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Introduction

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Overview

Definition

The International Standard for Phytosanitary Measures No. 5 of the International Plant Protection Convention (IPPC) defines official control as “the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.” This definition refers to regulated pests in an importing country that are present but not widely distributed.

USDA-APHIS-PPQ is basing the Federally Recognized State Managed Phytosanitary (FRSMP) Program on the guidelines for the application of official control as outlined in [ISPM No. 5 Supplement No. 1](#). In addition to eradication and containment programs, USDA-APHIS-PPQ will recognize programs that exclude a pest based on the same criteria. States will be required to provide evidence that introduction of a pest presents an economic or environmental risk and that they take phytosanitary action domestically, thereby justifying equivalent action at ports of entry for the protection of the endangered area.

Purpose

The purpose of the FRSMP Program is for APHIS-PPQ to recognize State programs to eradicate, exclude, or contain any plant pest that is not eradicated or contained by APHIS-PPQ. Through this program, APHIS-PPQ will recognize State quarantines at ports of entry.

As per the guidance of the IPPC, shipments containing pests under recognized state management will be subject to equivalent phytosanitary requirements in domestic and foreign commerce.

Users

Users of the FRSMP Program Manual may include the following:

- ◆ State Plant Regulatory Officials
 - ◆ Official Control Advisory Panel
 - ◆ PPQ Policy Management Staff
 - ◆ PPQ Field Operations Staff
 - ◆ Department of Homeland Security, Customs and Border Protection personnel
-

Scope

This manual applies to the whole process that may be adapted and used by PPQ for the following:

- ◆ Recognition of State managed phytosanitary programs
 - ◆ Detection of plant pests under recognized State management at ports of entry
-

Authorities and Related Documents

- ◆ [Manual for Agricultural Clearance](#) (Internal Use Only)
- ◆ [Plant Inspection Stations Manual](#)
- ◆ [Plant Protection Act 2000](#)
- ◆ [PPQ Treatment Manual](#)
- ◆ [7 CFR 330.106](#)
- ◆ [Job Aids](#)
- ◆ [State laws and regulations](#)
- ◆ [International Plant Protection Convention](#)
- ◆ [The World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures](#)

How to Use the Manual

Review the contents of this manual to get a feel for the scope of material covered. Glance through the section that you'll be using, and familiarize yourself with the organization of the information.

Use the table of contents for each section to find the information you need. If the table of contents is not specific enough, then turn to the index to find the topic and its page number.

Keeping Your Manual Current

The most up-to-date version of the FRSMP Program Manual will always be available on line at the [PPQ Manuals Unit web site](#).

Transmittals

This manual and its subsequent revisions will be accompanied by transmittal announcements. These will be numbered consecutively— allowing you to know if you've missed something.

Knowing What's Revised

Except for changes to the Index, revisions will be marked with change bars (vertical lines).

Your Responsibilities

Read all revisions when you receive the transmittal announcement.

Conventions

Conventions are established by custom and are widely recognized and accepted. Major conventions used in this manual follow.

Boldfacing

Boldfaced type is used to highlight negative or important words throughout the manual. Examples of these words include: **not, do not, except, never, other than.**

Bullets

Bulleted lists indicate that there is no order to the information listed.

Table of Contents

Chapter sections include a table of contents that lists the heading titles.

Control Data

Information placed at the top and bottom of each page helps users to keep track of their location in the manual. At the top of the page is the chapter, section, and first-level heading. At the bottom of the page is the month, year, manual transmittal number, title, page number, and unit responsible for content.

Heading Levels

Each section contains three headings. The first heading is indicated by a horizontal line followed by the title which continues across both the left and right columns. The second heading is in the right-hand column with the text beginning below it. The third heading is in the left-hand column and used to easily scan topics.

Hypertext

Blue colored hypertext indicates an active link to another section of the manual, E-mail address, or web site.

Numbering Scheme

A two-level numbering scheme is used to indicate pages, tables, and figures. The first number represents the chapter. The second number represents the page, table, or figure. This numbering scheme allows for easier updating and adding pages.

Policy

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Purpose

The purpose of this chapter is to communicate APHIS-PPQ's policy for the recognition of State managed phytosanitary programs. We are establishing this policy through regulatory authority provided by Section 411 and 414 of the [Plant Protection Act \(PPA\)](#) (7 U.S.C. 7711) and to maintain a consistent safeguarding and trade policy by alignment with [International Standard for Phytosanitary Measures \(ISPM\) No. 5](#), Supplement No.1, Guidelines on the interpretation and application of the concepts of "official control" and "not widely distributed."

The purpose of the Federally Recognized State Managed Phytosanitary Program (FRSMP) is to provide federal recognition of official control programs implemented by States to eradicate or contain a plant pest that is otherwise not regulated through a federal domestic program by APHIS-PPQ. State-managed programs that exclude a pest from a State where it is not present and where economic or environmental harm would result from its introduction may also qualify for consideration.

Background

Under the Plant Protection Act, as amended (PPA, 7 U.S.C. 7701 et seq.), the Secretary of Agriculture is authorized to take such actions as may be necessary to prevent the introduction and spread of plant pests and noxious weeds within the United States. The Secretary has delegated this responsibility to the Administrator of the Animal and Plant Health Inspection Service (APHIS).

While the Secretary has the authority to regulate all plant pests, the Secretary has chosen to narrow the scope of the plant pests that require action at the U.S. ports of entry to be consistent with international obligations.

As a contracting party to the [International Plant Protection Convention \(IPPC\)](#)¹, the United States has agreed to observe the general and specific principles of the convention as they relate to international trade. One such general principle provides that “countries shall institute restrictive measures only where such measures are made necessary by phytosanitary considerations, to prevent the introduction of quarantine pests.” Accordingly, there is an expectation on the part of other contracting parties to the IPPC (i.e., our trading partners) that APHIS would not exercise its authority under the PPA to prohibit or restrict the importation of a plant, plant product, or other article unless such action was necessary to prevent the introduction of a quarantine pest.

The IPPC’s “[Glossary of Phytosanitary Terms](#)” defines quarantine pest as “a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.” While the first consideration (“a pest of economic importance ... not yet present there”) may be readily understood, the concept of “official control” is subject to further definition. Specifically, the IPPC defines official control as “The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.” A regulated non-quarantine pest is defined as a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party.

¹ The IPPC is recognized as the standard-setting body for international phytosanitary issues in the [World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures](#).

Under the FRSMP Program, PPQ will be responsible for policies regarding port inspections that restrict commodities infested with a particular pest destined for protected States. State partners will be responsible for collaborating on a common program for each pest, establishing eradication, control, or exclusion programs and petitioning for federal recognition of those programs.

[7 CFR part 330.200](#) et seq. requires a plant pest permit to be issued by APHIS before any pest may be imported into or moved interstate within the United States. [7 CFR part 330.106](#) specifies that APHIS may take remedial measures at a port of entry if a plant pest is detected on a commodity and no such plant pest permit has been issued.

Upon implementation of the program, PPQ will regulate FRSMP Program pests at ports of entry under [7 CFR part 330.106](#). PPQ will enter into a Cooperative Arrangement (CA) with a State upon recognition of its program, to which subsequent FRSMP Program pests will be added. Phytosanitary requirements for interstate commerce into FRSMP States will be equivalent to those expected from foreign trading partners. Using the CA, APHIS will confer to a Federal Collaborator authority under sections 414 and 421 of the PPA. The CA will document the federal recognition of a state managed phytosanitary program and will formalize the relationship between APHIS and a recognized state partner. It will define responsibilities of both parties and designate a state cooperator as a “Federal Collaborator” with the responsibility to carry out federal actions in very specific defined circumstances relative to the federal role in the recognized phytosanitary program. APHIS **does not** confer any authority under the Plant Protection Act not specifically outlined in the CA and is not conferring authority under any other statute administered by APHIS, including the authority to establish and collect fees.

When a pest is detected at a U.S. port of entry, APHIS-PPQ will establish complementary regulatory policies to prevent movement of the pest in imported commodities and/or conveyances arriving in States where a FRSMP Program is in place for that pest. APHIS-PPQ will also consider programs that exclude a pest from a State where it is not present, and where economic or environmental harm would result from its introduction. This additional consideration is supported by the [ISPM No. 5 Supplement 1 Guidelines](#) on the interpretation and application of the concepts of “official control” and “not widely distributed” under “Requirements,” which states “...official control includes restrictions related to movement into and within the protected area(s) including measures applied at import.”

Any State(s) that can justify that they would be economically or environmentally endangered by the introduction of a particular pest can apply for the designation “protected area” if the pest is not present or if present, is being officially contained or eradicated. APHIS-PPQ has discretionary authority to recognize State phytosanitary programs under the [Plant Protection Act of 2000](#) (PPA). The [International Plant Protection Convention](#) (IPPC) includes provisions for the implementation of official control programs (eradication or containment) by sub-national authorities such as States, provided such programs are officially authorized and audited by the National Plant Protection Organization (NPPO). APHIS-PPQ is the NPPO for the United States.

Following initial implementation of the program, APHIS intends to amend 330.200 et seq. to establish a general plant pest permit for all FRSMP pests. The list of FRSMP pests covered by this permit, and the restrictions upon their movement within the United States, will be maintained online. Following establishment of such a permit, whenever we approve an additional State petition for a FRSMP pest, we will amend the general permit accordingly. This permit, which we will issue pursuant to Section 411 of the PPA, will provide an additional regulatory structure to codify actions taken by APHIS under the FRSMP program.

Policy

For recognition of FRSMP programs, PPQ intends to accept petitions (one common petition for each pest) from interested States, review the petitions, and make decisions based on the established criteria and standards. PPQ will notify the States of the decision. If PPQ accepts the FRSMP program, PPQ will establish a policy to take action at U. S. ports of entry for such pests arriving in a State with a FRSMP program for that pest. PPQ will regulate pests in federally recognized programs to the State level at ports of entry. PPQ will continue its policy to take action on pests that are pending review under the FRSMP Program, but this status will change when:

1. An FRSMP program is established and recognized,
2. States have expressed no interest in a FRSMP program, or
3. States are unable to establish an FRSMP program that meets international requirements and PPQ cannot justify continued action.

Definitions

Refer to the [Glossary](#) for definitions.

Process

Refer to the following topics:

- ◆ [Petition Guidelines](#)
- ◆ [Official Control Advisory Panel Charter](#)
- ◆ [Quality Assurance Guidelines](#)
- ◆ [FRSMP Program Process at Ports of Entry](#)

Alternate Petition Process for PPQ-initiated FRSMP Program Decisions

The PPQ FRSMP Program Coordinator will identify actionable pests that may be considered for State managed phytosanitary programs because they have been established in the United States, are not widely distributed, and are not under official control by APHIS-PPQ. Within the PPA, section 414 authorizes the Secretary to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that, among other things, is moving into the United States and that the Secretary has reason to believe is infested with a plant pest or noxious weed at the time of the movement. Under this authority, consignments of imported articles are inspected at the port of entry to determine whether plant pests are associated with them and, if so, prescribe remedial measures as described in the Act. APHIS typically refers to such measures as “taking action” at the port of entry to prevent a plant pest from being introduced into or further disseminated within the United States. Pests that are subject to such actions are referred to as “actionable pests.” PPQ will continue to take action for pests with limited distribution under this authority.

PPQ will reconsider the actionable status of these pests pending a decision for a State managed phytosanitary program by presenting pest risk information to the National Plant Board periodically throughout the year. If no State Plant Regulatory Official (SPRO) is interested in a state-managed phytosanitary program, action will no longer be taken at ports of entry for that pest. When a State or States indicate interest in a phytosanitary program for a particular pest, the pest will remain actionable until APHIS-PPQ and the interested States have concluded analyses leading to a FRSMP petition.

If none of the States petition for a FRSMP program, PPQ will stop taking action on that pest at ports of entry.

Approved Programs

Approved programs will be subject to audit/monitoring requirements. State Departments of Agriculture will assure program data is entered into the appropriate database and will be required to submit annual reports.

Preclearance

PPQ Preclearance Work Plans will include options for remedial action when a FRSMP Program pest is detected upon inspection in the exporting country.

Cooperative Arrangement (CA)

Upon approval of a petition, program States (Cooperators) will enter into a CA with USDA-APHIS-PPQ. The CA will define the terms under which the States and PPQ will take action on FRSMP Program pests and mitigation methods to be applied.

States may join an existing FRSMP pest program through a petition agreeing to established terms.

Provisional FRSMP Status

Under the authority of the Plant Protection Act, USDA APHIS has the discretion to implement “provisional” FRSMP program status for a phytosanitary pest upon receipt and preliminary review of a State’s FRSMP petition. If USDA APHIS decides to implement provisional FRSMP program status for a phytosanitary pest, USDA APHIS may require remedial action on that pest when detected arriving in, or that is destined to, the petitioning State(s) during the period that USDA APHIS is finalizing its review of that State’s FRSMP petition. However, Federal Collaborator status will not be conferred to a petitioning state agency until the petition is formally approved, which means no federal authority will be delegated to a state to act upon the proposed FRSMP Program pest during the pest’s “provisional” status.

The “provisional” FRSMP program status for a phytosanitary pest will not exceed sixty days from the implementation of that “provisional” status unless APHIS determines it should be extended and the requesting state wants such status extended. Likewise, APHIS may determine at any time that the “provisional” status be extended or withdrawn as necessary. For example, APHIS may extend a “provisional” status when a State is requested to submit subsequent information regarding their specific FRSMP petition. A “provisional” status may be withdrawn if the petition is denied, when a State notifies USDA APHIS of its intent to withdraw from the petition process, when a State fails to complete the petition within the agreed upon time schedule, or a State no longer wants APHIS to take any control action against a specific phytosanitary pest.

Termination

- ◆ States shall notify the FRSMP Program Coordinator of a decision to terminate an approved program
- ◆ APHIS PPQ may terminate Federal recognition of a program for non-performance after discussions with State Partners

Notice to Industry and Trading Partners

When PPQ’s FRSMP Program becomes operational, PPQ will submit a Federal Register Notice, followed by a World Trade Organization Notice. The APHIS Stakeholder Registry will provide notification of new approved petitions to those subscribed as requesting notices of official control/FRSMP. PPQ will also issue a SPRO Letter. PPQ will post all programs and related information to the public on the [FRSMP Program Web site](#). State programs will be identified as for containment, eradication, or exclusion in order to indicate pest presence or absence.

