

RAP PUBLICATION 2007/29

**REGIONAL STANDARDS
FOR PHYTOSANITARY MEASURES**

***GUIDELINES FOR THE ESTABLISHMENT AND
APPLICATION OF EMERGENCY ACTIONS
AND EMERGENCY MEASURES***

APPPC RSPM No. 5



RAP PUBLICATION 2007/29

**REGIONAL STANDARDS
FOR PHYTOSANITARY MEASURES**

***GUIDELINES FOR THE ESTABLISHMENT AND
APPLICATION OF EMERGENCY ACTIONS
AND EMERGENCY MEASURES***

The Asia and Pacific Plant Protection Commission (APPPC)
FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
REGIONAL OFFICE FOR ASIA AND THE PACIFIC
Bangkok 2007

The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

All rights reserved. Reproduction and dissemination of material in this information product for educational or other non-commercial purposes are authorized without any prior written permission from the copyright holders provided the source is fully acknowledged. Reproduction of material in this information product for resale or other commercial purposes is prohibited without written permission of the copyright holders. Applications for such permission should be addressed to the Plant Protection Officer, FAO Regional Office for Asia and the Pacific, Maliwan Mansion, 39 Phra Atit Road, Bangkok 10200, Thailand or by e-mail to Yongfan.piao@fao.org

© **FAO 2007**

For copies write to:

Piao Yongfan
FAO Regional Office for Asia and the Pacific
Maliwan Mansion, 39 Phra Atit Road
Bangkok 10200
THAILAND
Tel: (+66) 2 697 4000
Fax: (+66) 2 697 4445
E-mail: Yongfan.piao@fao.org

Endorsement

Regional standards for phytosanitary measures are developed and adopted by the Asia and Pacific Plant Protection Commission as part of the plant protection programme of the Commission's contracting parties. This programme makes available to contracting and other interested parties regional standards for phytosanitary measures to support regional harmonization, with the aim to facilitate trade and avoid the use of unjustifiable measures as barriers to trade.

This standard was endorsed by the twenty-fifth session of the Asia and Pacific Plant Protection Commission in August 2007.



He Changchui
Assistant Director-General and
FAO Regional Representative for
Asia and the Pacific

CONTENTS

	<i>Page</i>
INTRODUCTION	2
Scope	2
References	2
Definitions and abbreviations	3
Outline of requirements	4
BACKGROUND	5
IPPC and ISPM documentation relevant to emergency actions and emergency measures	5
REQUIREMENTS	7
1. Emergency actions and emergency measures	7
2. Identification of emergency situations	8
2.1 Pests that have not been previously assessed	8
2.2 Pests that have not been regulated for a particular pathway	8
2.3 Pests that cannot be identified adequately	9
3. Types of emergency actions	9
4. Types of emergency measures	10
5. Procedures for the establishment and application of emergency actions and emergency measures	11
5.1 For the importing country	11
5.2 For the exporting country	11
6. Notification of emergency actions and measures	12
6.1 Notifying body	12
6.2 Parties to be notified	12
6.3 Time of notification	12
6.4 Content of notification	12
7. Evaluation of emergency actions and emergency measures	13

Endorsement

This Asia and Pacific Plant Protection Commission (APPPC) Regional Standard for Phytosanitary Measures was endorsed by the twenty-fifth session of the APPPC held from 27 to 31 August 2007 in Beijing, China.

Review

APPPC Regional Standards for Phytosanitary Measures are subject to periodic review. The next review date for this standard is 2013. The standard may be reviewed earlier if the APPPC decides this is necessary.

Distribution

APPPC Regional Standards for Phytosanitary Measures are distributed by the Executive Secretariat of the APPPC to all APPPC members, the Administrative Heads of Regional Plant Protection Organizations and the FAO International Plant Protection Convention (IPPC) Secretariat. This standard is available on the APPPC webpage found within the International Phytosanitary Portal: <http://www.ippc.int/En/rppo/jsp>

INTRODUCTION

Scope

The standard provides guidelines for the establishment and application of emergency actions and emergency measures in international trade according to the relevant International Plant Protection Convention (IPPC) articles and International Standards for Phytosanitary Measures (ISPMs).

