequent violations.

- If other than the carrier or the importer failed to comply with the EAN and the party is responsible under the custodial bond the damages shall be 3(x) the entered value of the merchandise under 19 CFR 113.63 (a) (1).
- The practice of resetting the count of repeat violations each fiscal year is discontinued. A penalty can be assessed for each violative WPM event.

As trade industry members, you are encouraged to consider alternatives to WPM if possible, and to educate your supply chains about ISPM 15 requirements. Informational material on WPM is available from U.S. Customs and Border Protection.