Inquiries

Direct inquiries to FRSMP@aphis.usda.gov

Procedures

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Steps for Completing a FRSMP Program Petition

1. The State Plant Regulatory Official (SPRO) will notify the National Plant Board (NPB), who will canvas for other interested SPROs and notify the originating SPRO of potential partners.
2. The originating SPRO will partner with other interested SPROs and collaborate on a common petition¹.
3. APHIS will accept regional or multi-state applications based on the template of the sponsor state, with supporting information that is unique to each state joining the sponsor.
4. The originating SPRO will submit the completed petition to the NPB.
5. The NPB will forward the petition to the Plant Protection and Quarantine (PPQ) Deputy Administrator and the FRSMP Program (FRSMP@aphis.usda.gov).

¹ For emergency situations, the originating SPRO should contact the NPB President. The NPB will work with originating SPRO to fast track a petition on a case by case basis depending on the circumstances

For SPROs to join an existing FRSMP program, there are two options:

1. Agree to follow detection and control process in a recognized petition, submitting addendum with new parts relevant to joining state (absence or limited distribution, potential pathways of introduction, potential economic/environmental impact, state regulations).
2. In addition to adding the above information, renegotiate detection and control terms, with approval from participating recognized parties.

Petition Guidelines

These guidelines describe procedures established by the Animal and Plant Health Inspection Service, Plant Protection and Quarantine (APHIS-PPQ) to petition the Agency for official recognition of State-level plant pest regulations and associated actions. This program contributes to the accomplishment of USDA-APHIS Mission Priority #1 to strengthen safeguarding systems domestically and in other countries, and Mission Priority #3 to facilitate safe agricultural trade through effective management of sanitary and phytosanitary issues, as stated in the APHIS Strategic Plan (2007-2012).

International Framework

As a member of the [World Trade Organization \(WTO\)](#) the U.S. agrees to observe the provisions of WTO agreements, including the [Agreement on the Application of Sanitary and Phytosanitary Measures \(the SPS Agreement\)](#). APHIS-PPQ is the U.S. Agency with primary responsibility for the implementation of phytosanitary measures. As such, PPQ is also responsible for provisions of the Agreement related to phytosanitary measures, including those implemented in the U.S. by other than the national government. PPQ's role in this regard is to ensure that these entities comply with relevant provisions of the Agreement and do not take measures which are, directly or indirectly, inconsistent with the provisions of the Agreement. Further clarification of the role of PPQ under the SPS Agreement is provided by the [International Plant Protection Convention \(IPPC\)](#) and associated international standards. The IPPC is specifically identified by the SPS Agreement as holding the responsibility for standard setting associated with phytosanitary measures.

Under the IPPC's International Standards for Phytosanitary Measures [ISPM No. 5](#), Supplement No.1, a national government or a National Plant Protection Organization (NPPO) should establish or recognize Official Control under appropriate legislative authority. The national government or NPPO should perform, manage, supervise, or at minimum, audit/review the Official Control program and ensure its enforcement. Agencies other than the NPPO may be responsible for aspects of official control programs, and certain aspects of official control programs may be the responsibility of sub-national authorities.

Regulatory Conditions For Implementation

APHIS-PPQ has the primary authority and responsibility for phytosanitary measures associated with preventing the introduction and spread of exotic plant pests. In instances where a plant pest has become established in the United States but APHIS-PPQ decides not to take regulatory actions or establish regulatory programs, States may take actions and establish programs domestically. APHIS-PPQ can officially recognize these programs as the basis for taking regulatory actions at ports of entry which are consistent with the intent of the State-managed program.

There are two situations where States may apply for Federal recognition of their phytosanitary programs. When APHIS-PPQ does not regulate a plant pest of limited distribution in the United States:

1. A State that has that pest within its own borders may implement procedures to contain or eradicate the plant pest or to contain the plant pest within its borders.
2. A State **without** that pest may implement procedures to exclude the pest in order to prevent the risk of introduction of the plant pest within its borders.

Should a trading partner challenge APHIS-PPQ's import requirements based on the presence of a regulated pest in the United States, APHIS-PPQ may encourage a State where that pest occurs to establish a State Managed Phytosanitary Program. Such a program recognized by APHIS-PPQ can provide the justification for consistent actions against the same pest when found with imports at ports of entry.

Without Federal recognition of a State Managed Phytosanitary Program, the pest's regulatory status when found with imports may change from actionable to non-actionable, i.e. no action will be taken if the pest is detected at ports of entry. Establishing a State Managed Phytosanitary Program that is officially recognized by APHIS-PPQ ensures that action will be taken at ports of entry if the imported article is destined to a recognized State and avoids potential discrimination claims by trading partners.

To obtain a program's designation as a FRSM Program, States (through the National Plant Board) must petition APHIS-PPQ to recognize their established or proposed programs to exclude, eradicate or contain a regulated plant pest.

Petition Procedures for Quarantine Pests

The State should provide the following supporting information and documentation:

Presence

Evidence that the pest does not exist in the State, or if it does exist, that it is being contained or there are programs in place for eradication. Include appropriate survey data, define the infested area(s), endangered area(s), and protected area(s), and the procedures used for establishing containment (including exclusion) or eradication.

Possible Entry and Establishment

Evidence that the pest could enter and become established in the State, or if it already exists in the state, that it could become widespread.

Economic/Environmental Harm

Evidence that the pest could cause economic and/or environmental harm in the State.

Maintenance/Verification

A description of the State actions used to maintain and monitor for pest freedom, limit distribution, or containment (including exclusion) including a description of monitoring programs.

Quarantine Regulations

A copy of the State, local or tribal quarantine regulations that provide for enforcement of the appropriate programs.

Petition Procedures for Regulated Non-Quarantine Pests (RNQP)

The State should provide the following supporting information and documentation.

Economic Harm/Vulnerability

Evidence that a particular pest could cause significant harm to plants for planting if the pest was not managed through a certification program.

Quarantine Regulations/Testing

Evidence that the State has regulatory authority and a program established to manage the levels of the pest in plants for planting that are the hosts for the pest and a copy of the State, local or tribal quarantine regulations that provide for the enforcement of a management program, and testing protocols. Provide a description of recent State actions taken under these regulations and the testing protocols used in the program.

Management/Verification

A description of State actions to manage the level and/or verify producers' management of pest in the plants for planting, where the pest is maintained below a level that can affect production, health, or marketability of plants for planting and cause an unacceptable economic impact to those plants.

Where to Send a Petition

Please send your Petitions for Federal recognition of a state managed phytosanitary program for both quarantine and regulated non-quarantine pests, or your questions regarding the program, to FRSMP@aphis.usda.gov.

Administrative Requirements

APHIS-PPQ will require State Plant Regulatory Officials, to commit, in writing, the willingness to allocate resources necessary to implement and maintain the program. State Plant Regulatory Officials will identify the State's authority by citing the relevant regulations. State Plant Regulatory Officials will provide a description of how to implement the program, such as surveys, inspections, and compliance agreements.

Criteria Used to Evaluate the Petition

Refer to [Appendix D](#) for criteria for the recognition of State-managed phytosanitary programs.

Port of Entry Guidelines

Refer to the [Manual for Agricultural Clearance](#) and the Plant Inspection Stations Manual.

Quality Assurance Guidelines

Refer to Chapter 5, [Quality Assurance](#) on page 5-1.

Audit/Review Guidelines

APHIS-PPQ will audit programs every three years for survey and monitoring in order to confirm compliance. Any non-compliance must be addressed appropriately.

Program Termination

Programs may be terminated for these reasons:

- ◆ Cancellation by States
 - ◆ Noncompliance
-

Definitions

Refer to the [Glossary](#) for definitions.

Roles and Responsibilities

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Center for Plant Health Science and Technology (CPHST)

- ◆ Share risk information as available and as requested
- ◆ Evaluate proposed pests for environmental/economic risk
- ◆ Evaluate and report on pests for the collaborative PPQ/NPB effort – Deregulation Evaluation of Established Pests (DEEP) process
- ◆ Review petition as OCAP member
 - ❖ Recommend approval or denial

Customs and Border Protection (CBP)

- ◆ Inspect commodities as per [Manual for Agricultural Clearance](#) (MAC)
- ◆ Process interceptions as per MAC
- ◆ Take action as per MAC

Export Services (ES)

- ◆ Evaluate a proposed pest for export concern

Information Services & Manuals Unit (ISMU)

- ◆ Maintain FRSMP Program Manual
- ◆ Update [MAC](#), Plant Inspection Stations Manual, [Treatment Manual](#), and other manuals or job aids relative to FRSMP Program revisions

International Phytosanitary Standards Group

- ◆ Collaborate on issues involving FRSMP Program and [International Plant Protection Convention \(IPPC\)](#)/[North American Plant Protection Organization \(NAPPO\)](#)

National Coordinator

- ◆ Consultation
 - ❖ Obtain information for State Plant Regulatory Official (SPRO) for a potential FRSMP Program pest, if contacted
 - ❖ Discuss suitability for FRSMP Program with SPRO, if contacted
- ◆ Track and propose potential FRSMP Program pests whose quarantine status requires re-evaluation
- ◆ Work with ISMU to update FRSMP Program manual and other relevant manuals
- ◆ Coordinate the processing of petitions
- ◆ Review petition as Official Control Advisory Panel (OCAP) chair
- ◆ Recommend approval or denial
- ◆ Obtain and maintain audit results
- ◆ Communicate and coordinate pest and program information within PPQ, with other APHIS/USDA/Federal groups, and stakeholders in State Departments of Agriculture, industry, academia, and non-governmental organizations
 - ❖ Coordinate with CPHST and ES to determine economic and environmental risk categorization for potential FRSMP Program pests
 - ❖ Coordinate with CPHST and NIS to present pests for National Plant Board concurrence in the DEEP process
 - ❖ Field importer questions concerning FRSMP Program as needed

National Identification Services (NIS)

- ◆ Provide port of entry information on pests
- ◆ Consult with SPROs as requested
- ◆ Review petitions as OCAP member
- ◆ Recommend approval or denial
- ◆ Field importer questions concerning FRSMP Program as needed

National Operations Manager

- ◆ Consultation
 - ❖ Obtain information for SPRO for a potential FRSMP Program pest, if contacted
 - ❖ Discuss suitability for FRSMP Program with SPRO, if contacted
- ◆ Review petition as Official Control Advisory Panel (OCAP) member
 - ❖ Recommend approval or denial
- ◆ Oversee audit of a recognized program
 - ❖ Join periodic site visits, as determined
 - ❖ Review program records
 - ❖ Consult with National Coordinator
- ◆ Cooperate with States on actions needed on commodities that may still be in foreign commerce, as per terms of the Cooperative Arrangement

National Plant Board (NPB)

- ◆ Consultation
 - ❖ Discuss/assist in evaluation of a candidate pest
- ◆ Clearing house role
 - ❖ When approached by SPRO interested in a program for a pest, solicit interest from members
 - ❖ When approached by PPQ to evaluate a pest for FRSMP Program or to decline to regulate, solicit interest from members

Phytosanitary Issues Management (PIM)

- ◆ Identify trade concerns to National Coordinator for follow up

Plants for Planting Import and Policy

- ◆ Review proposed and final FRSMP pest lists to determine if there are any impacts on PRAs/market access requests that are currently in development
- ◆ Determine whether actions may be needed on PRAs from the past (which support existing market access)

PPQ Deputy Administrator

- ◆ Review OCAP recommendation
- ◆ Approve or deny an evaluated petition

PPQ Identifiers

- ◆ Inform CBPAS or PPQO that pest has FRSMP Status
- ◆ Communicate to CBPAS or PPQO the list of participating States that the importer must avoid or redirect (available at <http://www.aphis.usda.gov/frsmp>)
- ◆ Advise CBPAS or PPQO that CFR regulation for EAN block 16 is [7 CFR 330.106](#)

PPQ Officers

- ◆ Check target shipment ID numbers when in the marketplace in relevant program States, as assigned by SPHD
 - ❖ If target shipment ID found, issue Emergency Action Notification (EAN), notify SPHD
- ◆ If any inspection results in interception of a FRSMP program pest in a FRSMP program State, notify SPHD

Professional Development Center (PDC)

- ◆ Instruct CBP participants on FRSMP Program in CBP Agricultural Quarantine Inspection Training
- ◆ Instruct PPQ participants on FRSMP Program in position related training

State Plant Health Directors (SPHDs)

- ◆ Consultation
 - ❖ Obtain information for SPRO for a potential FRSMP Program pest, if contacted
 - ❖ Discuss suitability for FRSMP Program with SPRO, if contacted
 - ❖ Consult with tribal nations as needed
- ◆ Assist National Coordinator with audit of a recognized program
 - ❖ Join periodic site visits, as requested
 - ❖ Assist in the review of program records, as requested by Field Operations
 - ❖ Consult with National Coordinator, as requested
- ◆ Act as Authorized Departmental Officer's Designated Representative (ADODR) for the Cooperative Arrangement with program States
- ◆ Notify SPRO, Field, and National Coordinator if pest is detected by SITC or other PPQ field staff
 - ❖ If in domestic commerce, PPQ role is ended
 - ❖ Work in conjunction with Federal Collaborator as needed on commodities that may still be in foreign commerce, as per terms of the Cooperative Arrangement

State Plant Regulatory Officials (SPROs)

- ◆ Decide what pest to consider
- ◆ Evaluate the pest for a State-managed program
- ◆ Contact Plant Protection and Quarantine (PPQ) staff for discussion or to request information if desired – for example:
 - ❖ State Plant Health Director
 - ❖ National Operations Manager
 - ❖ National Identification Services
 - ❖ National Coordinator for Official Control
- ◆ Consult with Regional Plant Board/National Plant Board/Tribes
- ◆ Collaborate with other SPROs
- ◆ Design a State-managed program, conscious of non-discrimination & equivalency requirements for material moving in foreign trade
- ◆ Complete a petition
- ◆ Manage a recognized program
- ◆ Serve as or appoint Federal Collaborator
- ◆ Assure reporting requirements to PPQ are met

Federal Collaborators

See the [Statement of Work for Federal Collaborators](#) on page A-15.

Quality Assurance

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Domestic Agricultural Quarantine Inspection (AQI) Review Process

The Domestic AQI Review Process for the Federally Recognized State Managed Phytosanitary (FRSMP) Program is described below.