References

Agreement on application of sanitary and phytosanitary measures, 1994. World Trade Organization, Geneva.

Glossary of phytosanitary terms, 2007. ISPM No. 5, FAO, Rome.

Determination of pest status in an area, 1998. ISPM No. 8, FAO, Rome.

Guidelines for the determination and recognition of equivalence of phytosanitary measures, 2005. ISPM No. 24, FAO, Rome.

Guidelines on lists of regulated pests, 2003. ISPM No. 19, FAO, Rome.

Guidelines for the notification of non-compliance and emergency action, 2001. ISPM No. 13, FAO, Rome.

Guidelines for a phytosanitary import regulatory system, 2004. ISPM No. 20, FAO, Rome.

International Plant Protection Convention, 1997. FAO, Rome.

Pest reporting, 2002. ISPM No. 17, FAO, Rome.

Pest risk for quarantine pests, including analysis of environmental risks and living modified organisms, 2004. ISPM No. 11, FAO, Rome.

Phytosanitary principles for the protection of plants and the application of phytosanitary measures in international trade, 2006 ISPM No. 1, FAO, Rome.

Requirements for the establishment of areas of low pest prevalence, 2005. ISPM No. 22, FAO, Rome.

Definitions and abbreviations

detention	Keeping a consignment in official custody or confinement, as a phytosanitary measure (see quarantine) [FAO, 1990; revised FAO, 1995; CEPM, 1999; ICPM, 2005]
emergency action	A prompt phytosanitary action undertaken in a new or unexpected phytosanitary situation [ICPM, 2001]
emergency measure	A phytosanitary measure established as a matter of urgency in a new or unexpected phytosanitary situation. An emergency measure may or may not be a provisional measure [ICPM, 2001; revised ICPM, 2005]
Import Permit	Official document authorizing importation of a commodity in accordance with specified phytosanitary import requirements [FAO, 1990; revised FAO, 1995; ICPM, 2005]
intended use	Declared purpose for which plants, plant products, or other regulated articles are imported, produced, or used [ISPM No. 16, 2002]
interception (of a consignment)	The refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary regulations [FAO, 1990; revised FAO, 1995]
interception (of a pest)	The detection of a pest during inspection or testing of an imported consignment [FAO, 1990; revised CEPM, 1996]
NPPO	National Plant Protection Organization [FAO, 1990; ICPM, 2001]
outbreak	A recently detected pest population, including an incursion, or a sudden significant increase of an established pest population in an area [FAO, 1995; revised ICPM, 2003]

phytosanitary action	An official operation, such as inspection, testing, surveillance or treatment, undertaken to implement phytosanitary measures [ICPM, 2001: revised ICPM, 2005]
phytosanitary measure	Any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests [FAO, 1995; revised IPPC, 1997; ISPM, 2002]
point of entry	Airport, seaport or land border point officially designated for the importation of consignments, and/or entrance of passengers [FAO, 1995]
provisional measure	A phytosanitary regulation or procedure established without full technical justification owing to current lack of adequate information. A provisional measure is subjected to periodic review and full technical justification as soon as possible [ICPM, 2001]
transparency	The principle of making available, at the international level, phytosanitary measures and their rationale [FAO, 1995; revised CEPMP, 1999; based on the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures]

Outline of requirements

The establishment and application of emergency actions and/or measures (as defined in ISPM No. 5) are based primarily on the IPPC Article VII 6, ISPM Nos. 13 and 20. NPPOs should note the different definitions and requirements for emergency action and emergency measures. Emergency measures may or may not be provisional measures.

In establishing and applying emergency actions and measures NPPO should consider:

- the identification of phytosanitary emergency situations

- the types of emergency actions and/or measures that can be applied
- procedures for the establishment and application of emergency measures and
- the notification of emergency actions and/or measures

BACKGROUND

The preparation of guidelines on the use of phytosanitary emergency actions and/or emergency measures is to assist all APPPC contracting governments to understand their responsibilities and to raise awareness of what actions and measures an importing country may apply.

