FRSMP Frequently Asked Questions for States

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How can my State's phytosanitary program benefit from Federal recognition?

The FRSMP program establishes a process for granting Federal recognition to qualifying State-managed eradication, control, and exclusion programs for pests that is not regulated by APHIS or one that APHIS is considering to no longer regulate under a federal program, and it must be of limited distribution within the United States. This Federal recognition will justify actions ordered by APHIS officials when a FRSMP program pest is intercepted at a U.S port of entry. Such actions could include treatment, re-direction to a non-FRSMP State, re-exportation, destruction of the shipments, or restrictions on interstate movement, depending on the specific FRSMP requirements related to that pest. The FRSMP program will help States to keep out a particular pest of concern without affecting imports destined to States that do not consider the pest a concern.

Who will be responsible for funding State-managed phytosanitary programs that receive Federal recognition under the FRSMP program?

The States will be responsible for funding their State-managed phytosanitary programs. Some State-managed phytosanitary programs may be incorporated into established programs, such as general nursery surveying, or bundled with Cooperative Agricultural Pest Survey. In some cases, PPQ may provide certain services, such as pest risk information, to help states present a reasonable argument for petition.

If a State does not have money to support a State-managed phytosanitary program, may that State request Federal funding under Federal programs such as Plant Pest and Disease Management and Disaster Prevention Program (PPDMDPP) under the authority of the Plant Protection Act (PPA) Section 7721?

Yes, a State may request Federal funding from PPDMDPP through PPA 7721 or other Federal programs to support a State-managed phytosanitary program. However, should that money be discontinued, and the State be unable to fulfill its obligations under its FRSMP work plan, the State-managed program may be terminated according to the terms of the FRSMP Cooperative Agreement.

Will travel funds be provided for States to get together to discuss pests and petitions?

No. There is no Federal requirement for face-to-face meetings. Alternatives such as conference calls and webinars could be used to minimize travel costs.

What happens if a State starts a phytosanitary program, obtains Federal recognition under the FRSMP program, and then stops the program?

If a State does not maintain a program in good standing, PPQ will terminate recognition of that program. Before that happens, the State will be notified and given a chance to return to compliance with the program.

Who will maintain the library of petitions, approvals/denials of petitions, and other supporting documents?

PPQ will publish relevant programmatic information on the FRSMP program website. The National Coordinator will oversee the program and maintain relevant documentation of each Federally recognized State-managed phytosanitary program.

Who will collaborate with industry? The National Plant Board or USDA?

Both groups may collaborate with industry, and the IPPC guidelines recognize industry participation. Industry collaboration with States could contribute to the development of a State-managed program. States are encouraged to meet with their industries as they develop petitions for the FRSMP program to ensure the implications of program participation are understood by all parties.

Will PPQ provide the States with information about pests detected at ports of entry?

State plant regulatory officials may request and obtain information from PPQ State plant health directors, PPQ national operations managers, the FRSMP program national coordinator, and/or PPQ's National Identification Services.

Will surveillance work increase?

It is not likely that surveillance work will increase since most of the pests that will qualify for consideration under the FRSMP program are currently actionable, and the States are likely inspecting for them now.

How much effort and paperwork will be required of State agricultural agencies?

State agriculture agencies will develop petitions to seek Federal recognition of their phytosanitary programs. Program recognition is contingent upon States conducting required inspections, taking phytosanitary measures when pests are found, recording and reporting inspection results, conducting periodic surveys, and maintaining records.

What is the estimated effort to be spent by a State?

The effort involved in developing and maintaining a Federally recognized State-managed phytosanitary program depends on the pest and how its presence or absence is or will be addressed. Some programs may exist, while others will need to be designed and implemented.

How will criteria be analyzed and the determination made to approve or disapprove a petition?

The submissions will be evaluated by the Official Control Advisory Panel (OCAP), which is composed of APHIS personnel from Plant Health Programs, Center for Plant Health Science and Technology, Field Operations, and the National Plant Board. The criteria are available in the program manual and were established and vetted through the National Plant Board (NPB) prior to adoption. Based on the panel's evaluation of each petition, they will reach a consensus as to whether program requirements have been met.

What about pathogens that cannot be detected at U.S. ports of entry?

Pathogens that cannot be detected at U.S. ports of entry will not qualify for consideration under the FRSMP program unless a testing protocol is available and approved by the OCAP. Pathogens in this category may be forwarded to PPQ for consideration on a case-by-case basis. Offshore testing and post-entry quarantine are other possible regulatory options.

How will transiting be handled under the FRSMP program?

If a pest regulated under the FRSMP program is found in a shipment entering the United States, the importer will be notified (via an EAN) of the States that require phytosanitary action for the detected pest. Once the shipment leaves the port of entry, it will be subject to the rules of interstate commerce and must meet the requirements established by the State for transiting. Importers are urged to contact the appropriate State Plant Regulatory Official for specific guidance related to transiting shipments through states. If the shipment moves into regulated States nevertheless, the movement will be considered a violation under Title 7, Code of Federal Regulations, and part 330.106.

Is the FRSMP program voluntary?

Yes. However, once a petition for Federal recognition of a State-managed phytosanitary program is approved, the State will be required to meet its commitments or it will no longer qualify for Federal recognition under the FRSMP program.

What is the timeline for approving a petition?

We anticipate that it will take approximately 60 days from the date of receipt to determine if a program will be granted Federal recognition, but the actual timeline is dependent on the volume, thoroughness, and complexity of the petitions.

Can a State request that USDA APHIS take preliminary remedial action at the ports of entry on a FRSMP program pest while reviewing a State petition?

Yes. 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. 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 60 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.

How might the following pests be handled under the FRSMP program: channeled apple snail, Asian citrus psyllid, and Formosan termite?

The channeled apple snail is a possible candidate for the FRSMP program. This invasive pest has the potential to become established and harm the environment and the economy in certain States. PPQ has not established a program to address the channeled apple snail, but States currently monitoring for or regulating this pest in interstate commerce may wish to seek Federal recognition of their program to justify action at ports of entry.

The Asian citrus psyllid is not a candidate for the FRSMP program. This invasive pest is currently regulated under a Federal official control program. States do not need to request Federal recognition of a State-managed phytosanitary program for this pest.

The Formosan termite is not a candidate for the FRSMP program. This invasive pest is considered widespread and impossible to eradicate.

Who will conduct pest risk analyses (PRAs) under the FRSMP program: PPQ or the States?

The States are responsible for gathering the petition information required for submission to PPQ, but PPQ can help provide pest risk information when it is available.

Is a formal PRA required for a State-managed phytosanitary program to be considered under the FRSMP program?

No. Only a reasonable argument of pest risk is expected. In accordance with the IPPC, justification will be "... on the basis of conclusions reached by using an appropriate pest risk analysis, or, where appropriate, another comparable examination and evaluation of available scientific information." Per the International Standard for Phytosanitary Measure No. 2, part 3.3.2, "... a PRA does not necessarily need to be long and complex. A short and concise PRA may be sufficient provided justifiable conclusions can be reached after completing only a limited number of steps in the PRA process."

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