State Plant Health Directors (SPHDs) in FRSMP Program States Receive Advisory

1. The Data Management and Analysis Program (DMA) generates a canned report/advisory.
2. The report/advisory goes to the SPHDs of States with FRSMP Program for pests that have entered the U.S. The report/advisory should be automatically generated to all intended recipients so as not to rely on email.

SPHD Delegates to Supervisor

The SPHD may evaluate and assign directly or delegate that task.

1. In cooperation with the State, the SPHD will consider the importance of the pest to that State.
2. The SPHD or supervisor will consider the PPQ workload.

Supervisor Evaluates Workload

1. The SPHD/supervisor evaluates the workload for his/her staff.
2. Each SPHD/supervisor in each office in each FRSMP State location makes an independent decision relevant to his/her particular staff.

3. The SPHD or supervisor may take into account a daily assignment that may be in markets or nurseries where officers could easily add on the task, checking the advisory in places they are already assigned.

After evaluating staffing levels and current assignments, the supervisor will decide to:

- ◆ **Not** check for FRSMP advisory, **or**
- ◆ Assign the advisory to officers

If the supervisor assigns the advisory to officers, the following considerations apply:

- ◆ The supervisor may assign officer to “be on the lookout” for the FRSMP ID information in the advisory
- ◆ The supervisor reports negative/positive result to SPHD chain and HQ (simple email is satisfactory)
- ◆ A positive find requires an Emergency Action Notification (EAN) and is reported to the SPHD for follow-up
- ◆ The SPHD will refer the situation to the SPRO for action

Port of Entry AQI Review Process

The Port of Entry AQI Review Process for the Federally Recognized State Managed Phytosanitary (FRSMP) Program is described below.

State Plant Health Directors (SPHDs) in FRSMP Program States and National Coordinator Receive Advisory

1. The Data Management and Analysis Program (DMA) generates a canned report/advisory.
2. The report/advisory goes to the SPHDs of States with FRSMP Program for pests that have entered the U.S. The report/advisory should be automatically generated to all intended recipients so as not to rely on email.

National Coordinator Compares Pest ID and EAN Records

1. National Coordinator compares number of Pest ID database records against EAN database records.
2. National Coordinator identifies gaps between the two databases
3. National Coordinator reviews Pest ID records and looks for notes in Remarks section that explain the discrepancy.
4. National Coordinator communicates findings to the National Operations Manager/PEQ Coordinator and the SPHD of the State with the FRSMP Program.

DEEP Process Guide for State Plant Regulatory Officials

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Introduction

The DEEP (Deregulation Evaluation of Established Pests) process is described in the APHIS-PPQ FRSMP [Policy](#) chapter as an alternate petition process, initiated by PPQ (see [page 2-5](#)). APHIS-PPQ is seeking to harmonize import and interstate commerce requirements for these pests to ensure that actions taken at ports of entry are consistent with actions taken domestically for the same pests and pathways.

Process

APHIS-PPQ will send eight or more DEEP reports to the National Plant Board President and Executive Secretary approximately 3 times a year, close to January 1, April 1, and October 1. The number of pests and how often we present them may vary based on how many qualify for the process at the time of each submission period. The pests have been reviewed and evaluated by APHIS-PPQ's Export Services before being analyzed for biology, distribution, and economic and environmental risk by the Center for Plant Health Science & Technology's Plant Epidemiology and Risk Analysis Laboratory. National Identification Service provides a port of entry report which contains statistics requested by the National Plant Board's Board of Directors for all interceptions in foreign commerce going back 5 years.

The requested turn-around time for a response is 60 days. The National Plant Board leadership distributes the DEEP reports for your review, collects your responses if any, and replies to APHIS-PPQ.

DEEP Review Pests

DEEP review pests are pests that APHIS-PPQ has decided not to regulate domestically. APHIS-PPQ has made the decision not to establish regulatory programs for certain established pests, but they remain actionable for a period of time as PPQ evaluates the distribution and impact of the pests, and considers the potential for domestic measures, including FRSMP Programs. Based on the agriculture and economics of your state, and the feasibility of applying effective exclusionary measures, you may determine that a FRSMP Program is appropriate for your State. The FRSMP Program Manual contains guides to assist you in determining if the FRSMP Program is the right choice for your State. See [Appendix E – Analysis Aid for States](#). After the DEEP review concludes, States will have an open period of fourteen months to petition for a FRSMP program (two months to declare intent to petition and twelve months to submit petition). Pests will remain actionable at ports of entry during this period.

Bang for the Buck

A major consideration whether the FRSMP Program is right for your State is whether a particular pest is ever detected at ports of entry (see [page E-4](#)). The benefit States receive from participating in the FRSMP Program is protection at ports of entry. If that benefit is never realized, it would **not** behoove States to inconvenience themselves with the extra requirements and expense of the FRSMP Program. States may wish to independently establish external quarantines to address any potential domestic pathways.

Submitting Documentation

If you believe APHIS-PPQ overlooked critical information to the decision not to regulate a DEEP review pest, we ask you to submit documentation. If you are presented with a DEEP review for a pest that you believe is incomplete or incorrect, it is necessary that you send PPQ specific comments and documentation to support revision and a reassessment.

Concurrence with Re-categorization to Non-actionable at Ports of Entry

When you review the port of entry statistics at the end of each DEEP report, you will see among other things how often a pest is detected and how often it is destined to your state. If your state is under no risk from this foreign pathway, you may concur with the re-categorization to non-actionable. You may then wish to establish or continue your domestic quarantine for the pest. If the pathway changes and federal agents begin to detect the pest in foreign commerce, you may decide to petition for the FRSMP Program. Again, refer to [page E-4](#) for further guidance on interpreting these statistics.

Federal Register Notice dated 11/13/2013 Docket 2013-27132

Refer to the Federal Notice [Evaluation of Established Plant Pests for Action at Ports of Entry](#) for detailed information.

Appendix

A

Appendix A

Forms, Worksheets, and Templates

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USDA/APHIS National Plant Board Federally Recognized State Managed Phytosanitary Program Petition Worksheet

Scientific Name:
 Order/Family:
 Common Name(s):
 Synonym(s):

Domestic distribution (may collaborate with PPQ on this section):

- ◆ Provide a list of states where your pest occurs in states in the United States. Use the [IPPC](#) definition of establishment, which is: “Perpetuation, for the foreseeable future, of a pest within an **area** after **entry** [FAO, 1990; revised FAO, 1995; IPPC, 1997; formerly **established**].”
- ◆ Provide references.

Potential pathways of introduction (may collaborate with PPQ on this section):

- ◆ Provide information on any means (e.g., importation of a host, interstate trade, smuggling, natural spread, a hurricane) that would allow the continued introduction of the pest into the State, or further facilitate the pest’s introduction to the State.
- ◆ Provide references.

Foreign Pathway (material intercepted as general or permit cargo)					
Host	Imported as	Origin	Quantity	Destination State	Consumption or Propagation

Domestic Pathway			
Host	Imported as	State of Origin	Notations

- ◆ Data to determine federal inspection equivalence
 - ❖ Does a phytosanitary certificate requirement exist, which exceeds a 1-2% port of entry inspection rate?
 - ❖ If not, provide evidence of interstate inspections to equal or exceed 1-2%

Inspection rates					
Infested States	# Shipments Host 1	# Inspections	# Shipments Host 2, etc.	# Inspections	Total # Inspections

Potential economic/environmental impacts (may collaborate with PPQ on this section):

- ◆ Provide a list of hosts that are of importance to your State.
- ◆ Describe the potential economic and/or environmental impacts as they apply to your state, including the economic value of impacted crops and host acreage. Check the [National Agricultural Statistics Service](#) for the latest U.S. value of production.
- ◆ Consider the following questions for economic impact:
 - ❖ Is the pest likely to attack federally listed threatened or endangered plants? Check the U.S. Fish and Wildlife Service's [Threatened and Endangered Species System](#) (TESS).
 - ❖ Is the pest likely to reduce or eliminate a native plant that plays a major role in maintaining or defining a native ecosystem (i.e., a keystone species)? Refer to [ISMP No. 5 Supplement No. 2](#) of the IPPC Glossary of Phytosanitary Terms (Attachment 1) and section 2.3 of [ISPM No. 11](#) (Attachment 2) for further guidance.
- ◆ Provide references.

Host Crop	Acreage	Value

Regulatory Program Workplan: This section will be incorporated into Appendix A of the Cooperative Arrangement between APHIS and the your State upon recognition of your petition.

Special instructions for multi-state petitions: It is necessary that one harmonized workplan be submitted that all participating states will follow as minimum.

- ◆ Describe the phytosanitary requirements, interstate inspection procedures, surveillance and control methods or other related actions that will be used in your state regulatory program.
- ◆ Describe quality assurance activities that support the state phytosanitary requirements or regulations.
- ◆ Describe your response plan should the pest be detected.
- ◆ APHIS **does not** confer any authority under the Plant Protection Act not specifically outlined in the Cooperative Arrangement and is not conferring authority under any other statute administered by APHIS, including the authority to establish and collect fees. Indicate your source of funding to support these activities.

Appendix A

USDA/APHIS National Plant Board Federally Recognized State Managed Phytosanitary Program Petition Worksheet

Workplan¹								
Exterior Quarantine								
◆ Cite State statute and summarize								
Interstate Inspection								
◆ Phyto requirements								
◆ Audit protocol								
◆ Inspection protocol								
◆ Inspection sites: entry points, fields, distributions centers, etc.								
◆ Quality Assurance activity								
Surveillance								
<table border="1"><thead><tr><th>Traps</th><th>Field/Commodity Inspections</th><th>Other</th></tr></thead><tbody><tr><td> </td><td> </td><td> </td></tr></tbody></table>			Traps	Field/Commodity Inspections	Other			
Traps	Field/Commodity Inspections	Other						
◆ Response plan if pest is detected								
Annual Reporting: Summary of activities/results								
(e.g. number of interstate shipments inspected; number of interstate shipments mitigated for the pest; what mitigation was used. Examples for Surveillance: number traps set, number traps set in counties bordering infested areas, number visual inspections, results)								

1 For multi-state petitions, compose one unified workplan outlining minimum activities - e.g. for Exterior Quarantine - All states require treatment and/or certification of regulated hosts, in addition to the following requirements and regulation of host material.

State/local/Tribal phytosanitary regulations:

- ◆ Provide a copy of the State/local/Tribal mandatory quarantine regulations associated with pest management programs, testing protocols (if applicable), and other related actions recently taken to maintain pest freedom or contain pest distribution for the specific pest in this FRSMP petition.
- ◆ If **no** State/local/Tribal regulations are currently in place, what steps are being taken to establish State-based regulations?

Funding statement: Indicate your source of funding for program activities.

Author(s): Type the names of all authors, contact information such as phone number and email, and their affiliation.

FRSMP Cooperative Arrangement Template

XX-XXXX-XXXX-AT

**NOTICE OF COOPERATIVE ARRANGEMENT
BETWEEN THE
(Insert State Agency Name)
AND THE
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)
PLANT PROTECTION AND QUARANTINE (PPQ)**

ARTICLE 1 –PURPOSE

The purpose of this Cooperative Arrangement is for APHIS-PPQ to formally provide Federal recognition of [Insert State Agency name]'s State-managed phytosanitary program for the control of all pests listed in Appendix A of this Arrangement, and to delegate authority to [Insert State Agency Name] as a Federal collaborator to assist the USDA, APHIS in the administration and enforcement of such federal laws to restrict the entry and movement of foreign commerce infested with such federally recognized pest(s). APHIS-PPQ and [Insert State Agency name] intend to collaborate to ensure that equivalent mitigation measures are applied to agricultural imports and domestic regulated articles for the purpose of harmonization of both domestic and international commerce into and throughout the United States.

For the purpose of providing Federal authority to the [Insert State Agency name] to act as a Federal collaborator(s) pursuant to the Talmadge-Aiken Act of 1962 (7 U.S.C. 450), and as a Federal collaborator, to take official action on the movement of foreign commerce moving into or throughout the State of [Insert State name], this Cooperative Arrangement delegates the following specific USDA, APHIS-PPQ authorities, namely, sections 414, and 422 of the Plant Protection Act, 7 U.S.C. § 7701 *et seq.* (PPA) and the specific APHIS safe guarding regulations promulgated thereunder to such Federal collaborator(s) as described in this Arrangement.

ARTICLE 2 - BACKGROUND

APHIS-PPQ has implemented a program for the Federal Recognition of State Managed Phytosanitary (FRSMP) programs which establishes a process for States to petition APHIS-PPQ for Federal recognition of State-managed phytosanitary programs developed to exclude, eradicate or contain plant pests of limited distribution within the United States that APHIS is not currently regulating or is considering to no longer regulate under a Federal program.

Once a State-managed phytosanitary program for a particular plant pest receives Federal recognition, USDA, APHIS and the U.S. Department of Homeland Security, Customs and Border Control (CBP) may continue to or may begin to take Federal control actions at the United States ports of entry if this plant pest is intercepted in a consignment of imported goods. The

Figure A-1 FRSMP Cooperative Arrangement Template (page 1)

Federal collaborator, in partnership with APHIS-PPQ, will be authorized to take official action on a pest interception within its State using the authority provided under this Arrangement and the PPA.

ARTICLE 3 - AUTHORITIES

Under the Talmadge-Aiken Act (7 USC § 450), the Secretary of Agriculture may enter into cooperative arrangements with States, in order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations, to assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner deemed appropriate in the public interest.

Under the Plant Protection Act, as amended, (7 USC §§ 7701 et. seq.) (PPA), the Secretary of Agriculture is authorized to issue regulations and orders to prevent, detect, control, eradicate, suppress, or retard the spread of plant pests or noxious weeds into or within the United States and to cooperate with other Federal agencies or entities, States or political subdivisions of States, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out the purposes of the PPA.

ARTICLE 4 – DELEGATION OF LIMITED AUTHORITIES

USDA, APHIS-PPQ delegates to the [*Insert State Agency name*] the authority to control the movement of FRSMP program pests listed in Appendix A within the State of [*Insert State name*] and to hold, seize, quarantine, treat, apply other remedial measures to destroy, or otherwise dispose of the FRSMP program pests as authorized under section 414 of the PPA and to gather and compile information and conduct any investigations considered necessary for the enforcement of the PPA under section 422. APHIS does not confer any authority under the PPA not specifically referenced in this Cooperative Arrangement, nor does it confer any authority under any other statute administered by USDA, APHIS, including the authority to establish and collect fees.

