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TITLE: Canadian phytosanitary policy for the notification of non-compliance and emergency action.

File

SUBJECT:

This directive sets out under which circumstances Canada will provide notification to the National Plant Protection Organization of an exporting country when a shipment of plants, plant products or other regulated articles has not complied with Canadian import requirements. The directive also sets out who in Canada may send the notifications, to whom the notifications should be sent and the format to be used for those notifications. In addition, this directive sets out what the Canadian Food Inspection Agency will do when it receives a notification from another country of non-compliance or emergency action related to plants, plant products or other regulated articles exported from Canada.

This is the first policy directive on this issue. It is intended to be complementary to current directives which identify actions to be carried out upon non-compliance with Canadian phytosanitary requirements.

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Review

This directive will be reviewed every 5 years unless otherwise needed. The next review date for this directive is August 1, 2006. The contact for this directive is Joanne Rousson. For further information or clarification, please contact the Export/Import Section.

Endorsement

Approved by:

<hr/> <p>Director Plant Health and Production Division</p>
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Amendment Record

Amendments to this directive will be dated and distributed as outlined in the distribution below.

Distribution

1. Directive mail list (Regions, PHRA, USDA)
2. Provincial Government, Industry (via Regions)
3. National Industry Organizations (determined by Author)
4. Internet

Introduction

The revised International Plant Protection Convention (IPPC), 1997 states that importing countries shall, as soon as possible, inform the exporting country of significant instances of non-compliance with phytosanitary certification. The exporting country should investigate and on request, report the result of its investigation to the importing country. Countries may take appropriate emergency action on the detection of a pest.

On April 6, 2001, the Interim Commission on Phytosanitary Measures adopted the International Standard for Phytosanitary Measures (ISPM): *Guidelines for the Notification of Non-compliance and Emergency Action*. This ISPM provides guidance on how to meet the notification obligations under the IPPC. This directive outlines the Canadian policy that implements the ISPM.

In the past, often only the importer was informed when a consignment was detained, treated, refused entry or returned to origin. Official exchange of information between the governments of the importing and exporting countries did not usually take place. For products exported from Canada, when the importer contacted the exporter, it was difficult to find out details of the reasons for the refusal or detention. For non-compliant imports into Canada, notifying the Canadian importer would not necessarily result in better compliance the next time the same product was imported from the same country. Having a more formal mechanism for notification will allow better follow-up and correction of the situation so that recurrence is avoided.

Scope This directive is for the use of Programs and Operations staff of the Canadian Food Inspection Agency, including the Import Service Centres; Canada Customs and Revenue Agency; Importers and Exporters.

References Department of the Secretary of State of Canada. *The Canadian Style: A Guide to Writing and Editing*. Toronto, 1993.

Glossary of Phytosanitary Terms, ISPM #5, FAO, Rome, 2001.

Guidelines for the notification of non-compliance and emergency action, ISPM # 13, FAO, Rome, 2001.

NAPPO Standard 978.008

New Revised Text of the International Plant Protection Convention, FAO, Rome, 1997

Definitions, Abbreviations and Acronyms

CFIA Canadian Food Inspection Agency

Consignment A quantity of plants, plant products and/or other articles being moved from one country to another and covered, when required, by a single Phytosanitary Certificate (a consignment may be composed of one or more commodities or lots)

Emergency Action A prompt phytosanitary action undertaken in a new or unexpected phytosanitary situation

IPPC	International Plant Protection Convention
ISPM	International Standard for Phytosanitary Measures
NPPO	National Plant Protection Organization
Phytosanitary Action	An official operation, such as inspection, testing, surveillance or treatment, undertaken to implement phytosanitary regulations or procedures

1. General Requirements

1.1 Legislative Authority

The Plant Protection Act, s.c. 1990, c.22

The Plant Protection Regulations, SOR/95-212

Canadian Food Inspection Agency Fees Notice, Canada Gazette, Part 1 (05/13/2000)

1.2 Fees

The CFIA is charging fees in accordance with the *Canadian Food Inspection Agency Fees Notice*. For information regarding fees associated with imported product, please contact the Import Service Centres (ISC) at the following phone numbers: Eastern ISC 1-877-493-0468; Central ISC 1-800-835-4486; Western ISC 1-888-732-6222. Anyone requiring other information regarding fees may contact any local CFIA office or contact the Internet web site at www.inspection.gc.ca

2.0 Specific Requirements

2.1 What are notifications of non-compliance or emergency action?

A notification of non-compliance or emergency action is the official communication between national plant protection organizations to inform each other when a shipment of plants, plant products or other regulated articles did not meet the import requirements of the importing country. The CFIA may either send or receive notifications of non-compliance or emergency action. The CFIA notifies an exporting country's NPPO when consignments from the exporting country significantly fail to comply with Canada's phytosanitary import requirements. An importing country's NPPO notifies the CFIA when consignments from Canada fail to comply with its phytosanitary import requirements.

