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## **AHEC Trade Alert: Changes to EU Phytosanitary Requirements from 1 October 2014**

Several changes to the EU phytosanitary regulations will be introduced from 1 October 2014. These changes are set out in European Commission Implementing Directive 2014/78/EU of 17 June 2014 which amends the Annexes to the European Council Plant Health Directive 2000/29/EC. The following changes relate to imports of American hardwood into the EU.

Some of the new measures are clearly burdensome and, we believe, disproportionate to the risk involved. There are particularly onerous requirements for ash from EAB affected areas and for all birch to be bark-free with at least 2.5cm of outer sapwood removed.

This requirement was introduced by the EU following their internal appraisal of existing phytosanitary measures in North America and an ambiguous summary of scientific evidence compiled by the European Plant Protection Organisation (EPPO). The EU appears to have been particularly influenced by Canada's decision in March 2012 to require the removal of 2.5cm of sapwood from green ash lumber imported from EAB controlled areas in the US. This is despite the fact that Canada has always recognised kiln drying as an alternative treatment for EAB and also reduced their requirement for removal of sapwood in green lumber from 2.5cm to 1cm in March this year.

Regrettably the EU did not consult on these measures and provided no advance warning to the industry. AHEC is now taking steps to challenge the new ruling on ash and birch. However, given the slow pace of decision-making in the EU, we do not know how long the measures will be in place.

The situation is complicated further by APHIS' issue of guidance implying that the EU's 2.5cm ruling applies not only to ash and birch, but also to maple and oak. The APHIS guidance on oak and maple is inaccurate and neither species is subject to the 2.5cm ruling. AHEC is now consulting with APHIS to ensure their guidance is clarified.

The following sets out AHEC's understanding of the official requirements being introduced by the EU from 1 October based on detailed scrutiny of the new legal text and recent correspondence with EU Plant Health authorities. This information will be updated depending on the success of our-ongoing efforts to overturn the most burdensome measures.

## **Ash must have 2.5cm of sapwood removed**

Before 1 October 2014, import of ash of US origin into the EU required a phyto certificate to indicate that the wood either: (a) originates in an area established by APHIS as being free from Emerald Ash Borer (EAB); or (b) is squared so as to remove entirely the round surface.

From 1 October 2014, the rule is amended so that the phyto certificate must indicate that the wood either:

- (a) originates in an area established by APHIS as being free from EAB (i.e. no change for such wood) or
- (b) the bark and at least 2.5 cm of the outer sapwood are removed in a facility authorised and supervised by the national plant protection organisation or
- (c) has undergone ionizing irradiation to achieve a minimum absorbed dose of 1 kGy throughout the wood.

## **Birch controlled for the first time**

The new regulation imposes new controls on imports of birch similar to those applied to ash, in this case to control spread of the bronze birch borer (*Agrilus anxius* Gory). From 1 October 2014, all birch imported into the EU from the U.S. must be accompanied by a phytosanitary certificate indicating that:

- (a) its bark and at least 2.5cm of the outer sapwood have been removed in a facility authorised and supervised by the national plant protection organisation; or
- (b) the wood has undergone ionizing irradiation to achieve a minimum absorbed dose of 1 kGy throughout the wood

## **No change to EU rules for imports of sawn oak and maple**

In recent weeks, some exporting companies have been under the impression that the new EU regulations will require that all sawn US oak and maple must be entirely free from all bark and the sapwood removed to a depth of 2.5cm.

AHEC Members are advised that this rumour is unfounded.

The rumour is the result of amendments made on July 10, 2014 to the APHIS (NOT the EU) definition of "bark freedom" in the European Union (EUN) Summary and Additional Declaration Glossary of the Phytosanitary Export Database (PExD) System. PExD is the APHIS system setting out phytosanitary import requirements of U.S.-origin commodities to foreign countries.

The APHIS guidance states that "Bark freedom is now defined as the removal of all bark and at least 2.5 cm (1 inch) of the outer sapwood. Wherever bark freedom is required in PExD, it must meet this new definition". APHIS then provided examples implying that their new definition of "bark free" applied to all wood irrespective of species.

The APHIS PExD guidance therefore gives the impression that the 2.5cm rule is a broadly applicable new definition of "bark free" in the EU regulation, whereas it actually only replaces the reference to "squared so as to remove entirely the rounded surface" specifically in relation to ash for control of EAB.



APHIS' new PExD definition of "bark-free" is not aligned to the EU definition which is that contained in the International Plant Protection Conventions (IPPCs) as stated in ISPM5 'Glossary of phytosanitary terms': "bark-free wood: Wood from which all bark, except ingrown bark around knots and bark pockets between rings of annual growth, has been removed [ISPM 15:2002; revised CPM, 2008]".

### **Oak and maple “with or without residual bark”**

Note also that the clause in the EU Plant Health Directive requiring that wood must be bark free is not the only regulatory pathway for admittance of U.S. oak and maple into the EU.

Another clause (EU Plant Health Directive Annex IV.A.I, point 3 option d) will continue to apply after 1 October 2014 which states that consignments of oak and maple can be imported "with or without residual bark" if accompanied by a phytosanitary certificate stating that it is kiln dried.

Note that NHLA KD Certificates may not be accepted as an alternative to a phytosanitary certificate if the consignment contains "residual bark". The EU derogation for the NHLA KD certification program applies specifically to "bark-free" wood.

### **Wood packaging material & dunnage**

Two changes have also been made to the requirements for wood packaging material of all wood species to remove potential loopholes in the current text of the Plant Health Directive. In practice these technical amendments should not lead to any significant changes for US hardwood exporters.

Under the Plant Health Directive in force before 1 October 2014:

- wood packaging material that is "in use" in the shipment of goods of all kinds must be ISPM15 compliant. There is no explicit requirement for wood packaging material that is not "in use".
- there is one exception to the requirement for ISPM15 compliance - that is for dunnage such as bearers, stickers and spacers, which are integrated/banded into cargoes of regulated wood. For these cargoes, the assumption is that the phytosanitary certificate covers the whole consignment and certifies that the dunnage, as well as the regulated wood, meets the landing requirements. However this is not made explicit in the existing wording of the Plant Health Directive.

Both these loop holes will be closed on 1 October 2014. From that date:

- All wood packaging material "whether or not in use" must be ISPM15 compliant.
- The one exception to this requirement is now explicitly stated in the regulation, that "dunnage supporting consignments of wood, which is constructed from wood of the same type and quality as the wood in the consignment and which meets the same Union phytosanitary requirements as the wood in the consignment".