ARTICLE 5 –STATE RESPONSIBILITIES

The State agrees to/that:

1. (a) Designate, in writing, a mutually agreeable authorized State representative (State Representative) who shall be responsible for collaboratively administering the activities conducted under this Arrangement.
- (b) Notify APHIS-PPQ in writing if the State Representative vacates his/her position.
- (c) The State Representative will designate authorized State employees to assist in the administration of activities under this Arrangement.

Figure A-2 FRSMP Cooperative Arrangement Template (page 2)

(d) Ensure the State Representative and the designated authorized State employees comply with the requirements under this Arrangement, the PPA and the regulations promulgated thereunder.

(e) The State Representative will be responsible for assuring that *[Insert State Agency name]* personnel receive appropriate training related to the FRSMP program, including training on Federal phytosanitary requirements, interstate inspection procedures, surveillance and control methods or other related actions that will be used in *[Insert State Agency name]*'s regulatory program.

2. (a) Comply with all activities outlined within *[Insert State Agency name]*'s Detection and Control Plan(s), attached herein as Appendix B, corresponding with each pest listed in Appendix A.

(b) Have a regulatory quarantine and program in place to maintain freedom or limited distribution of pests listed in Appendix A, or have the commitment and capability to enact, implement, and enforce a regulatory quarantine and implement a regulatory program against such pests in a timely manner.

(c) Submit annual reports to the National Coordinator for Official Control at *[Insert appropriate APHIS, PPQ Address]* of APHIS-PPQ. The annual reports shall include information indicating the program's effectiveness as it relates to areas of phytosanitary management ranging from pest monitoring and detection, diagnostics and identification, regulatory activity, and control measures, including, but not limited to:

- i. A description of the type of inspection or testing process used;
- ii. A listing of the type and quantity of material inspected;
- iii. An account of the origin of the material inspected and the name of person inspecting; and
- iv. A report on the location, date, and results of inspection or testing.

(d) Confer with APHIS, PPQ regarding authorized treatments available for each FRSMP pest listed in Appendix A. Only APHIS-PPQ authorized treatments shall be administered on FRSMP managed pests. If applying remedial measures to an intercepted infestation of a FRSMP pest, apply the least drastic action that is feasible and would be adequate to prevent the dissemination of the pest.

(e) Use the APHIS-PPQ form 523, Emergency Action Notification as appropriate in order to take authorized remedial action under the PPA when the State FRSMP pest is detected during phytosanitary activities. An authorized State employee will provide the completed form to the *[Insert State name]* APHIS, PPQ Plant Health Director by the close of business of the following business day.

Figure A-3 FRSMP Cooperative Arrangement Template (page 3)

(f) Use the APHIS-PPQ form 518, Report of Violation to document violations of the PPA for unauthorized movement of FRSMP managed pests into or within *[Insert State name]*. An authorized State employee should collect statements, photographs, and any other physical evidence appropriate to properly document the violation.

(g) Promptly forward all documentation to APHIS-PPQ, including, but not limited to, the completed Form 518, an inspector’s statement, photographs and other physical evidence, and any and all other information collected or produced by the State regarding the violation.

(h) Ensure all authorized State employees and the State Representative are available for purposes of Federal enforcement actions for FRSMP program violations, including, but not limited to, permitting State employees to assist USDA and/or the U.S. Department of Justice in any civil or criminal action against a violator, being available for and providing testimony, participating in hearing preparations, providing documentation for investigatory and hearing purposes, and any other activity for purposes of legal enforcement of the FRSMP program.

(i) Allow APHIS-PPQ to periodically inspect the State performance under the Federal delegations provided by this Cooperative Arrangement to determine compliance with approved *[Insert State name]* Detection and Control Plan(s) and the requirements under the PPA and the regulations promulgated thereunder.

(j) Provide all requested information for purposes of APHIS-PPQ’s audit requirements.

(k) When connected to the USDA-APHIS network or hosting APHIS information and/or information systems, comply with the federal, USDA, and APHIS security and privacy requirements to protect APHIS information and information systems against cyber threats and unauthorized intrusions as required by the Federal Information Security Management Act of 2002 (FISMA) and Privacy Act of 1974. Specific USDA guidelines are outlined in the USDA Cyber Security Manual Series 3500 which can be located at: <http://www.ocio.usda.gov/policy-directives-records-forms/directives-categories#3500>. In accordance with the USDA Departmental Manual (DM) 3525, “USDA Internet Use and E-Mail Security,” the Recipient will not download any material (i.e., pictures, movies, or music files) bearing a copyright nor access any material defined as inappropriate in these regulations and directives. Additionally, the Recipient agrees that any of its personnel that are given access to the APHIS network, any systems on the APHIS network, or any personnel using APHIS-owned or funded computer equipment will take any APHIS required security and privacy training.

Figure A-4 FRSMP Cooperative Arrangement Template (page 4)

APHIS security and privacy requirements can be found in the APHIS Information System Security Handbook (ISSP) located at:
<http://inside.aphis.usda.gov/mrpbs/library/downloads/APHIS3140.pdf>. APHIS follows USDA's processes which are based on the National Institute of Standards and Technology (NIST) special publications such as NIST Special Publication (SP) 800-37.

(l) Work with the appropriate APHIS Program Unit's Information Systems Security Manager to ensure compliance with the FISMA assessment and authorization (A&A) requirements for APHIS information and information systems. The Recipient must follow USDA/APHIS A&A guidelines and standards described in the USDA six step risk management framework process guide located at: [USDA Six Step Risk Management Framework \(RMF\) Guide](#). The guide is based on applicable National Institute of Standards and Technology (NIST) publications such as, NIST SP 800 – 37, "Guide for Applying the Risk Management Framework to Federal Information Systems"; and, NIST SP 800 – 53, "Recommended Security Controls for Federal Information Systems."

ARTICLE 6 – APHIS RESPONSIBILITIES

APHIS-PPQ agrees to/that:

1. Designate, in writing, an APHIS-PPQ Authorized Representative who shall be responsible for collaboratively administering the activities conducted under this Arrangement.
2. Conduct periodic site inspections/reviews of *[Insert State Agency name]*'s phytosanitary programs and FRSMP activities conducted under this Arrangement.
3. Every three (3) years, conduct audits of *[Insert State Agency name]*'s phytosanitary program(s) for the FRSMP program pest(s) authorized under this Arrangement.
4. Collect and review annual reports provided by the *[Insert State Agency name]* on FRSMP pest program activities and accomplishments.
5. Collaborate with the State Representative on legal enforcement actions documented by the *[Insert State Agency name]* for violations under the FRSMP program.

ARTICLE 7 -MUTUAL RESPONSIBILITIES

The State and APHIS-PPQ mutually agree to/understand that:

1. Mutually satisfactory Detection and Control Plan(s) developed by the State and APHIS for each agreed upon pest are incorporated into this Arrangement by reference and attached as Appendix B.
2. All State employees conducting remedial actions under this Cooperative Arrangement MUST be trained on, be familiar with, and have a working knowledge of the delegated PPA regulatory authorities for the FRSMP program. APHIS-PPQ will provide such training materials

Figure A-5 FRSMP Cooperative Arrangement Template (page 5)

necessary regarding the PPA, the applicable regulations and all additional information necessary for purposes of complying with the terms of this Arrangement. The State Representative and State employees acting under this Arrangement must use all training material provided by APHIS for purposes of conducting proper training under this Arrangement.

Figure A-6 FRSMP Cooperative Arrangement Template (page 6)

ARTICLE 8 - DATA SHARING AND RESPONSIBILITIES

1. Data to be Shared: The Parties to this Arrangement agree to provide plant protection and quarantine data to each other. The data to be provided to each Party by the other Party includes, but is not limited to, plant protection and quarantine surveys, diagnostic information, detection activities, inspection reports, and pest interception data. Each Party is responsible for transmitting the provided data to its own authorized employees, cooperators, and contractors as applicable and necessary, in order to carry out responsibilities under their respective plant health authorities. Each Party agrees that it will ensure, to the extent provided by applicable laws and regulations, that data provided by the other party is not released to anyone that is not authorized to receive it.

2. Data Utilization: The Parties agree that the provided data will only be used in the administration and enforcement of each Party's respective plant health laws and regulations. Data provided by the parties under this Cooperative Arrangement may be used to ensure compliance with their respective plant health laws and regulations; to respond to domestic plant pest and disease emergencies, interceptions, and trace backs; to enhance delivery of pest exclusionary programs and activities; to support pest surveying activities; to develop quarantines and other appropriate measures for pest management and mitigation; to implement or improve international pre-clearance and/or pest eradication programs and activities, pest risk assessments, phytosanitary trade support, and the issuance of plant protection and quarantine permits; and to develop, in cooperation with Federal research agencies, new and improved methods, techniques and procedures for use in cooperative plant protection and quarantine programs and activities. Each party agrees that it will ensure that the provided data is used only for purposes specified in this Arrangement and only in a manner consistent with the provisions of the Plant Protection Act.

3. Data Restrictions: The State agrees and acknowledges that the data provided by APHIS pursuant to this Cooperative Arrangement is solely APHIS data and as such is or may be subject to the confidentiality provisions of Section 1619 of the Food, Conservation, and Energy Act of 2008, 7 USC § 8791, (Section 1619) and the Privacy Act of 1974 and also agrees to safeguard such confidentiality and prohibit any unauthorized access to the data provided by APHIS as required by Section 1619. The State further agrees and acknowledges that if Section 1619 does apply to some or all of the APHIS provided data, that pursuant to Section 1619, the State is bound to and will comply with Section 1619 (copy attached as Appendix C) and related APHIS guidance. The State understands that it may not release any of the data provided by APHIS since it is Federal Government data and it agrees to refer any and all requests for the data provided by APHIS, not otherwise authorized to be released under this Cooperative Arrangement and applicable Federal laws and regulations, to:

USDA, APHIS
Legislative and Public Affairs
Freedom of Information and Privacy Act Office
4700 River Rd. Unit 50, Riverdale, MD 20737
Telephone: (301) 851-4102

Figure A-7 FRSMP Cooperative Arrangement Template (page 7)

Additionally, the State agrees that it will, if requested by APHIS, enter into a separate written Arrangement with APHIS to protect from release or disclosure any data provided by APHIS that is subject to Section 1619.

ARTICLE 9 – STATEMENT OF NO FINANCIAL OBLIGATION

1. This Arrangement defines the basis on which the Parties will cooperate, and does not constitute a financial obligation or serve as a basis for incurring expenditures. Each Party is solely responsible for providing all salaries, equipment, and other requirements and needs for its respective employees and must handle and expend its own funds. Any and all expenditures from Federal funds by APHIS made in conformity with activities conducted under this Arrangement must be in compliance with USDA rules and regulations, and in each instance based upon appropriate financial documentation. Expenditures made by the *[Insert State Agency name]* will be in accordance with its laws and regulations.

2. The responsibilities assumed by each of the cooperating Parties are contingent upon funds being available from which the expenditures legally may be made.

3. Activities conducted under this Cooperative Arrangement that may result in exchange, transfer, reimbursement, off-setting, or any other means of moving funds from one Party to the other are not authorized under the terms of this Arrangement. All such activities shall be documented and supported by separate financial documentation in compliance with all applicable Federal and State laws and regulations.

4. This Arrangement and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this Arrangement shall be expended in accordance with its terms and the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available.

ARTICLE 10 - LIMITATIONS OF AUTHORITY

Authority conveyed under this Arrangement authorizing Federal collaborator status is limited to the pests identified in Appendix A of this Cooperative Arrangement and the attached Detection and Control Plan(s) in Appendix B. If other pests are intercepted, the State agrees not to act under this conveyed Federal authority and will notify APHIS-PPQ to determine if Federal action is necessary and appropriate.

ARTICLE 11 - NO PRIVATE RIGHT OF ACTION CREATED

This intra-governmental Cooperative Arrangement is not intended to and does not create or confer any rights, privileges, or benefits for any private person or party.

Figure A-8 FRSMP Cooperative Arrangement Template (page 8)

ARTICLE 12- LIABILITIES

APHIS assumes no liability for any actions or activities conducted by a State and its employees under this Cooperative Arrangement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), 2671-2680).

ARTICLE 13 - SEVERABILITY CLAUSE

Nothing in this Cooperative Arrangement is intended to conflict with current laws or regulations or the directives of USDA. If a term of this Arrangement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

ARTICLE 14 – MISCELLANEOUS

1. The Parties to this Cooperative Arrangement shall comply with all Federal statutes, regulations, and directives relating to nondiscrimination and that may apply to the cooperative activities conducted under the auspices of this Arrangement.

2. No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Arrangement or to any benefit to arise there from, unless it be made with a corporation for its general benefit.

ARTICLE 15 – DURATION AND AMENDMENTS

This Cooperative Arrangement shall become effective upon the date of final signature, and shall remain in effect for 5 years. This Arrangement and its attached Appendices A and B may be modified, amended or renewed upon mutual agreement of the Parties in writing. State's requests for modification of a Detection and Control Plan in Appendix B shall be submitted, in writing, to APHIS-PPQ for consideration not less than 30 days in advance of the desired effective date, unless otherwise authorized by both Parties.

ARTICLE 16 - TERMINATION

State participation in the FRSMP Program may be terminated, effective immediately, if one of the following conditions occurs:

1. State requests to withdraw from the FRSMP program;
2. Failure to submit annual reports;
3. Failure to pass an APHIS-PPQ audit;
4. Failure to act within the limited delegated authority of the PPA;
5. Failure to restrict the limited delegated authority to FRSMP program pest(s); or
6. Any other violation(s) of this Arrangement.

Figure A-9 FRSMP Cooperative Arrangement Template (page 9)

Upon notice of termination by APHIS-PPQ Deputy Administrator, the State may request reconsideration of the termination decision through the FRSMP Coordinator, with copy to their designated APHIS contact. The final termination decision by APHIS-PPQ Deputy Administrator shall have no delegation of legal rights to appeal such decision.

