

April 1, 2016

The Honorable Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, DC 20503

The Honorable Edward Avalos
Under Secretary for Marketing and Regulatory Programs
U.S. Department of Agriculture
1400 Independence Avenue, SW, Room 228-W
Washington, DC 20250

RE: "Importation of Wood Packaging Material from Canada," Docket No. APHIS-2010-0019 (RIN0579-AD28), 75 Fed. Reg. 75, 157 (Dec. 2, 2010) (the Proposed Rule)

Dear Administrator Shelanski and Under Secretary Avalos:

The free flow of commerce between the United States and Canada is economically critical to both countries. On behalf of the undersigned organizations and the members we represent, we urge you to reconsider efforts to finalize a wooden pallet rule that would undermine this important trading relationship and the economic opportunities it provides.

As recently as March 10, 2016, President Obama met with Canadian Prime Minister Trudeau and emphasized the importance of free and open trade flow across the U.S.-Canada border. During the two leaders' joint press conference, President Obama noted that the two countries have "a shared border -- more than 5,000 miles -- that is the longest between any two nations in the world" and "do some \$2 billion in trade and investment" each day. Open trade between the two countries is a strength of the relationship -- one to be recognized and fostered. Regulatory changes that negatively impede and add unnecessary costs to this trading relationship should be avoided.

Our organizations are writing to raise concerns about a regulatory change that would impose significant costs to the U.S.-Canada trading relationship. The undersigned organizations and their member companies are cornerstones of the U.S.-Canada economic relationship. Our members account for a major portion of that bilateral trade, supporting millions of jobs and hundreds of millions of dollars in economic activity. Our companies ship billions of dollars' worth of products back and forth across the U.S.-Canada border, including many via wooden pallets. Wooden pallets are used to transport a substantial portion of all consumer and industrial products crossing the U.S.-Canadian border each and every day.

In December 2010, the United States Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) issued the draft "Importation of Wood Packaging Material from Canada" (Docket No. APHIS-2010-0019 (RIN0579-AD28, known as the Proposed Rule). This rule, if implemented, would amend import regulations under the Plant Protection Act by removing the current exemption that allows North American wood packaging material, such as wood pallets, to enter the United States from Canada under a general permit.

Removal of the exemption is based in significant part on a 2009 pest risk analysis (PRA) that analyzed the movement of pests through wood packaging material. The proposed rule, however, would have a significant detrimental impact on bilateral trade, while diverting enforcement resources away from areas of the North American border that serve as the main entry points for these pests. None of the pests identified in the 2009 PRA are indigenous to Canada or the United States, but are invasive species of Asian and/or European origin. Removal of the North American exemption on wooden pallets passing between the United States and Canada would not effectively address such pests. Instead, U.S. enforcement resources should be focused on the perimeter of North America, and not the U.S.-Canada border, to prevent the entry of pests that do not originate on the continent.

Our organizations are also concerned about cost-benefit analysis that supports this rulemaking effort. USDA and APHIS conducted an initial analysis prior to issuing the proposed rule, but more than five years have passed since that analysis was undertaken. Given both the expanded flow of bilateral trade, which has increased over \$40 billion since 2010, and evolving operational costs for the U.S. economy, the cost of complying with removal of the exemption has certainly increased beyond any original estimates reflected in the administrative record. USDA/APHIS

has failed to update its cost-benefit analysis to address the updated costs of this rule, leaving them unable to answer legitimate questions about the operational cost of the rule and whether it qualifies as a significant rulemaking process.

Various parties have stated in the administrative record that removal of the exemption would have significant economic and operational impact on the U.S. wood packaging industry, supply chain and ultimately, on the cost of goods. Our organizations share these concerns and represent members who would face significant operational costs that could easily run to hundreds of millions of dollars if the proposed rule were to be implemented, with a significant portion of that impact here in the U.S. Given such a high cost impact for the U.S. economy, any regulatory proceeding related to the removal of this exemption must be considered significant under Executive Order 12866.

Given the substantial and widespread concerns regarding the proposed rule and its expected negative impact on the U.S.-Canada trading relationship, we strongly request that USDA/APHIS terminate the current rulemaking process and actively engage with stakeholders, including private industry, to determine whether such rulemaking is appropriate to achieve the legitimate aims of addressing invasive species problems. We also urge that the United States work with Canada through bilateral channels such as the U.S.-Canada Regulatory Cooperation Council in order to develop a common approach to a problem that arises outside both our borders that will not impede trade and the growth it helps promote.

Sincerely,

Aerospace Industries Association of Canada
AICC Canada
American Association of Exporters and Imports
American Forest & Paper Association
American Frozen Food Institute
Association of Equipment Manufacturers
Association of Global Automakers
Automotive Industries Association of Canada
Beer Institute
Book Manufacturers' Institute
Canadian American Business Council
Canadian Chamber of Commerce
Canadian Consumer Specialty Products Association
Canadian Cosmetic, Toiletry and Fragrance Association
Canadian Foundry Association
Canadian Manufacturers and Exporters
Canadian Paint and Coatings Association
Canadian Tooling & Machining Association
Canadian Transportation Equipment Association
Corn Refiners Association
Council on Safe Transportation of Hazardous Articles
Global Cold Chain Alliance
Grocery Manufacturers Association
Hardwood Federation
Hearth, Patio & Barbecue Association
Independent Lubricant Manufacturers Association
Industrial Supply Association
International Association of Refrigerated Warehouses
National Association of Chemical Distributors
National Association of Manufacturers
National Black Chamber of Commerce
National Confectioners Association
National Retail Federation
National Wooden Pallet and Container Association
SNAC International

Structural Insulated Panel Association - SIPA
Toy Industry Association
U.S. Chamber of Commerce

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