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**Animal and
Plant Health
Inspection
Service**

Revision of the International Plant Protection Convention

Environmental Assessment, October 1997

Revision of the International Plant Protection Convention, 112th Council

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Table of Contents

I.	Need for the Proposed Action	1
	A. Introduction	1
	B. Need	1
II.	Alternatives	2
	A. Approval	2
	B. No Action	3
III.	Environmental Effects	3
	A. Approval	4
	1. Human Health	4
	2. Nontarget Species	5
	3. Environmental Quality	7
	B. No Action	7
IV.	Conclusions	8
V.	Listing of Agencies, Organizations, and Individuals Consulted	8

I. Need for the Proposed Action

A. Introduction

The International Plant Protection Convention (IPPC) is a treaty, dating back to 1952, aimed at promoting international cooperation to control and prevent the spread of harmful plant pests. The Convention was last amended in 1979, but the amended text did not come into force until 1991, after acceptance by two-thirds of the members. The signing of the 1995 World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures Agreement (SPS agreement) placed more rigorous requirements on international phytosanitary regulations. Phytosanitary regulations are those regulations of imported and exported commodities designed to protect plant health. These regulations may be enforced domestically by individual countries, regionally by groups of countries, or world-wide based on an international agreement. The SPS agreement indicated that all countries are to base their phytosanitary measures on relevant standards, guidelines, and recommendations developed under the auspices of the IPPC.

B. Need

The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), is not the party of origin for the proposed action, nor is it a signatory to the proposed revision of IPPC or the SPS agreement. Whether or not international agreements may be subject to the National Environmental Policy Act (NEPA) or Executive Order 12114 depends on many factors, including, but not limited to, the type and reach of actions contemplated, the actors involved, and the “approving” authority. In many respects, treaty negotiation and approval resembles the legislative process which, according to regulations implementing NEPA, includes “requests for ratification of treaties,” 40 Code of Federal Regulations (CFR) § 1508.17, and for which the NEPA process must be undertaken in certain situations (see 40 CFR § 1506.8). This document is not being prepared because we are certain that either NEPA or Executive Order 12114 applies to these treaty negotiations. Instead, we are preparing this document in an effort to further NEPA’s broad objectives. Approval of revisions to the Convention would have the effect of requiring APHIS to comply with policies, procedures, and/or treatments which may be established to promote international cooperation and facilitate trade. It is reasonable to anticipate that those mandates could result in new or changed risks and environmental impacts. It is also reasonable to anticipate that those mandates could involve the need to apply pesticide products in another country as a condition of entry for imported products.

This environmental assessment is intended as a concise, yet broad assessment to address the potential environmental effects of the adoption of the proposed IPPC revision. It considers in general the IPPC revision's effects on APHIS' domestic plant protection activities and foreign plant protection activities. It does not, however, consider all of the ramifications of the revision's component mandates adopted for international plant protection. Existing plant protection activities have been analyzed previously within the context of APHIS' environmental process (see APHIS NEPA Implementing Procedures, 7 CFR Part 372), and new activities arising from mandates of the IPPC revision will be analyzed, as appropriate, also within the context of the APHIS environmental process, and within the program's timeframe of need.

APHIS' authority to implement programs and activities for the purpose of plant protection is derived from several statutes, including the Organic Act (7 United States Code (U.S.C.) 147a), which authorizes the Secretary of Agriculture to carry out operations to eradicate insect pests, and the Federal Plant Pest Act (7 U.S.C. 150dd), which authorizes the Secretary of Agriculture to use emergency measures to prevent the dissemination of plant pests new to or not widely distributed throughout the United States.