There are four main situations for which notifications are to be issued:

- A significant instance of failure of an imported consignment to comply with specified phytosanitary requirements, including the detection of specified regulated pests;
- A significant instance of failure of an imported consignment to comply with documentary requirements for phytosanitary certification;
- An emergency action taken on the detection in an imported consignment of a regulated pest not listed as being associated with the commodity from the exporting country;
- An emergency action taken on the detection in an imported consignment of an organism posing a potential phytosanitary threat.

In the case of non-compliance, the notification is intended to help in investigating the cause of the non-compliance and to facilitate steps to avoid recurrence. In the case of emergency action, the notification is to report action that is taken on the detection of a pest posing a potential phytosanitary threat, and to facilitate steps to avoid recurrence. The CFIA will use the same form (see appendix 1) for both types of notification.

Notifications are usually issued in hard copy, unless a bilateral agreement exists to provide them electronically.

2.2 Significant instances of non-compliance

A significant non-compliance would occur if the safety or health of Canada's plant resource base is potentially threatened. The following situations are considered significant non-compliance, and should result in the issuance of a notification to the NPPO in the exporting country:

- failure to comply with phytosanitary requirements as given in regulations, directives, policies, and plant import permits
- detection of regulated pests in a consignment
- failure to comply with documentary requirements, including:
 - absence of Phytosanitary Certificates, when one is required*
 - uncertified alterations or erasures to Phytosanitary Certificates
 - serious deficiencies in information on Phytosanitary Certificates, such as absence of an additional declaration, when one is required, missing name of importer or exporter
 - fraudulent Phytosanitary Certificates
- presentation for import of prohibited consignments
- prohibited articles in consignments, such as soil

- evidence of failure of a specifically required treatment
- repeated instances of prohibited articles from a particular country, in small, non-commercial quantities such as those carried by passengers or sent by mail.

Even when a Phytosanitary Certificate is not required, but, for example a regulated pest is detected, a notification should be sent to the exporting country's NPPO.

*Some discretion can be used in the case of imports from the USA, when no Phytosanitary Certificate is present and the exporter can provide one within a short period of time and there is reason to believe it was a simple oversight on the exporter's part and not a frequent infraction.

2.3 Emergency Action

Emergency actions are prompt phytosanitary actions (i.e. inspection, testing, destruction, surveillance, treatment) undertaken in **new** or **unexpected** phytosanitary situations. Acting on a consignment, because it was found to be infested with a pest that is not (yet) listed on the regulated pest list, is an emergency action, because it is a new and unexpected situation. Acting on a consignment because it was found infested with a regulated pest for which the consignment was not believed to be a pathway, is an emergency action, because it is an unexpected situation.

If a consignment was found to be infested with a regulated pest which is known to be associated with the commodity in that consignment, the action taken is a normal phytosanitary action. The situation, irrespective of its seriousness, is not entirely new or unexpected.

In practice, the actual action taken, e.g. treatment, destruction, further inspection, may be the same, whether it is called an emergency action or a phytosanitary action.

2.4 Sending notifications from CFIA to exporting countries

2.4.1 Who sends the notifications

The Network Director, Plant Products, issues the notification to the exporting country based on information received from Operations.

They should be sent to the official contact point in the exporting country. Contact points are listed on the web site for the IPPC at: <http://www.ippc.int/IPP/En/nppo.htm>. In the absence of a contact point, the notification should be sent to the NPPO of the exporting country, the address for which can be found in the same list.

A electronic copy of the notification should be sent to the appropriate national manager in the Plant Health and Production Division with a copy to the International Standards Advisor in the Export/Import Section of the Plant Health and Production Division.

Operations staff communicates information to the Canadian importer.

2.4.2 When to issue

The notification should be sent as soon as a significant non-compliance has been confirmed and the first phytosanitary action has been taken. Timely notification allows the exporting country to do a proper follow-up, if required.

When CFIA/Operations staff intercepts a consignment that is not in compliance with Canada's phytosanitary import requirements, the Network Director, Plant Products, should be informed via established channels of communication. The network director makes a final decision if the instance is a significant non-compliance and a notification needs to be sent to the exporting country. All details need to be provided for the network director to be able to make the decision and complete the notification form.