The terms “emergency action¹” and “emergency measure” are at times misunderstood. This standard provides guidelines to contracting governments on how to establish and apply both phytosanitary emergency actions and emergency measures in a practical manner that follows the requirements of the IPPC and International Standards for Phytosanitary Measures (ISPMs).

These actions and measures are applied in an emergency situation – a new or unexpected phytosanitary situation.

IPPC and ISPM documentation relevant to emergency actions and emergency measures

Normally, phytosanitary import requirements that apply to a particular commodity are determined and made available to the exporting party before exports commence. These phytosanitary measures would be technically justified by the importing party. However, with emergency actions and/or emergency measures they are typically applied immediately in response to an emergency situation without the exporter/exporting country receiving prior notice and full technical justification may not be available at the time of application. Therefore, there are strict conditions attached to the use of emergency action and emergency measures.

¹ It should be noted that the term “emergency action” as used in IPPC VII 6 actually means “emergency measure” – as in ISPM No. 5 and as in the French and Spanish version of the IPPC.

The section in the IPPC with particular relevance to emergency measures is Article VII 6.

“6. Nothing in this Article shall prevent any contracting party from taking appropriate emergency action on the detection of a pest posing a potential threat to its territories or the report of such a detection. Any such action shall be evaluated as soon as possible to ensure that its continuance is justified. The action taken shall be immediately reported to contracting parties concerned, the Secretary, and any regional plant protection organization of which the contracting party is a member.”

Article VII 6 clearly outlines the responsibilities of countries² that apply emergency measures. If a provisional measure is applied, its technical justification should be reviewed as soon as possible and the contracting governments concerned, the IPPC Secretary and any RPPO of which the importing party implementing the action/measure is a member should also be notified.

It should also be noted that this section of the IPPC specifically does not follow the basic principle in Article VII 2a and Principle 1.8 in ISPM No. 1:

“Contracting parties shall not, under their phytosanitary legislation, take any of the measures specified in paragraph 1 of this Article (VII) unless such measures are made necessary by phytosanitary considerations and are technically justified.”

However, the Glossary of Phytosanitary Terms (2007) makes a differentiation between the terms emergency measure and emergency action. The Glossary definitions are followed in this standard.

Principle 2.11: Emergency Measures of ISPM No. 1, states that *“Contracting parties may adopt and/or implement emergency actions, including emergency measures, when a new or unexpected phytosanitary risk is identified. Emergency measures should be temporary in their application. The*

² Those countries that are members of the World Trade Organization will also have to take note of the requirements of the Agreement on Application of Sanitary and Phytosanitary Measures, Annex B, paragraph 6. These requirements include the notification of other countries via the Secretariat of the regulation (i.e. measure) including the products covered with an indication of the objective and rationale of the regulation.

continuance of the measures should be evaluated by pest risk analysis or other comparable examination as soon as possible, to ensure that the continuance of the measure is technically justified". Here it is noted that emergency action and/or emergency measures can be applied where a new or unexpected phytosanitary risk is identified and not just on the detection of a pest posing a potential threat. Again, the evaluation of the emergency measures is stressed so that the new phytosanitary requirements are technically justified by a PRA or comparable examination.

ISPM No. 13, *Guidelines for the Notification of Non-compliance and Emergency Action*, provides guidance on when emergency action may be taken (section 4.2), the information that may be included in a notification of such actions (mainly for non-compliance notifications) (section 4.6), and the nature of the investigation to be conducted to justify the emergency actions taken.

ISPM No. 20, *Guidelines for a Phytosanitary Import Regulatory System*, also discusses when emergency measures may be required plus phytosanitary actions that can be taken.

These documents provide the basis for the following requirements.

