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New York in the News

New York Joins In Suit Against Invasive Insects

A coalition of four states has sued the U.S. Department of Agriculture (USDA) for failing to impose effective controls against destructive insects that enter the country in shipping pallets and other wooden packaging. A new rule issued by the USDA requires the use of a marginally effective pesticide that damages the environment and is being phased out of use under an international treaty.

The states of New York, California, Connecticut and Illinois filed the lawsuit, which seeks a court order directing the USDA to examine more effective and less environmentally harmful methods of preventing the insects from entering the country.



Invasive insect pests - - such as the Asian long-horned beetle, emerald ash borer, and pine shoot beetle - - enter the country in wooden pallets and other packaging made from raw wood. These pests have caused significant damage to trees in New York City, Long Island, Chicago and other communities. Thousands of trees have been destroyed in an effort to prevent the spread of these pests, which have few local predators or diseases to kill them. If these destructive insects spread from U.S. ports of entry into the nation's forests, they could further damage the timber, tree nursery, fruit orchard, maple syrup, and tourism industries.

At the heart of the lawsuit is USDA's failure to comply with a federal law requiring it to study alternatives to any proposed action having an impact on the environment. Under the new rule, wooden shipping pallets and other wood packaging materials used in any imports to the country are to be heat treated or sprayed with methyl bromide to kill the insects.



The coalition says that neither method, however, is completely effective at killing the insects, which may survive by burrowing deep into the wood. In addition, methyl bromide is the most powerful ozone-depleting chemical still in widespread use, and is being phased out of use under the terms of an international treaty targeting substances that damage the ozone layer, which protects humans from harmful ultraviolet radiation that can cause skin cancer, cataracts and immunological disease.

Replacing raw wood pallets with pallets made from other material, such as plywood, processed wood or new or recycled plastic, would largely eliminate the risk of pest invasion and would avoid harm to the ozone layer since the alternative packaging materials do not require methyl bromide treatment.

[Pest Control](#)

New York Attorney General Eliot Spitzer said, "It is difficult to understand why the states must resort to a lawsuit in this matter when both the law and common sense dictate that the USDA seek more effective and less environmentally damaging alternatives to thwarting these invasive pests."

In 1999, the USDA acknowledged the need to find a long-term solution to the problem of pests in solid wood packaging, recognizing that fumigation was not fully effective and was harmful to the environment. Yet, in issuing the rule challenged today, USDA did not even examine phasing out solid wood packaging -- what it earlier deemed to be the more effective alternative.

The case was filed in the United State District Court for the Southern District of New York and is being

handled by Assistant Attorneys General Peter Lehner and William Dornbos in the New York State Attorney General's Environmental Protection Bureau. Copies of the complaint can be found on the New York Attorney General's website at: www.oag.state.ny.us