(Insert State Agency Name)

Type Name/Title of Signatory Date

UNITED STATES DEPARTMENT OF AGRICULTURE,
ANIMAL AND PLANT HEALTH INSPECTION SERVICE,
PLANT PROTECTION AND QUARANTINE

Type Name/Title of Signatory Date

Figure A-10 FRSMP Cooperative Arrangement Template (page 10)

Statement of Work for Federal Collaborators

Introduction

Federal Collaborators are individuals who have specialized plant health skills that APHIS requires to complete specialized program activities, complete APHIS training, or perform APHIS-sanctioned duties. The Plant Protection Act of 2000 (PPA) authorizes the Secretary to cooperate with the States or political subdivisions thereof, domestic or international organizations or associations, and individuals to carry out the programs of the PPA. APHIS does not pay the Federal Collaborator a salary, but may compensate for travel and other expenses. The activities being performed may be covered by a Memorandum of Understanding, Cooperative Agreement, Cooperative Arrangement, work plan or other agreement instrument between APHIS and the State or Tribe. Assignments are characterized by requirements for a thorough working knowledge and alertness to potentially harmful pests and plants; the exercise of judgment and experience involved in the application and interpretation of rules, regulations, and laws in recommending or determining courses of action.

Duties

The incumbent provides effective cooperation between parties to protect the nation's agricultural, horticultural, timber, plant, and other resources from damage caused by plant pests or noxious weeds. For example:

1. Defines roles and responsibilities of the parties in the inspection and monitoring of post-entry quarantine sites and the monitoring and enforcement of importer compliance with post-entry quarantine requirements.
2. Defines roles and responsibilities of the parties in the monitoring and enforcement of importer compliance with Federally Recognized State Managed Phytosanitary Program requirements.
3. Cooperatively participates in the performance of phytosanitary export certification of plant and plant products.
4. Establishes harmonized standards to control the spread of disease through State certification programs for seed potatoes.
5. Participates in PPQ Federal Pesticide Certification Plan to purchase and apply restricted use pesticides.
6. Participates in activities such as military preclearance, pest survey activities and weed eradication activities.

May perform in a temporary duty capacity duties similar to those described above in connection with Emergency Programs operations.

The incumbent has wide latitude for planning and scheduling the assigned work. PPQ may review work by occasional spot checks, and review of work reports submitted by the incumbent.

Interagency contacts typically include the staff officers, and pest management professionals within PPQ. Contacts also include officials in other Federal agencies, State, County, Tribal, and local officials, extension personnel, high ranking State department and agricultural administrators, organized farm groups, individual farm owners, cooperators, stakeholders, contractors, and others in similar positions in related agencies or in private groups.

Other Considerations

Authorities for this position are 5 CFR 213.2012(k), 5 CFR 213.104 and 7 USC 2225.

(This statement of work cites the primary and typical but not all-inclusive duties of the position.)

PPQ Form 518, Report of Violation

The information requested is voluntary, and is needed to record your knowledge of possible irregularities under the USDA Plant Protection and Quarantine Program.

<p>U.S. DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE PLANT PROTECTION AND QUARANTINE</p> <p>REPORT OF VIOLATION</p>	<p>SERIAL NO.</p> <table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 50%;">1. DATE VIOLATION DISCOVERED</td> <td style="border: none; width: 50%;">2. VIOLATED - REG/COMPL. AGREEMENT</td> </tr> </table>	1. DATE VIOLATION DISCOVERED	2. VIOLATED - REG/COMPL. AGREEMENT											
1. DATE VIOLATION DISCOVERED	2. VIOLATED - REG/COMPL. AGREEMENT													
3. WHERE INTERCEPTED (<i>City or Port, and State; also county if domestic</i>)	4. ORIGIN OF ARTICLE (<i>Include county if domestic</i>)													
5. ARTICLE MOVED IN VIOLATION OF REGULATIONS	6. IDENTITY OF ARTICLE (<i>Serial No., Waybill No., description, etc.</i>)													
7. NAME AND BUSINESS ADDRESS OF VIOLATOR (<i>Shipper, caterer, cleaner, garbage handler, servicing agent, broker, ship's agent, etc. Identify which</i>)	<table style="width: 100%; border: none;"> <tr> <td style="border: none;">8. VIOLATOR HAD Compliance agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td style="border: none;">Permit? <input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td colspan="2" style="border: none;">9. IF NO, VIOLATOR WAS AWARE OF REGULATION? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</td> </tr> <tr> <td colspan="2" style="border: none;">If "Yes," how informed and when?</td> </tr> </table>	8. VIOLATOR HAD Compliance agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	Permit? <input type="checkbox"/> Yes <input type="checkbox"/> No	9. IF NO, VIOLATOR WAS AWARE OF REGULATION? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		If "Yes," how informed and when?								
8. VIOLATOR HAD Compliance agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	Permit? <input type="checkbox"/> Yes <input type="checkbox"/> No													
9. IF NO, VIOLATOR WAS AWARE OF REGULATION? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown														
If "Yes," how informed and when?														
10. NAME AND BUSINESS ADDRESS OF CARRIER	<table style="width: 100%; border: none;"> <tr> <td colspan="2" style="border: none;">11. CARRIER WAS AWARE OF REGULATION? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</td> </tr> <tr> <td colspan="2" style="border: none;">If "Yes," how informed and when?</td> </tr> </table>	11. CARRIER WAS AWARE OF REGULATION? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		If "Yes," how informed and when?										
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If "Yes," how informed and when?														
<table style="width: 100%; border: none;"> <tr> <td style="border: none;">12. IDENTITY OF CARRIER</td> <td style="border: none;">13. NAME AND BUSINESS ADDRESS OF CONSIGNEE</td> </tr> <tr> <td style="border: none;"> <table style="width: 100%; border: none;"> <tr> <td style="border: none;">PLANE</td> <td style="border: none;">Acft. No.</td> <td style="border: none;">Flight No.</td> </tr> <tr> <td style="border: none;">SHIP</td> <td style="border: none;">Flag</td> <td style="border: none;">Name</td> </tr> <tr> <td style="border: none;">ROAD VEHICLE</td> <td colspan="2" style="border: none;">License No.</td> </tr> </table> </td> <td style="border: none;"></td> </tr> </table>	12. IDENTITY OF CARRIER	13. NAME AND BUSINESS ADDRESS OF CONSIGNEE	<table style="width: 100%; border: none;"> <tr> <td style="border: none;">PLANE</td> <td style="border: none;">Acft. No.</td> <td style="border: none;">Flight No.</td> </tr> <tr> <td style="border: none;">SHIP</td> <td style="border: none;">Flag</td> <td style="border: none;">Name</td> </tr> <tr> <td style="border: none;">ROAD VEHICLE</td> <td colspan="2" style="border: none;">License No.</td> </tr> </table>	PLANE	Acft. No.	Flight No.	SHIP	Flag	Name	ROAD VEHICLE	License No.			
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PLANE	Acft. No.	Flight No.												
SHIP	Flag	Name												
ROAD VEHICLE	License No.													
14. DISPOSITION OF PEST RISK (<i>i.e., articles named in Item 5 were fumigated, destroyed, etc.</i>)														
15. REMARKS (<i>Attach additional sheet, if needed</i>)														
16. VIOLATOR OR CARRIER'S STATEMENT OF VIOLATION (<i>Attach additional sheet, if needed. Identify who gave statement.</i>)														
<p>17. OFFICER'S STATEMENT: Must attach a detailed, signed, and dated statement. State how the action violated the regulations or compliance agreement cited in Item 2. Describe fully the facts of the violation from discovery through disposition of pest risk including when, who, what, and where.</p>														
18. SIGNATURE OF INITIATING OFFICER	19. PRINTED NAME OF OFFICER AND WORK UNIT	20. DATE REPORT COMPLETED												
21. OFFICER IN CHARGE COMMENTS (<i>Attach additional sheet, if needed</i>)														
List Previous Violations														
Recommendations														
22. SIGNATURE OF OFFICER IN CHARGE	23. PRINTED NAME OF OFFICER IN CHARGE AND WORK UNIT	24. DATE SIGNED												
<p>PPQ FORM 518 AUG 2002</p> <p style="text-align: center;">Previous editions are obsolete.</p>														

Figure A-11 Example of PPQ Form 518, Report of Violation

PPQ Form 523, Emergency Action Notification

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0579-0102. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

FORM APPROVED - OMB NO. 0579-0102

U.S. DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE PLANT PROTECTION AND QUARANTINE EMERGENCY ACTION NOTIFICATION	SERIAL NO. <hr/> 1. PPQ LOCATION 2. DATE ISSUED <hr/> 4. LOCATION OF ARTICLES <hr/> 5. DESTINATION OF ARTICLES <hr/> 7. NAME OF CARRIER <hr/> 8. SHIPMENT ID NO.(S) <hr/> 10. PORT OF LADING 11. DATE OF ARRIVAL <hr/> 12. ID OF PEST(S), NOXIOUS WEEDS, OR ARTICLE(S) <hr/> 12a. PEST ID NO. 12b. DATE INTERCEPTED <hr/> 13. COUNTRY OF ORIGIN 14. GROWER NO. <hr/> 15. FOREIGN CERTIFICATE NO. <hr/> 15a. PLACE ISSUED 15b. DATE
3. NAME AND QUANTITY OF ARTICLE(S) 6. SHIPPER 9. OWNER/CONSIGNEE OF ARTICLES Name: _____ Address: _____ _____ _____ PHONE NO. _____ FAX NO. _____ SS NO. _____ TAX ID NO. _____	

Under Sections 411, 412, and 414 of the Plant Protection Act (7 USC 7711, 7712, and 7714) and Sections 10404 through 10407 of the Animal Health Protection Act (7 USC 8303 through 8306), you are hereby notified, as owner or agent of the owner of said carrier, premises, and/or articles, to apply remedial measures for the pest(s), noxious weeds, and/or article(s) specified in Item 12, in a manner satisfactory to and under the supervision of an Agriculture Officer. Remedial measures shall be in accordance with the action specified in Item 16 and shall be completed within the time specified in Item 17.

AFTER RECEIPT OF THIS NOTIFICATION, ARTICLES AND/OR CARRIERS HEREIN DESIGNATED MUST NOT BE MOVED EXCEPT AS DIRECTED BY AN AGRICULTURE OFFICER. THE LOCAL OFFICER MAY BE CONTACTED AT:

16. ACTION REQUIRED

TREATMENT: _____

RE-EXPORTATION: _____

DESTRUCTION: _____

OTHER: _____

Should the owner or owner's agent fail to comply with this order within the time specified below, USDA is authorized to recover from the owner or agent cost of any care, handling, application of remedial measures, disposal, or other action incurred in connection with the remedial action, destruction, or removal.

17. AFTER RECEIPT OF THIS NOTIFICATION COMPLETE SPECIFIED ACTION WITHIN (Specify No. Hours or No. Days):	18. SIGNATURE OF OFFICER:
--	---------------------------

ACKNOWLEDGMENT OF RECEIPT OF EMERGENCY ACTION NOTIFICATION
I hereby acknowledge receipt of the foregoing notification.

SIGNATURE AND TITLE: _____	DATE AND TIME: _____
----------------------------	----------------------

19. REVOCATION OF NOTIFICATION

ACTION TAKEN: _____

SIGNATURE OF OFFICER: _____	DATE: _____
-----------------------------	-------------

PPQ FORM 523 (JULY 2002) Previous editions are obsolete.

Figure A-12 Example of PPQ Form 523, Emergency Action Notification

Appendix B

Federally Recognized State Managed Phytosanitary Programs/Links to State Program Websites

Links

Potato/Tomato Psyllid, *Bactericera cockerelli* (www.freshfromflorida.com/frsmp)

Bagrada Bug, *Bagrada hilaris* (www.freshfromflorida.com/frsmp)

Allium leafminer, *Phytomyza gymnostoma*

Appendix C

Official Control Advisory Panel Charter

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Article I—Preamble

APHIS-PPQ’s Federally Recognized State Managed Phytosanitary Program (FRSMP) is an administrative mechanism that addresses the application of phytosanitary procedures for plant pests that are not widely distributed in the country and that APHIS-PPQ does not regulate. It includes “Official Control” which the International Plant Protection Convention (IPPC) defines as “the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non quarantine pests.” The FRSMP Program also applies to State managed exclusion programs when an endangered State protects itself from the domestic introduction of a pest established in another state.

As a member of the [World Trade Organization \(WTO\)](#) the U.S. agrees to observe the provisions of WTO agreements, including the [Agreement on the Application of Sanitary and Phytosanitary Measures \(the SPS Agreement\)](#). APHIS-PPQ is the U.S. Agency with primary responsibility for the implementation of phytosanitary measures. As such, PPQ is also responsible for provisions of the Agreement related to phytosanitary measures, including those implemented in the U.S. by other than the national government. PPQ's role in this regard is to ensure that these entities comply with relevant provisions of the Agreement and do not take measures which are, directly or indirectly, inconsistent with the provisions of the Agreement. Further clarification of the role of PPQ under the SPS Agreement is provided by the [International Plant Protection Convention \(IPPC\)](#) and associated international standards. The IPPC is specifically identified by the SPS Agreement as holding the responsibility for standard setting associated with phytosanitary measures.

Under the IPPC's International Standards for Phytosanitary Measures ([ISPM No. 5](#), Supplement No.1, a national government or a National Plant Protection Organization (NPPO) should establish or recognize Official Control under appropriate legislative authority. The national government or NPPO should perform, manage, supervise, or at minimum, audit/review the Official Control program and ensure its enforcement. Agencies other than the NPPO may be responsible for aspects of official control programs, and certain aspects of official control programs may be the responsibility of sub-national authorities.

In furtherance of APHIS-PPQ's commitment to [ISPM No. 5](#) and the [WTO SPS Agreement](#), the Agency has worked cooperatively with the plant pest regulatory agencies of each of the States and Territories, as well as the [National Plant Board \(NPB\)](#), to develop guidelines for the Agency's recognition of State-level phytosanitary management activities, such as State-managed official control programs in conformity with international guidelines. In support of this effort, APHIS-PPQ has established the Official Control Advisory Panel (OCAP) to identify, maintain, and, when necessary, update criteria used by the Agency and States to determine which pests are appropriate for the FRSMP Program and whether State-level actions are sufficient to be recognized by the Agency in its capacity as NPPO. To that end, this Charter establishes the purpose and associated roles and responsibilities of the OCAP in support of the Federally Recognized State Managed Phytosanitary Program.

This Charter is a living document that is open for revision as determined necessary by OCAP consensus.

Article II—Definitions

Official Control. The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests [ISPM No. 5].

Quarantine Pest. A pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled [FAO, 1990; revised FAO, 1995; IPPC 1997].

Regulated Non-Quarantine Pest. A non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party [IPPC 1997].