REQUIREMENTS

1. Emergency actions and emergency measures

Emergency actions are prompt phytosanitary actions such as inspection, testing, treatment or refusal taken in a new and unexpected phytosanitary situation. In accordance with ISPM No. 13, the exporting contracting party should be notified of the emergency actions taken. Emergency actions in international trade are typically associated with individual consignments, and applied at one point in time.

Emergency measures are phytosanitary measures such as regulations or procedures, established as a matter of urgency in a new or unexpected phytosanitary situation. They are usually established without prior notification to trading partners. Immediately after emergency measures are established, they should be reported to contracting governments concerned, the Secretary of the IPPC and any RPPO of which the implementing contracting government is a member.

Emergency measures tend to be longer lasting than emergency actions and may result in a phytosanitary action being taken repeatedly, depending on the situation.

An emergency measure may or may not be a provisional measure. A provisional measure is a type of emergency measure that does not yet have full technical justification because it is implemented as soon as the emergency situation arises when there is a lack of technical information.

When taking emergency action or emergency measures, contracting parties should take into account the principles listed in ISPM No. 1.

2. Identification of emergency situations

As outlined in section 5.1.6.2 of ISPM No. 20 (*Guidelines for a phytosanitary import regulatory system*), situations that may require the implementation of emergency actions or emergency measures may include those where:

- pests are found, either in consignments or areas, that have not been previously assessed
- pests are found in unexpected pathways
- pests are found which cannot be adequately identified

2.1 Pests that have not been previously assessed include situations where:

- the pest intercepted is not listed as a regulated pest, and is known to have potential phytosanitary risk to the country of import
- a new pest is reported as occurring in the exporting country which would constitute a phytosanitary risk to the importing country
- reports indicate that the pest free or the low pest prevalence status has changed in export country because the pest has been found or the specified pest level for the area has been exceeded

2.2 Pests that have not been regulated for a particular pathway include those:

- that are detected on pathway not anticipated when the import requirements were established. This could be caused by a range of

circumstances – for example, expansion of the host range or contamination of a non-host by the pest

- that are intercepted from products not subject to phytosanitary measures
- that are intercepted as contaminants of conveyances, storage places or other places related with imported commodities

2.3 Pests, suspected of being regulated pests, that cannot be identified adequately because, for example:

- the specimen is damaged or in too poor condition to identify
- the life stage does not allow identification or
- the species is not yet taxonomically described
- inadequate facilities for identification of the pest

3. Types of emergency actions

Emergency actions for consignments in a point of entry, or during transportation include:

- resorting or reconfiguration
- changing of the intended use of the commodity
- treatment (fumigation, cold/heat treatment, irradiation, etc.)
- detention (while the matter is being considered)
- return to country of origin
- re-shipment
- destruction of the consignment

Emergency actions are usually individual operations on consignments. However, where an emergency situation occurs repeatedly on the same commodity from the same country of origin and the notification of emergency action does not result in an improved situation, then the continuation of emergency action may be justified. This may lead to the establishment and application of emergency or provisional measures.

4. Types of emergency measures

An emergency measure established and implemented by the competent authorities, can be directed against the pest or the pathway of pest.

Emergency measures may include:

- previously used phytosanitary measures for a new or unexpected situation, which have been technically justified before but have not been published as regular phytosanitary measures for the new emergency situation
- provisional measures applied in a new or unexpected situation which have not been technically justified and which have not been subject to prior notification and consultation because of their emergency application.

Emergency measures, which may be used by NPPO to deal with differing situations include:

- modification of regulations including:
 - ❑ restriction of points of entry
 - ❑ intensification of inspection/testing regime
- imposition of a new measure/treatment
- suspension of import of a particular commodity and/or from a particular country of origin
- prohibition of import of a particular commodity and/or from a particular country of origin

When an emergency situation occurs, an NPPO can apply one or more of the measures mentioned above as considered appropriate.

Where the emergency measure is not a provisional measure and which can be technically justified immediately, the technical justification should be made available as appropriate.

Where the emergency measure applied is a provisional measure, the NPPO should undertake a review of the technical justification of the measure as soon as possible. If the review indicates the measures are inappropriate, the measure should be modified accordingly.