Examples:

- When a consignment is detained, pending confirmation of a pest identification, a significant non-compliance has not (yet) taken place. If the identification shows that the intercepted pest is not a regulated pest nor a pest of potential economic importance, the shipment had been in compliance and will be released. If the identification shows that the intercepted pest is regulated and/or of potential economic importance, action must be taken, significant non-compliance has occurred, and a notification must be sent.
- If a consignment was refused entry because a Phytosanitary Certificate was not issued or has significant shortcomings, a notification must be sent (see * under 2.2. above)
- A treatment prior to release of detention, because a required treatment was not applied or live regulated pests were found, is a phytosanitary action, and a notification must be sent.
- Absence of a plant import permit, if one is required, although a significant non-

compliance, would not be notified to the exporting country, because it is the importer's responsibility to have an import permit, not the exporter's. Of course, the phytosanitary requirements set out in the permit must be met by the exporter, and significant failure to meet those requirements should be notified.

4.4.3 Information in the notification

The standard form is attached as Appendix 1. All relevant information should be provided. The information should be sufficient for the exporting country to be able to investigate the incident and to take steps to avoid recurrence. Please make sure that the appropriate CFIA address is inserted at the top of the form.

The following are elements of the form which may require explanation (see Appendix 1): Under "Type & quantity of material affected", provide the common name of the material, eg. packing materials, nursery stock, fresh apples, machinery, etc. Examples of "Reasons for interception" are: Phytosanitary Certificate lacking, missing additional declaration, pest intercepted, requirements in D**-** were not met, etc. This top row gives the highlight of the reason for the notification.

The reference number should be a number that allows us to track and trace communications and actions associated with the non-compliant consignment. It could be our pest identification report number, the detention tag number, the number on the foreign Phytosanitary Certificate, the CFIA Permit to Import number.

Commodity classes are: bulbs and tubers, cut flowers and branches, equipment and machinery, fruits and vegetables, grain, rooted plants and cuttings for planting, seeds, wood.

A report does not need to be requested at all times. If the same non-compliance occurred repeatedly from the same country, or the non-compliance is very unexpected, very serious, etc., a report should be requested. The request for a report should be discussed with the national manager for the commodity in question.

2.5 Receiving notifications from importing countries

A notification sent by another NPPO to Canada, notifying of a significant non-compliance of a Canadian export with foreign import requirements, will likely be sent to the international standards advisor in the Plant Health and Production Division, unless a bilateral agreement exists to send it to the Director or another person in the CFIA. A Foreign NPPO may send the notification to any person in the CFIA. In all instances, the notification should be forwarded to the foreign legislation officer in the Plant Health and Production Division who is responsible for the requirements of the country from where the notification was sent.

The foreign legislation officer will work with the plant health network in the region where the non-compliant consignment originated, to do follow-up and devise steps to prevent the situation from occurring again. If a report was requested by the importing NPPO, the final report should be prepared by the foreign legislation officer and sent to the official contact point of the importing NPPO, or to the requester of the report in the foreign NPPO.

3. Appendices

Appendix 1 - Format for notifications issued by the CFIA

Appendix 1

Canadian Food Inspection Agency
 Plant Products Directorate

NOTIFICATION OF NON-COMPLIANCE

TO: Plant Protection Organization of
 c/o [Official contact point]

This is to inform that the Canadian Food Inspection Agency has intercepted a shipment not in compliance with Canadian phytosanitary requirements that originated from [name of country]. Below is the information on the interception.

Type & quantity of material affected:	Reasons for interception:
Reference number:	
Name of the importing country:	Canada
Name of the exporting country:	
Phytosanitary Certificate number:	
Commodity class:	
Scientific name (at least plant genus) for plants or plant products:	
Name and address of consignee:	
Name and address of consignor:	

Date of phytosanitary action on the consignment:	
Phytosanitary action taken:	
Specific information regarding the nature of the non-compliance and emergency action including:	
Identity of pest:	
Problems with documentation:	
Part of the consignment affected:	
Phytosanitary requirements to which the non-compliance applies:	
Additional information	
Report requested:	Yes No

In order to avoid similar phytosanitary action, we would appreciate if you would ensure that future consignments meet Canadian phytosanitary requirements. For more information on these requirements, please do not hesitate to contact the Canadian Food Inspection Agency or access the Internet Web site at www.inspection.gc.ca .

Signature

Date

Network Director