Sponsor. Individual or entity that organizes and is committed to the development of a product, program or project [BusinessDictionary.com]. For the FRSMP Program, the sponsor is responsible for coordinating and leading communication and planning among interested SPROs. The initiating SPRO may sponsor the final petition or defer that role to another participating SPRO. The sponsoring State will be identified in the title of the program - i.e. The Federally Recognized State Managed Phytosanitary Program for “Pest A” Sponsored by the State of “B.”

Article III—Purpose

To obtain the designation as an FRSMP program, a State or States have the option to petition APHIS-PPQ to recognize their established or proposed State-managed phytosanitary program targeting a plant pest or pests that are not regulated at the Federal level. The OCAP will develop and use technical criteria to evaluate petitions from States requesting Federal recognition of State managed phytosanitary programs for plant pests and make the appropriate determination based upon the merits of the petition.

Specifically, the OCAP will:

- ◆ Develop and maintain criteria for recognizing a State-managed phytosanitary program
- ◆ Assess the technical feasibility of each petition for recognition of State managed phytosanitary programs
- ◆ Identify, as necessary, points within the petition where the National Coordinator for Official Control must seek clarification or revisions from sponsoring State in order to appropriately evaluate the petition’s merits

- ◆ Recommend approval or denial of the petition to the PPQ Deputy Administrator through the Assistant Deputy Administrator for Emergency and Domestic Programs
- ◆ Convene OCAP and experts to evaluate new information associated with existing State phytosanitary programs to determine if the program remains valid or needs to be altered or terminated
- ◆ Determine equivalent action at ports of entry relative to phytosanitary requirements for interstate commerce
- ◆ Describe State’s specific program reporting requirements relative to approved maintenance program

Article IV—PPQ Policy for Recognizing State Managed Phytosanitary Programs

To implement a formal Federal recognition program for State managed Phytosanitary Programs, PPQ intends to accept petitions from the State(s), review the petitions, and make decisions-in consultation with the petitioning State(s)-based on established criteria and standards. If PPQ federally recognizes the State’s program, PPQ will continue to take action at the U.S. ports of entry for such pests associated with commodities destined to the affected State(s). PPQ will also continue to take action on pests that are under consideration for state managed phytosanitary programs until 1) PPQ in consultation with relevant States has determined that a phytosanitary program is unnecessary or impossible; 2) PPQ and States have agreed that it is not feasible to establish and maintain a program; or 3) States have expressed no interest in continuing a program.

Article V— Panel Members

Section 1. Panel Members

The panel members shall consist of designees as follows:

1. Ad hoc members – e.g. former OCAP members
2. Field Operations Representative (National Operations Manager)
3. National Coordinator for Official Control
4. National Identification Services Director
5. National Plant Board (NPB) Representative
6. Pest Management (PM) Director
7. Science and Technology Representative

Section 2. General Duties

Provide scientific expertise, field operations expertise, and regulatory expertise for the purpose of developing, maintaining, and using technical criteria for recognizing State managed phytosanitary programs or, as needed by the National Coordinator for Official Control, addressing other areas relevant to the Federally Recognized State Managed Phytosanitary Program where subject matter expert advice may be useful. Report significant developments from OCAP meetings and communications to pertinent personnel within the PPQ division the member or designee represents. Is responsible for ensuring that OCAP associated tasks are carried out, as needed, within the PPQ division the member of designee represents.

Section 3. Eligibility

Members of OCAP shall be permanent PPQ employees with scientific, field operations, and/or regulatory expertise. The National Plant Board member shall be a permanent State Department of Agriculture employee with scientific, field operations, and/or regulatory expertise.

Section 4. Officer Designated Alternates

Members shall designate an alternate to attend in their absence who is qualified and capable of participating and contributing to meetings and petition evaluations. All designated alternates will meet the provisions specified in Sections 2 and 3 of this Article.

Article VI—Operations

The National Coordinator for Official Control will be responsible for assuring that members of the OCAP receive States petitions for review. The National Coordinator for Official Control will arrange meetings/conference calls/email communication among the panel members to perform the review. The OC Coordinator will review recommendations for approval/denial with the Plant Health Programs Office of the Executive Director before forwarding to the PPQ Deputy Administrator.

Article VII—Meetings

The OCAP will meet/convene at the call of the National Coordinator for Official Control.

Article VIII—Quorum

The group will achieve consensus with participation from at least one representative from Plant Health Programs, Science & Technology, and Field Operations.

Decision Making

OCAP decisions will be based on collaboration and consensus among the members. For the purposes of the OCAP, consensus is defined as the cooperative development of a decision with OCAP members working together toward a decision that is consented to by all members constituting a quorum. Full consent does not mean that everyone is completely satisfied with the final outcome, but that the decision is acceptable enough that all OCAP members agree to support the OCAP in choosing it. Full consent is only achieved when all OCAP members constituting a quorum agree or accept the decision. In the event that consensus cannot be reached on a petition evaluation or other significant matter, the issue will be elevated to the PPQ Leadership Team for consideration and resolution with all areas of OCAP member disagreement clearly noted.

Charter Approval

This OCAP Charter was approved unanimously on Tuesday, November 17, 2009, by the attending members of the OCAP meeting listed below:

- ◆ Diane L. Schuble, National Coordinator for Official Control
- ◆ Jeffrey J. Grode, Emergency and Domestic Programs Representative
- ◆ Joseph F. Cavey, Plant Health Programs Representative
- ◆ Robert L. Griffin, Center for Plant Health Science & Technology (CPHST) Representative
- ◆ William M. Newton, Eastern Region Senior Program Manager
- ◆ Timothy J. McNary, Western Region Senior Program Manager
- ◆ Barney P. Caton, CPHST Designated Alternate
- ◆ Brian J. Kopper, Eastern Region Designated Alternate
- ◆ Robert A. Bailey, Western Region Designated Alternate

Last Revision

Revisions to this OCAP Charter were approved by consensus Friday, November 12, 2010, by members of the OCAP meeting. Revisions to this OCAP Charter were added to reflect updates to the PPQ organizational structure on November 3, 2014, by the National Coordinator for Official Control. Revisions to the composition of the OCAP (Article V-Panel Members) were effected on November 16, 2015 to update PPQ structure and ensure a smooth transition when OCAP members change.

Appendix D

OCAP Criteria for Federal Recognition of a State-managed Phytosanitary Program

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Introduction

The following criteria will be used by the Plant Protection and Quarantine (PPQ) program of the U.S Department of Agriculture's Animal and Plant Health Inspection Service to evaluate State petitions for Federal recognition of State-managed phytosanitary programs. Petitions will be reviewed by PPQ's Official Control Advisory Panel (OCAP) to ensure that the criteria are satisfactorily met. If OCAP determines that a petitioning State(s) meet the criteria based upon the review, the State's petition is eligible for approval by PPQ. Subsequently, PPQ will seek to enter into a cooperative arrangement with the State(s), formally providing Federal recognition of the State-managed phytosanitary program and terms to allow the State(s) to legally act to prevent the entry of a specified plant pest via domestic commerce and coordinate with PPQ to prevent the entry of these pests via foreign commerce. PPQ, specifically the OCAP, will collaborate with States to ensure that equivalent mitigation measures are applied to imports and the domestic movement of regulated articles.

Criteria

I: The Petitioning State(s) Demonstrate that a Pest of Consequence is Under a Phytosanitary Program

The petition should include reasonable evidentiary documentation demonstrating that:

1. The area of the State(s) to be protected under the FRSMP Program is either pest-free or the pest population is under an appropriate level of phytosanitary management
2. The pest can potentially establish (survive if introduced, as applicable) in the State(s)
3. The pest can potentially cause significant economic and/or environmental damage in the State(s)
4. It is technically feasible to exclude, eradicate, and/or contain the pest with phytosanitary measures

Reasonable evidentiary documentation can include, but is not limited to, any of the following examples of documents that may be available:

- ◆ Pest data sheets
- ◆ Pest risk analyses (PRA)
- ◆ Comprehensive pest surveillance data
- ◆ State inspection reports
- ◆ Port interception data
- ◆ National Agricultural Pest Information System (NAPIS) data
- ◆ Global Pest and Disease Database (GPDD) and CABI documentation
- ◆ Scientific and academic literature

Some of this documentation may be maintained by the State and some may be obtained by the State from PPQ or other appropriate sources. Evidence may be developed by the State or in collaboration with PPQ.

The petitioning State(s), upon providing reasonable evidentiary documentation deemed adequate to allow PPQ to approve a petition for Federal recognition of a State-managed phytosanitary program, may specifically be required, as needed, by PPQ to conduct pest surveillance to provide necessary supplemental evidentiary documentation. When such a specific pest surveillance program is necessary, it will be conducted in good faith by the State(s) in a timely manner and with sufficient rigor, which will be determined by PPQ in consultation with the State(s).

More generally, to monitor Federal recognition of a State-managed phytosanitary program, PPQ will further require that all State(s) submit periodic supplementary surveillance documentation following the approval of a petition over a duration that will be specified in the subsequent memorandum of understanding between PPQ and the petitioning State(s).

What constitutes an appropriate level of phytosanitary management will be addressed in the following sections of this document.

II: The Petitioning State(s) Must Have or Be Able to Obtain Legal Authority to Act on the Pest

The petition should provide evidence that State regulatory authority exists to restrict activities and articles that facilitate the movement of non-quarantine pests or quarantine pests that are not under domestic quarantine. This can be demonstrated by indicating that the State(s):

- ◆ Have a regulatory quarantine in place to maintain pest freedom or limit pest distribution
- ◆ Establish an inspection program targeting arriving interstate host shipments
- ◆ Have the commitment and capability to enact, implement, and enforce a regulatory quarantine in a timely manner

In those cases when State(s) have a regulatory quarantine in place, the petition should provide a copy of the State or local (as well as tribal if applicable) mandatory quarantine regulations associated with pest management programs, testing protocols (if applicable), and other related actions recently taken to maintain pest freedom or contain pest distribution.

PPQ will accept petitions for Federal recognition of a State-managed phytosanitary program from State(s) that have the general authority and capability to enact a pest quarantine regulation, but do not currently have specific regulatory quarantine measures in place to address the pest of concern. In these cases, PPQ will provide the petitioning State(s) up to one year to put a pest-specific regulatory program in place. State(s) can request additional time to enact a pest specific regulatory quarantine contingent upon demonstrating to PPQ that their efforts are being conducted in good faith.

III: Technically Sound Exclusion/Containment/Eradication is Possible

State-managed phytosanitary programs should meet the following criteria:

- ◆ Mitigation measures are the least restrictive needed to assure adequate protection
- ◆ A process exists to regularly evaluate the feasibility of mitigation measures and demonstrate evidence of effectiveness (quality assurance)
- ◆ Annual reports are provided to PPQ showing evidence of the program's effectiveness as it relates to areas of phytosanitary management (ranging from pest monitoring and detection, diagnostics and identification, regulatory activity, and control measures). Upon initiation of a federally recognized State managed phytosanitary program, PPQ will provide guidance to the State(s) as to what information the annual report should contain. For example, in relation to phytosanitary inspection and testing, the following kind of information would be particularly significant in reporting the program's effectiveness:
 - ❖ A description of the type of inspection or testing process used
 - ❖ A listing of the type and quantity of material inspected
 - ❖ An account of the origin of the material inspected and the name of person inspecting
 - ❖ A report on the location, date, and results of inspection or testing
- ◆ States must be able to define and describe their programs and provide supporting documentation including such items as compliance agreements, auditing reports, maps defining the regulated areas, and marketing statistics
- ◆ All relevant and significant pathways are addressed with a 1-2% inspection rate attained (or other rate comparable to Federal port of entry inspections¹)
- ◆ Appropriate diagnostic capability is demonstrated

1 To calculate the inspection rate for program reporting purposes, States will have to provide and update periodically a reasonable estimate of volume of significant hosts entering the State and originating from States infested with the FRSMP pest.

Failure to Meet the Criteria

Any State petition that fails to meet part or all of the criteria above will be rejected by PPQ. A previously rejected petition may be resubmitted if the petitioning State(s) can revise it to provide the reasonable evidentiary documentation necessary to meet all of the criteria for Federal recognition of a State-managed phytosanitary program.

While PPQ's approval of a State(s) petition will result in a federally recognized State-managed phytosanitary program, this program will be monitored and any changes in the pest's status or failure to meet requirements that result in the criteria no longer being met will result in PPQ reconsidering the status of the federally recognized State-managed phytosanitary program.

NOTE: The criteria above are open to future revision, as needed by determination of the PPQ OCAP, to ensure the best possible, science-based evaluation of petitions for Federal recognition of State-managed phytosanitary programs.

Appendix E

Analysis Aid for States

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Evaluation of Pests for USDA’s Federally Recognized State Managed Phytosanitary (FRSMP) Program

PPQ Regulated Pest

1. Does APHIS PPQ regulate this pest under a federal domestic quarantine?

Yes - **Does not** qualify for FRSMP.

EXAMPLES	<ul style="list-style-type: none"> ◆ The State of California has an active role in addressing the response to light brown apple moth, but a Federal quarantine is in place, which disqualifies this pest for consideration for a FRSMP program. ◆ Some examples of pests that may be established in the U.S. but not widely distributed and not under a Federal quarantine are <i>Thrips palmi</i>, hemlock wooly adelgid, banana moth, and the fungal disease <i>Fusicoccum luteum</i>.
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Distribution of Pest

2. Is the pest established somewhere in the United States?

No - **Does not** qualify for FRSMP.

EXAMPLES	<ul style="list-style-type: none"> ◆ Chrysanthemum white rust has appeared in the U.S. on several occasions and been eradicated each time. It is not considered to be officially established in the U.S. If APHIS PPQ decided to stop taking regulatory action, this pest would not be a candidate unless it is considered present somewhere in the U.S. ◆ Chilli thrips is an example of a pest APHIS PPQ does not regulate that may be present in the United States, with detections in Florida, Texas, and Louisiana.
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Port of Entry Considerations

3. Can the pest be detected upon inspection?

No - **May not** qualify for FRSMP

EXAMPLES	<ul style="list-style-type: none"> ◆ Blueberry scorch virus may not manifest symptoms for one to two years and there is currently no practical diagnostic procedure for detection of the disease in the absence of symptoms. ◆ Swede midge is so small it can escape detection. ◆ Visual inspection for Hosta Virus X is not adequate; detection is usually dependent on conducting a diagnostic test. Some States may determine that requirement is too expensive or logistically challenging.
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4. Is the pest intercepted at ports of entry?¹

No - FRSMP **may not** be cost effective.