5. Procedures for the establishment and application of emergency actions and emergency measures

Both importing countries and exporting countries have responsibilities when new or unexpected phytosanitary situations occur in international trade.

5.1 For the importing country

When an emergency situation occurs and emergency action or emergency measures need to be taken, the NPPO of an importing country may use some or all of the following procedures to establish and apply emergency action and/or measures. An NPPO:

- may organize relevant experts to analyse the situation and develop proposals for the application of emergency measures
- should audit the proposals and establish required emergency measures
- should implement the emergency actions and/or measures with appropriate publicity within the country
- should notify the exporting country of the emergency situation immediately

If emergency action is taken repeatedly, the NPPO may establish and apply emergency measures (with justification if available).

5.2 For the exporting country

The NPPO of an exporting country:

- should note and act upon the notification from the importing country's NPPO of the non-compliance causing the emergency situation
- should investigate, when requested by an importing trade partner, the cause(s) of non-compliance that led to the emergency action and/or measures and report the results to the importing country. The NPPO should address the cause of the problem as determined by the investigation to ensure that the non-compliance does not reoccur.

6. Notification of emergency actions and measures

6.1 Notifying body

NPPOs should clearly identify their relevant section or, if necessary, another agency that is responsible for making the notifications. Countries may use the section of their organization that is already responsible for similar functions such as the WTO-SPS inquiry point or IPPC contact point.

6.2 Parties to be notified

Emergency actions should be reported to the contracting government concerned.

Emergency measures should be reported to the “...contracting parties concerned, the secretary and any regional plant protection organization of which the contracting party is a member” (IPPC Article VII 6). The country applying emergency measures should ensure that trading partners are informed of the measures. Both the International Phytosanitary Portal (that is the Secretary of the IPPC) and RPPOs will be able to inform the wider phytosanitary community of the application of emergency measures.

6.3 Time of notification

For emergency actions, notifications should be provided promptly (ISPM No. 13 section 5).

When an NPPO establishes emergency measures, the NPPO should notify all affected countries and parties of the measures “immediately” (IPPC Article VII 6). Such notification should allow the countries and parties to react appropriately to keep losses to a minimum.

6.4 Content of notification

ISPM No. 13 section 6 describes in detail the information required for a notification of non-compliance and emergency action.

The notification of emergency measures should include the following information:

- the country notifying
- the NPPO or other agency responsible for the notification
- the emergency measures, with explanation of action if appropriate
- the commodities covered
- the pests involved (scientific names)
- reasons for the application of the emergency measures
- date of adoption of emergency measures
- agency that can provide information on measures if different from the notifying body
- information on the modification or termination of the emergency measures where applicable

7. Evaluation of emergency actions and emergency measures

Emergency actions, as has been noted, are usually applied to single consignments. NPPOs apply such actions on a sound technical basis. Emergency actions taken repeatedly for the same emergency situation may become emergency measures.

If emergency measures require to be continued, they should be evaluated by pest risk analysis or other comparable means for the new emergency situation as soon as possible. The modification of the phytosanitary measures should then be communicated to the exporting country.

Where provisional measures have been applied, the NPPO should also:

- assess the effect and effectiveness of the emergency measures “as soon as possible” (see Principle 2.11 of ISPM No. 1 and the definition of provisional measure), using a PRA as appropriate, and modify the measures if this is required. This may lead to:
 - ❑ the modification of phytosanitary measures to deal with the pest risks identified in the PRA
 - ❑ the termination of the measures if the intercepted organisms are found not to be regulated pests in the importing country or if the phytosanitary situation in the exporting country changes and the pests of concern will no longer be present or likely to be associated with the export commodity

- the NPPO making affected individuals or organizations aware of the regulatory changes and informing the Secretary of the IPPC and RPPOs of which the country is a member (as noted in section 5)
- undertake bilateral or multilateral negotiations, when requested, in order to facilitate cooperation and transparency in the application of emergency measures.
- decide whether to establish permanently, modify, or terminate the measures.