II. Alternatives

A. Approval

This alternative considers the impacts from approval of the United States to adhere to the provisions of the revised convention. Nothing in the proposed revisions to the IPPC purports to repeal, either expressly or by implication, any law of this country applicable to departmental considerations relative to exotic pests and species. On the contrary, Article II, 2., expressly recognizes limitations "established under domestic laws or regulations of contracting parties." The revised IPPC does not change any specific phytosanitary actions taken by APHIS, but it does require that the agency follow specific procedures to address phytosanitary issues relating to pest risk prior to enforcing specific regulations. APHIS regulations generally can be covered by the submission of lists of quarantine pests and regulated nonquarantine pests to the Secretary of the Commission for dissemination to all contracting parties; that is, all signatory nations of the IPPC. New regulation of pest species by APHIS would require the agency to submit a pest risk assessment or other technical evidence to the Secretary of the Commission to justify the new regulation to be enforced.

B. No Action

For the purposes of this assessment, the no action alternative is defined as continuation of the current Convention's procedures for cooperation to control and prevent the spread of harmful plant pests. A variety of interpretations may exist for the no action alternative, including no convention at all or possibly no Federal involvement. However, the most probable result of implementing either of these other interpretations would be that existing pest risk would increase and high pesticide use patterns would continue. Under those circumstances, the environmental effects of no action would be more severe than those that might be incurred in the implementation of the proposed action. In APHIS' judgment, therefore, the public's interest is better served through analysis of a limited no action alternative; that is, continuation of the current convention. Under this alternative, all phytosanitary measures that APHIS would take to regulate plant pests and potentially infested commodities would continue to be conducted as under present procedures.

III. Environmental Effects

The environmental impacts that may result from implementation of the proposed action and/or its alternative are considered in this section. The principal environmental concern over this proposed program relates to the adequacy of the revised IPPC standards to control and prevent the spread of harmful plant pests. The environmental damage from some introduced plant pests has resulted in permanent changes in the structure and biodiversity of some regions (e.g., gypsy moth and chestnut blight). The ability of APHIS to exclude pest infestations that pose adverse environmental impacts depends upon the accurate assessment of pest risk associated with the imported articles, the effectiveness of detection measures during inspection of cargo, and the efficacy of treatment measures. This assessment will consider the differences in how APHIS can control and exclude pest infestations under the current Convention (No Action) and under the revised Convention (Approval). It will also consider the available regulatory options to APHIS to mitigate potential adverse effects from each alternative. The importance of these regulatory options to prevent adverse effects is expected to increase with the current trends toward increasing global trade.

A. Approval

The primary change resulting from the approval of the revised IPPC would be in clarification of international phytosanitary standards. It would require a standard-setting commission and a Secretary to administer the implementation and activities of the commission. The obligations of APHIS under this Convention would include those for a contracting party and National Plant Protection Organization (NPPO). The revised Convention maintains a country's right to impose phytosanitary measures against regulated pests as long as such measures are (1) transparent (clear to all signatory nations), (2) technically justified, and (3) no more restrictive than measures imposed domestically. This would not change the current processes of plant pest risk identification or plant pest risk assessment at APHIS. It would result in some changes of reporting regulated pests. It would require APHIS to provide the Secretary of the Commission with lists of quarantine pests and regulated nonquarantine pests for dissemination to all contracting parties; that is, all signatory nations.

On February 24, 1997, APHIS published a notice in the Federal Register (62 FR 8210-8216, Docket 96-101-1) containing the existing IPPC text with guidance on which areas were being considered for revision. Public comments were solicited on any aspect of the scope, coverage, or institutions of the text for 45 days, ending on April 10, 1997. Eleven comments were received by that date. The comments were from industry and trade associations, interest groups, producers and growers, and State government representatives. Some of the comments were supportive and some had reservations about capability of the text of the IPPC to meet the plant protection needs. There were two primary issues raised by commenters relating to the exclusion of alien or exotic plants. In particular, there was concern about the ability of the IPPC regulations to address potential invasions of these harmful species. Some commenters cited inadequacy of reliance on economic measures to reflect impacts to natural ecosystems and species. Concern was expressed that the requirement to list regulated pests assumes that other species pose no plant risk and that the risk from these species would not be adequately addressed by APHIS in their risk assessments. There was particular concern about the risks from invasive weed species. These issues will be discussed within the section on nontarget species.