EXAMPLES	<ul style="list-style-type: none"> ◆ <i>Meloidogyne chitwoodi</i> (Columbia root knot nematode) has never been found at a port of entry. ◆ States having FRSMP programs for peach mosaic virus and hemlock wooly adelgid would receive virtually no protection from PPQ for their efforts.
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5. Is the host commodity enterable from where the pest occurs?¹

No or Not Likely - FRSMP **may not** be cost effective.

EXAMPLE	Sweet potato weevil occurs in warm climates such as the Caribbean and Central and South America. Sweet potatoes are only enterable from Canada, where the pest does not exist. Few records of sweet potato weevil intercepted from cargo indicate it rarely arrives in other pathways. A State wishing to institute official control for this pest would only receive port of entry protection from an occasional hitchhiker, unless new import pathways are introduced.
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¹ A FRSMP Program would, however, provide protection at ports of entry if that pest is detected as a hitchhiker or if a pathway emerges in the future.

6. Is the host commodity regulated and/or treated as a condition of entry to exclude the pest, for example, to comply with IPPC [International Standards for Phytosanitary Measures](#) such as [ISPM No. 15](#) for Wood Packing Material?

Yes - FRSMP **may not** be cost effective.

EXAMPLE	Wood boring pests are addressed by ISPM 15 , which calls for immediate re-exportation of solid wood packing material that has not been treated as per the standard. Should detection of a live Q-pest occur on treated material, immediate re-exportation will also be required.
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7. Does the plant pest belong to a larger group that requires action by APHIS PPQ, and the pest cannot typically be identified to species when intercepted at ports of entry?

Yes - FRSMP **may not** be cost effective.

EXAMPLE	Winter moth belongs to the family Geometridae. All larvae of that family are regulated at ports of entry because it is not possible to distinguish actionable larvae from non-actionable larvae. Therefore, immature stages of winter moth require action even though winter moth is not an actionable pest.
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Technical Containment/Eradication Capabilities

8. Is a technically sound containment or eradication program possible?²

No - **Does not** qualify for FRSMP.

EXAMPLES	<ul style="list-style-type: none"> ◆ Soybean rust is carried on the wind, as well as red palm mite. The movement of these pests cannot be stopped with regulatory actions. ◆ Crown gall of woody shrubs is a widespread pest on fruit trees that is impossible to contain or eradicate.
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Export Considerations

9. Are the host commodities in the endangered area exported?

Yes - FRSMP **may not** satisfy all requirements of importing countries. A SPRO may wish to consider the establishment of a Pest Free Area (PFA).

EXAMPLE	U.S. exports of apples to Brazil must be certified as per Comite de Sanidad Vegetal del Cono Sur (COSAVE) that "the product was cultivated in an area recognized by the phytosanitary authorities of the importing country as free of fire blight, according to COSAVE Standard 3.2 - Requirements for establishing pest free areas." Apples that originate in non fire blight-free areas must receive a post harvest treatment before being exported. The establishment of a PFA may facilitate the export of U.S. apples to Brazil.
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² Pests that are **not** contained, eradicated or excluded may be suppressed. It is important to note that suppression programs are **not** within the purview of official control and will **not** be recognized as FRSMP programs.

Guidelines for Interpreting Pest Interception Records

When States consider establishing a FRSMP Program for a given pest, they will estimate the cost of excluding, containing and/or eradicating the pest. To determine if the costs are worth the investment, they should also make their estimates of the benefits derived. The added benefit of FRSMP Programs over interstate quarantine for the same pest is federal exclusion of the pest from foreign pathways of introduction. The State should estimate how often the pest is likely to enter the U.S. from foreign sources and with destination as that State.

Unfortunately, we **do not** know with certainty how often a given pest has approached the U.S. in these pathways and cannot predict the frequency that would occur in the future. However, PPQ pest interception data record the number of times the pest was found during inspection and serves as our best gauge for estimating pest import frequency.

PPQ National Identification Services (NIS) staff will provide States interested in establishing FRSMP programs with five years of pest interception data for prospective FRSMP program pests. The report for each pest will consist of a MS Excel file with the following information:

- ◆ Quarantine status of the pest
- ◆ Infested commodity
- ◆ Commodity type (fruit, cutting, etc.)
- ◆ Origin of commodity
- ◆ Destination state of commodity
- ◆ Volume of commodity in the infested shipment
- ◆ Pathways
 - ❖ “Where intercepted” category (cargo, baggage, mail, etc.)
 - ❖ Commodity use category (propagation, consumption)
- ◆ No. of interceptions (= number of infested shipments)

By analyzing these data, the State can develop a better picture of how much protection the State would receive from a FRSMP program.

The purpose of these guidelines is to aid the States in interpreting pest interception data when evaluating potential benefit from establishing a FRSMP program. This guidance addresses each of the nine data fields to indicate the meaning, importance and suggested use of the field in analyzing FRSMP program potential.

FRSMP Pest Interception Data

Pest quarantine status. The pest will be designated as a quarantine pest for the U.S. or not at the time of the FRSMP petition.

Infested commodity. Indicates the commodity manifested for importation (cargo), carried by a passenger or otherwise found infested with the pest. The pest **may not** be associated with the commodity in the environment but, rather, may have infested the shipment as a hitch hiker as a result of packaging, handling or other procedures.

Commodity type (Imported as). This field records the form of the commodity, i.e. whether it was imported as a fruit, plant, root, seed or leaf. This information helps to define the pathway for the pest of concern. For example, if the pest is a root knot nematode on tomato plants, the State considering a FRSMP program would choose to regulate/inspect tomato plants but not the fruit.

Origin of commodity. This indicates the country of origin of the shipment, commodity and, presumably, the pest. Origins of cargo shipments are generally accurate. Origins of commodities carried by international passengers are often suspect. In many cases, inspectors must rely on the origin provided by the passenger or use the flight origin.

Destination State of commodity. Even for cargo shipments, accuracy for this field is suspect. Brokers often use their business address as destination rather than the ultimate delivery point of the cargo. Distribution warehouses also serve as destination when, actually, the shipment may travel all over the U.S. If your State is indicated repeatedly, at least you know the pest could frequently transit your State.

Volume of commodity in the infested shipment. Several very large infested shipments may very well pose a larger threat of pest establishment than numerous small shipments.

Pathway: “Where intercepted” category (cargo, baggage, mail, etc.). The two “Pathway” data fields offer high utility in analyzing these data for FRSMP purposes. States should sort data on these two fields as part of their analysis.

If the State decides **NOT** to implement a FRSMP program and the pest was intercepted in cargo or mail, infested cargo or mail will be released and allowed to proceed to that State. The same pest found in other “Where intercepted” options will not be released, for reasons independent of FRSMP. For example, if found in the passenger “Baggage” category, the inspector will not know with certainty which organism he/she has intercepted - PPQ identifiers make the identifications. Therefore, the inspector must seize and destroy the infested commodity before submitting the pest for identification. With or without FRSMP programs, the infested commodities from baggage will not be released into the U.S. So, States should not consider baggage interception numbers when estimating benefit of FRSMP programs. Nor should they consider other “Where intercepted” options when the “Commodity Use” (“Material for”) column indicates “Non-Entry.” Thus, interceptions from ship or airplane “Quarters,” “Stores,” or “Holds” **do not** reflect situations where pests would be allowed to enter the U.S., with or without a FRSMP program. Pests found in those situations are safeguarded and must exit the country with the carrier.

Pathway: Commodity use category (propagation, consumption, non-entry). Again, “Non-Entry” pathways indicate that pests found in those situations are not allowed into the U.S. even if not quarantine pests. The distinction between commodities imported for propagation vs. consumption (meaning not for propagation) can be extremely important for determining the feasibility of implementing a FRSMP program. If the pest under consideration for FRSMP is highly polyphagous and/or often a hitch hiker, it may be impractical to regulate the pest in many consumption pathways from infested states.

For a pest like brown garden snail (BGS), for example, the State may choose to accept the risk posed by consumption pathways (not regulate these) because the snail could hitchhike with almost any foreign commodity (or container), whether the commodity is held for inspection upon arrival or not. The State may decide it would be impractical to track down and inspect shipments of many different commodities from all infested states. However, the State could choose to regulate only the propagative pathway for BGS. The State may deem this approach reasonable, wherein the State would list the pest as regulated and require nursery certification of freedom from BGS for all plants shipped from infested states. In this case, PPQ would implement similar policy at ports of entry, taking quarantine action on infested shipments of plants for planting but no action on infested consumption commodity shipments.

Additionally, a State would likely elect to regulate only the propagative pathway for a pest when data indicates a record of interceptions only from that pathway and never, or rarely, from consumption commodities.

No. of interceptions (= approximate number of infested shipments). Numbers of pest interceptions reflect the priorities and other biases of inspectional policy and personnel. Consequently, negative data does not guarantee lack of pest risk. High numbers indicate significant approach rates and heightened risk of pest establishment.

PPQ will provide five years of interception data for pests under petition for FRSMP. When interpreting these data, the States must understand differences in availability of data for quarantine pests vs. non-quarantine organisms. For quarantine pests, all records were captured in the database during all five years. For non-quarantine organisms, all data were captured for interceptions from consumption items since March 2009; only a small percentage of data were captured from consumption commodities before March 2009. For non-quarantine organisms from propagative commodities, only a small percentage of data were captured for all five years.

For further guidance and examples, see pages 26 and 27 of the combined annotated PowerPoint presentation on the National Plant Board website entitled [FRSMP Program or Not: Using Pest Interception Data to Determine Program Feasibility](#).

Contact: Scott Neitch, USDA, APHIS, PPQ, National Identification Services, Phone 301-851-2262, email david.s.neitch@aphis.usda.gov.

Comparing FRSMP to Programs that Seem Similar

Other activities that APHIS-PPQ oversees have some similarities to the FRSMP Program, but have differing purposes and goals. Refer to [Table E-1](#) on page [E-8](#) for a comparison of those programs with the purpose and goals of the FRSMP Program.

Appendix E

Comparing FRSMP to Programs that Seem Similar

Table E-1 FRSMP-OC-SN-PFA Relationships

Category	Federally Recognized State Managed Phytosanitary Program	Official Control	Special Need Provision Of The Plant Protection Act	Pest Free Area
Definition	The active enforcement of mandatory phytosanitary regulations and the application of phytosanitary procedures with the objective of exclusion, eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.	The active enforcement of mandatory phytosanitary regulations and the application of phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.	A State or political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, plant products, biological control organisms, plant pests or noxious weeds that are in addition to the prohibitions or restrictions imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.	An area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained.
Purpose	For the National Plant Protection Organization (NPPO) to oversee recognized State level exclusion, eradication or containment programs for the purpose of non-discriminatory risk management.	For the National Plant Protection Organization (NPPO) to perform eradication or containment programs for the purpose of non-discriminatory risk management, or oversee recognized State level eradication or containment programs.	For a State to gain approval from the Secretary to impose prohibitions or restrictions on the movement in interstate commerce of articles, that are in addition to prohibitions or restrictions imposed by PPQ.	A risk management option for phytosanitary certification of plants & plant products & other regulated articles exported from the area or to support scientific justification for phytosanitary measures taken by an importing country for protection of an endangered PFA.
Goals	To justify safeguarding measures taken at ports of entry; apply non-discriminatory measures for foreign import and interstate commerce.	To justify safeguarding measures taken at ports of entry; apply non-discriminatory measures for foreign import and interstate commerce.	Provide extra protection to area from a pest regulated by PPQ that may be transported through interstate commerce.	Predominant goal is to facilitate exports by providing scientific documentation that a regulated pest which is of limited distribution in a country, is not present in the defined area.
Federal/State Pest Program Relationship		Managed at the Federal Level by 7 CFR 301 or Federal Order.	Special Need may be considered for pests that PPQ regulates under 7 CFR 301 or by Federal Order.	Pest Free Areas are established in order to facilitate American exports for regulated pests of limited distribution in the United States.
	Managed at the State level and recognized by PPQ as meeting approved criteria.	Managed at the State Level- (SMOC) State Managed Official Control.	Special Need cannot apply to pests not under Federal Regulation. A State may choose to establish its own phytosanitary program.	Pest Free Areas may be established within States and may or may not follow geopolitical boundaries within a particular State

FRSMP Program versus the Special Need Request versus Pest Free Areas

FRSMP Program and the Special Need request share the requirements States submit to PPQ:

1. Absence or Limited Distribution
2. Likelihood of entry and establishment
3. Potential Economic/ environmental harm
4. A Program for Maintenance/ Verification
5. State Phytosanitary regulations

After that, the similarity ends. Special Need is for requests concerning pests that PPQ regulates domestically such as Gypsy moth, European grapevine moth, and Plum pox virus. Following a successful application for a Special Need request, States may impose stricter phytosanitary regulations than PPQ on the approved pest for extra protection in interstate commerce. PPQ will continue to regulate the pest at ports of entry with Federal quarantines in place, with no plans to discontinue.

The FRSMP Program is designed to address different circumstances. PPQ has no domestic regulations for pest movement, PPQ has made the decision there will be no domestic resources invested to contain or eradicate the pest, PPQ plans to stop regulating the pest at ports of entry, and the pest can be feasibly contained, eradicated or excluded by interested States.

What can a State do if the pest may have an unacceptable economic or environmental impact for them? As is the practice today, the State can impose its own exterior quarantine and/or establish a containment/eradication program, which will protect the State in domestic commerce. What about protection in foreign trade? The State can be confident of protection if:

- ◆ The pest is rarely if ever intercepted at ports of entry
- ◆ The pest is part of a family regulated at ports of entry when detected in its immature stages
- ◆ The pest is regulated under the conditions of [ISPM No. 15](#) without another pathway

What are the options if the previous conditions do not apply? A State may seek to establish a Pest Free Area or petition for Federal recognition of their phytosanitary program.

Appendix E

FRSMP Program versus the Special Need Request versus Pest Free Areas

How would a Pest Free Area (PFA) help a State? If a State has export commodities associated with the pest, then a PFA could mitigate the importing country’s phytosanitary requirements. The establishment of a PFA justifies regulating the pest at ports of entry.

How would the FRSMP Program help a State? FRSMP may be the solution when PPQ has no domestic regulations for the pest but the State does, and the pest is encountered in foreign trade. Effective and non-discriminatory (equivalent) phytosanitary measures would be required.