1. Human Health

The methods used to exclude and control pest infestations under the revised IPPC are not expected to differ substantially from those employed under the current Convention. The types and frequency of the use of chemical, physical, and other regulatory methods will not differ. The proposed changes in the Convention have no direct effect on human health issues. There is no reason to expect that the revisions will result in introduction of new pest species that affect human health, but there is always the chance that an introduced species could cause allergic reactions or could affect backyard fruit trees which some residents

use as a source of nutrition. These situations are anticipated to be isolated and the effects are not expected to differ from those under the current Convention. None of these potential impacts are expected to be significant to human health.

Consistent with Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” APHIS considered the potential for disproportionately high and adverse human health or environmental effects on any minority populations and low-income populations. Any adverse impacts that result from pest risk decisions will be made on a case-by-case basis. No disproportionate effects on minority or low-income populations are anticipated as a consequence of implementing the proposed action.

2. Nontarget Species

Under the current Convention, the regulation of plant pests is the responsibility of the NPPO of the importing country. This does not change under the revised Convention. The primary change is in the requirement that phytosanitary measures taken by an NPPO are transparent, technically justified, and no more restrictive than measures imposed domestically. The intent of this change was to prevent countries from imposing unjustified trade barriers.

The phytosanitary regulations of APHIS have largely adhered to these principles, even under the current Convention. The current process of plant pest risk identification or plant pest risk assessment would not change at APHIS. The types and frequency of the use of chemical, physical, and other regulatory methods of exclusion and control of plant pests will not differ. APHIS would be required to provide the Secretary of the Commission with lists of quarantine pests and regulated nonquarantine pests for dissemination to all signatory nations of the revised Convention. APHIS would also be required to justify regulation of new pest species to the Commission through risk assessment or other technical evidence for the need to regulate. These new obligations are not anticipated to result in any substantial increases in the efforts required of APHIS to protect plant resources in the United States. These new standards do not restrict regulations of APHIS to any different ceiling than is presently applied to phytosanitary regulations.

The fact that the NPPO of other countries will be required to adhere to these more rigorous standards to justify their phytosanitary regulations could determine the limitations of some countries to exclude pest species. Fulfillment of the new requirement that phytosanitary regulations taken by an NPPO are technically justified will not change the current practices of APHIS or other countries with well-developed phytosanitary regulations. Technical justification for a regulation is based upon the conclusions of a pest risk analysis or another comparable examination and evaluation of available scientific information (Article II, Use of Terms). Decisions at APHIS are based upon this approach already. Other countries may need to improve their decisionmaking process for

phytosanitary regulations. The inability of phytosanitary regulations of some countries to exclude certain pests could result in the need for APHIS to address new regulation of potentially infested commodities from those countries. Although the pest risk to the plant resources of those countries is anticipated to increase with increasing trade, there is no indication that infestation in these countries will necessitate greater risk to plant species in the United States. It will, however, require APHIS to pay close attention to new plant pest infestations in other countries to ensure that our phytosanitary regulations are adequate to exclude and protect against such infestations here.

The effect of approval of the revised Convention on nontarget species is the issue most raised in comments about the Federal Register notice. There was concern about the ability of the IPPC regulations to address potential invasions of these harmful species. Their concern related to the requirement of the NPPO to provide lists of regulated pests to the Commission and to the restriction of regulation of these pest species. In particular, there was concern that the IPPC reliance on economic measures to reflect impacts to natural ecosystems and species would not protect plant species that are not agronomic crops. The phytosanitary regulations of APHIS are designed to protect all plant species within the United States. The pest risk assessments of APHIS consider the risk from all plant pests. Most introductions of plant pests have occurred on hosts of economic concern due to the demand for commodities imported with economic value and the tendency of destructive plant pests to occur with these commodities. Although pest risk assessments can address only the known potential risks, the introduction of other plant pests of unknown risk is anticipated to be relatively low compared to those with known pest risk. The current limitations of the phytosanitary regulations to achieve adequate protection for all plants are not changed by the revised Convention. Although the potential risk of undesirable introductions of plant pests is likely to increase with greater world trade, the revised Convention provides the means for each NPPO to design phytosanitary regulations to protect their plant resources.

Comments were also directed at concern about the risks from invasive weed species. The regulations of APHIS to deal with noxious weeds are not altered by the revised Convention. The limited ability to detect invasive and noxious weed seeds in cargo inspections constrains the effectiveness of these exclusion programs. Although the potential risk of undesirable introductions of invasive weeds is likely to increase with greater world trade, the risks of introduction on a per unit cargo basis are no greater under the revised IPPC than the current Convention.

3. Environmental Quality

The approval of the revised Convention poses no direct impacts to air, soil, or water quality. The potential of the revised Convention to exclude undesirable plants and plant pests allows the present ecosystem balances to prevent erosion, maintain present air and water quality, and eliminate the need to destroy infested host plants through practices such as chemical treatment and incineration. The revisions to the Convention do not diminish the ability of APHIS to exclude these introductions, and the Convention allows APHIS to prevent adverse effects to environmental quality through regulations. If an undesirable plant or plant pest is introduced, APHIS could take the same actions that it would take under the current Convention. The potential impacts to environmental quality from the actions taken under the revised Convention would not differ from those taken under the current Convention.

B. No Action

Continuation of the current Convention (maintenance of the status quo) would result in the same environmental effects that are presently noted on an occasional basis. Adverse effects could actually increase commensurate with increases in the demand for movement of the regulated commodities. The continuing impacts from the current Convention are anticipated to exceed the impacts anticipated from the approval of the revised IPPC because the present requirements are less rigorous and the pest risks associated with increasing world trade are expected to make the standards for the current Convention inadequate to control and prevent the spread of harmful plant pests. The ability of APHIS to regulate and exclude plant pests is presently hampered by differences in phytosanitary standards of different countries. This has required APHIS to consider carefully the phytosanitary standards of each country individually. Continuation of the current Convention does not alleviate the regulatory problems created by a lack of common standards for phytosanitary regulations. The approval of the revised Convention does help to provide a framework for common standards for phytosanitary regulations of all participating countries. This approval could ease the current need for separate reviews of phytosanitary regulations of other countries.

IV. Conclusions

This environmental assessment analyzes the alternatives of (1) approval of the revised International Plant Protection Convention, and (2) no action. Each of these alternatives was determined to have potential environmental consequences. Approval of the revised IPPC, in general, is not expected to result in any change in impacts of APHIS' exclusion and control efforts. Although approval of the revised IPPC would not affect the substantive actions of APHIS to control and prevent the spread of harmful plant pests, there would be new procedural requirements for phytosanitary regulatory actions. In addition, the enhancement of trade would be anticipated to increase the amount of future regulatory effort at APHIS to address phytosanitary risks.

Approval of the revised convention will not significantly impact the quality of the human environment. The environmental consequences to human health, nontarget species, and environmental quality are not substantially different from those under the current convention. The impacts from this regulatory change are indirect and depend primarily upon the ability of APHIS to exclude plant pests. The required clarification of domestic phytosanitary regulations of other signatory nations may actually assist APHIS in excluding some plant pests and, therefore, prevent some potential adverse environmental impacts. The environmental process of pest exclusion facilitated by the revised Convention is entirely consistent with the principles of "environmental justice" as expressed in Executive Order 12898. The lack of significant impact from the approval of the IPPC negates the need to prepare an environmental impact statement.

V. Listing of Agencies, Organizations, and Individuals Consulted

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