Let’s compare:

Table E-2 FRSMP-SN-PFA Comparison

	FRSMP	Special Need	Pest Free Area
PPQ regulated pest domestically?		X	
State Quarantine affected by PPQ regulations?		X	
State imposes extra protection in interstate commerce?	X	X	X
State receives port of entry protection?	X	X	X
Exports facilitated?			X

Appendix F

Supporting Action, Program Process, and Program Flow

Contents

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Action to Support the FRSMP Program at Ports of Entry

PPQ Form 523, [Emergency Action Notification](#) is used for Formal Communication of Remedial Measures. When a pest is detected on an imported commodity, and PPQ identifies it as under the FRSMP Program, the following procedure will take place. Refer to [Table F-1](#) on page [F-2](#), which will summarize the following explanation:

If the commodity enters a port in a State which has a federally recognized State managed phytosanitary program, the options to the importer will be the least restrictive measure that is feasible and adequate to prevent the dissemination of any plant pest new to or not known to be widely prevalent or distributed as per the Plant Protection Act of 2000. The CBPAS or PPQ Officer will follow the appropriate manual for specific instructions.

If the commodity is not arriving in a State having a federally recognized State managed phytosanitary program, an EAN will be issued as an official order to the owner or his agent that the pest is subject to the terms of the [FRSMP Program](#). PPQ identifiers or National Identification Services through PPQ identifiers will relate the remedial action to the CBPAS or PPQ Officer who is issuing the EAN. The CBPAS or PPQ Officer will follow the appropriate manual for specific instructions.

The EAN will communicate that the pest is prohibited from entering a FRSMP Program State(s) for that pest. Should a future decision be made to move the shipment to a State with a FRSMP program for the pest present in the shipment, the shipment must meet treatment requirements if available in order to be moved there. Failure to comply with those requirements will be cause for a violation under Section 414 of the Plant Protection Act.

FRSMP Program Process at Ports of Entry

1. The Agricultural commodity is imported and inspected at the U.S. port of entry (POE).
2. If no plant pest is detected, the shipment is released.
3. A plant pest is detected and identified. For a more detailed description of the process, refer to the [Manual for Agricultural Clearance](#) or the Plant Inspection Stations Manual.

FRSMP Program Flow

A FRSMP Program pest¹ is detected on an imported shipment. Refer to [Table F-1](#) for the process.

Table F-1 FRSMP Program Flow

If the shipment is:	Then:
Arriving in a FRSMP State	(1) TREAT; (2) RE-EXPORT; (3) DESTROY; or REDIRECT and avoid States participating in an FRSMP program for that specific pest
Not arriving in a FRSMP State	<ol style="list-style-type: none"> 1. INCLUDE notice to avoid States participating in an FRSMP program for that specific pest 2. RELEASE the shipment 3. PPQ generates internal alert

When the EAN communicating required remedial measures is issued to an owner or agent whose commodity is not arriving in a State with a federally recognized State managed phytosanitary program, PPQ will also communicate with the appropriate internal PPQ group for periodic quality assurance follow up in the market place. The internal PPQ group may confirm by shipping records that the shipment did not move to that State. If records indicate that the shipment did indeed enter the State without remedial measures, State and/or federal agencies may pursue a violation.

¹ FRSMP pests are quarantine pests that require phytosanitary action.

Appendix G

Audit Checklist

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Audit for Recognition in the FRSM Program

APHIS Audits

APHIS will conduct regular audits of a State FRSM program that has been approved and implemented. The objective of these audits is to identify the program's conformance or deficiencies in its implementation.

APHIS-PPQ Field Operations will determine the procedure to conduct these audits with a frequency of one audit per approved program every three years.

Audit Checklist

The attached checklist must be used by PPQ auditors who will be designated by PPQ Field Operations. The list reflects the conditions agreed upon by the State during the original application process. Interviews with State officials are an important component of these audits. With some exceptions, the burden to prove conformance resides on the State.

It is important that PPQ auditors request appropriate documents required to complete the checklist and record titles of such documents in the "Notes" sections of the checklist. Depending on funding and availability of personnel, auditors should also consider coordinating site visits to verify conformance.

PPQ auditors should note that the some evidence may be used in more than one sections of the checklist, if appropriate.

Checklist Instructions¹

Refer to the tables on the following pages.

¹ This Checklist applies to BOTH Quarantine AND Regulated Non Quarantine Pests (RNQPs).

Appendix G

Audit for Recognition in the FRSMP Program

Table G-1 General Information—Pest

Date <i>Write date of audit.</i>
Pest <i>Write pest covered by FRSMP Program.</i>
Domestic Distribution <i>Provide a list of states where pest occurs in the United States. Specify any updates on distribution. Use the IPPC 2007 definition of establishment: "perpetuation, for the foreseeable future, of a pest within an area after entry." Provide references.</i>
Host Range <i>Provide list of hosts that are of importance to the state(s). Specify any updates on list of hosts. Provide family, scientific name and common name.</i>
Notes <i>Document any additional relevant information. Attach additional pages if necessary.</i>

Table G-2 General Information—Program

Name of Sponsoring State <i>Specify name of sponsoring State.</i>			
Name of Additional State(s) <i>Write name(s) of additional approved States(s) covered in the original petition. If there are no additional states, write "N/A."</i>			
Name of PPQ Auditor(s) <i>Write name of PPQ official conducting the audit.</i>			
Name of State Official(s) <i>Write name of state(s) officials involved in this audit.</i>			
Is a copy of the petition signed by a designated state official available? <i>Check as appropriate.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Is a copy of the signed Cooperative Arrangement with APHIS available? <i>Check as appropriate.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Is the APHIS permit for the pest available? <i>Check as appropriate.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Notes <i>Document any additional relevant information. Attach additional pages if necessary.</i>			

Appendix G

Audit for Recognition in the FRSMP Program

Table G-3 Presence

<p>Has the state conducted a comprehensive pest survey? <i>Check as appropriate. Cite sources in "Notes" below. If a field visit is conducted, specify.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Has the state conducted surveillance activities? <i>Provide supporting documentation.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Are there state inspection reports pertaining to the FRSMP pest available? <i>Check as appropriate.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is there evidence that the pest is officially contained or under eradication? <i>Request appropriate comprehensive survey data or scientific and academic literature that defines infested area(s), endangered area(s), protected area(s), and procedures used in containment or eradication. Cite sources in "Notes" below.</i> <i>Evidence supports that program remains technically feasible</i> <i>If pest does not exist in state, check "No" and cite evidence in "Notes."</i> <i>If pest is prevalent in greenhouses, specify in "Notes."</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Do records exist for the pest? <i>Pest records exist in databases such as:</i></p> <ul style="list-style-type: none"> ◆ <i>National Agricultural Pest Information System (NAPIS) Database</i> ◆ <i>Centre for Agricultural Bioscience International (CABI) Database</i> ◆ <i>Global Pest and Disease Database (GPDD)</i> ◆ <i>Other</i> 	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is scientific literature available in regard to status of FRSMP pest in the program State(s)? <i>Cite sources, if applicable, in "Notes" below.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Notes <i>Document any additional relevant information. Attach additional pages if necessary.</i></p>			

Table G-4 Possible Introduction Pathways

<p>Has Pest Risk Analysis (PRA) been updated? <i>Check as appropriate.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is there evidence that new pathways exist for the pest to enter the State(s)? <i>Request updated information if new pathways of introduction exist. Information may address any means-i.e. pathways-- that would allow continued introduction of the pest into the state(s), or further facilitate the pest's introduction to the state(s). Examples of pathways include (but are NOT limited to):</i></p> <ul style="list-style-type: none"> ◆ <i>Importation of Host</i> ◆ <i>Interstate Trade</i> ◆ <i>Smuggling</i> ◆ <i>Natural Spread</i> <p><i>Specify in "Notes" if new information on pathways exists. Cite sources (like database reports) in "Notes" below. Note any negative impact on technical feasibility of program.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is there new port interception data on the pest? <i>Check as appropriate. NOTE: States may not have this information. Request reports from QPAS administrators for Pest ID and EAN databases or from FRSMP Coordinator.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is natural spread one of the pathways? Explain means and rate of natural spread in "Notes" below. <i>Request relevant sources of information. Cite in "Notes" below.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Notes <i>Document any additional relevant information. Attach additional pages if necessary.</i></p>			

Appendix G

Audit for Recognition in the FRSMP Program

Table G-5 Maintenance/management/verification

<p>Is there evidence of State(s)' actions to maintain and monitor for pest freedom, limit distribution, or containment (including exclusion)?</p> <p><i>Request appropriate comprehensive survey data, surveillance data, trapping data, or scientific and academic literature that defines infested area(s), endangered area(s), protected area(s), and procedures used in containment or eradication.</i></p> <p><i>Cite sources in "Notes" below. If a field visit is conducted, specify.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Is there evidence of inspections being conducted?</p> <p><i>Check as appropriate. Cite sources in "Notes" below. If a field visit is conducted, specify.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Does a State process exist to regularly evaluate the feasibility and effectiveness (quality assurance) of the FRSMP program in place?</p> <p><i>Review appropriate documents. Cite sources in "Notes" below. If a field visit is conducted, specify.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Regulated Non-Quarantine Pests (RNQP) ONLY. Is there evidence of State(s)' actions to manage the level of pest(s) in plants for planting?</p> <p><i>Request appropriate documents that demonstrate that the pest is maintained below a tolerance level that can affect production, health or marketability of plants for planting and cause an unacceptable economic impact. Information must demonstrate that State verifies the management of the pest by producers.</i></p> <p><i>Cite sources and specify if field visits were conducted in "Notes" below.</i></p> <p><i>Indicate pest's tolerance level in "Notes" below.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>Notes</p> <p><i>Document any additional relevant information. Attach additional pages if necessary.</i></p>			

Appendix H

Online Resources

Links to Useful Websites

Refer to the websites below for additional information:

- ◆ [State Departments of Agriculture](#)
- ◆ [National Plant Board](#)
- ◆ [IPPC Adopted Standards](#)
- ◆ [National Agricultural Statistics Service](#)
- ◆ [Threatened and Endangered Species System](#)
- ◆ [USDA Crop Profiles](#)
- ◆ [U.S. Government Printing Office Style Manual](#)

Approved State-managed Phytosanitary Programs

As FRSMP programs are approved, links to those approved State-managed phytosanitary programs will appear in [Appendix B](#).

Glossary

Definitions, Terms, and Abbreviations

containment¹. Application of phytosanitary measures in and around an infested area to prevent spread of a pest.

delimiting survey¹. Survey conducted to establish the boundaries of an area considered to be infested by or free from a pest.

detection survey¹. Survey conducted in an area to determine if pests are present.

endangered area¹. An area where ecological factors favor the establishment of a pest whose presence in the area will result in economically important loss.

equivalence (of phytosanitary measures)¹. The situation where, for a specified pest risk, different phytosanitary measures achieve a contracting party's appropriate level of protection.

eradication¹. Application of phytosanitary measures to eliminate a pest from an area.

exclusion². Application of phytosanitary measures in and around an endangered area to prevent the introduction of a pest.

Federal Collaborator. An individual who has specialized plant health skills that APHIS requires to complete specialized program activities, complete APHIS training, or perform APHIS-sanctioned duties. The [Plant Protection Act of 2000 \(PPA\)](#) authorizes the Secretary to cooperate with the States or political subdivisions thereof, domestic or international organizations or associations, and individuals to carry out the programs of the PPA. For more information, see [Statement of Work for Federal Collaborators](#) on page [A-15](#).

International Plant Protection Convention¹. International Plant Protection Convention, as deposited with FAO in Rome in 1951 and as subsequently amended.

International Standard for Phytosanitary Measures¹. An international standard adopted by the Conference of FAO, the Interim Commission on phytosanitary measures or the Commission on phytosanitary measures, established under the IPPC.

¹ From [International Standards for Phytosanitary Measures ISPM No. 5, Glossary of Phytosanitary Terms \(2013\)](#).

² Proposed IPPC definition.

interstate commerce³. Trade, traffic, or other commerce: (a) between a place in a State and a point in another State, or between points within the same State but through any place outside that State; or (b) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

legislation⁴. Any act, law, regulation, guideline or other administrative order promulgated by a government [[ISPM No. 3, 2005](#)].

monitoring⁴. An official ongoing process to verify phytosanitary situations.

move and related terms³. The terms “move”, “moving”, and “movement” mean: (a) to carry, enter, import, mail, ship, or transport; (b) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; (c) to offer to carry, enter, import, mail, ship, or transport; (d) to receive to carry, enter, import, mail, ship, or transport; (e) to release into the environment; or (f) to allow any of the activities described in a preceding subparagraph.

National Plant Protection Organization⁴. Official service established by a government to discharge the functions specified by the IPPC.

permit³. A written or oral authorization, including by electronic methods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

pest⁴. Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products.

phytosanitary measure (agreed interpretation)⁴. 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.

phytosanitary procedure⁴. Any official method for implementing phytosanitary measures including the performance of inspections, tests, surveillance or treatments in connection with regulated pests.

protected area⁴. A regulated area that an NPPO has determined to be the minimum area necessary for the effective protection of an endangered area.

quarantine pest⁴. A pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

³ From the [Plant Protection Act of 2000](#).

⁴ From [International Standards for Phytosanitary Measures ISPM No. 5, Glossary of Phytosanitary Terms \(2013\)](#).

regulated area⁵. An area into which, within which and/or from which plants, plant products and other regulated articles are subjected to phytosanitary regulations or procedures in order to prevent the introduction and/or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests (see Glossary Supplement No. 2).

regulated non-quarantine pest⁵. A non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party.

sponsor⁶. Individual or entity who organizes and is committed to the development of a product, program or project. For the APHIS-PPQ FRSM Program, the sponsor is responsible for coordinating, leading communication, and planning among interested SPROs. The initiating SPRO may sponsor the final petition or defer that role to another participating SPRO. The sponsoring State will be identified in the title of the program – i.e. The Federally Recognized State Managed Phytosanitary Program for “Pest A” Sponsored by the State of “B.”

State⁷. Any of several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

surveillance⁵. An official process which collects and records data on pest occurrence or absence by survey, monitoring, or other procedures.

survey⁵. An official procedure conducted over a defined period of time to determine the characteristics of a pest population or to determine which species occur in an area.

5 From [International Standards for Phytosanitary Measures ISPM No. 5, Glossary of Phytosanitary Terms \(2013\)](#).

6 Definition of term for the FRSM Program.

7 From the [Plant Protection Act of 2000](#).

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