

PETITION FOR OFFICIAL CONTROL

INTRODUCTION AND DEFINITION OF OFFICIAL CONTROL

The Animal and Plant Health Inspection Service's (APHIS) Plant Protection and Quarantine (PPQ) program has established the following procedures for States (through the National Plant Board) to petition the Agency to recognize state-level plant pest regulations and associated actions taken as meeting the international criteria for Official Control. 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."

IPPC STANDARDS

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.

THE STRATEGIC REASONS FOR OFFICIAL CONTROL

When fully established, the Official Control Program will contribute to the accomplishment of our USDA-APHIS Mission Priority #1 to strengthen our safeguarding system 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 our APHIS Strategic Plan (2007-2012).

WHEN A STATE'S OFFICIAL CONTROL PROGRAM MAY BE RECOGNIZED

When a plant pest of limited distribution in the United States is not regulated at the Federal level, APHIS-PPQ may recognize a state-level program to regulate, on its own behalf, a plant pest of limited distribution. In other words, the Agency (i.e., APHIS-PPQ) may recognize a state's program as an "Official Control" program for a plant pest of limited distribution.

THE TWO SITUATIONS FOR OFFICIAL CONTROL

There are two situations where States may apply for Federal recognition of their programs in relation to Official Control.

1. When APHIS-PPQ does not regulate a plant pest of limited distribution in the United States, a State that has that pest within its own borders may implement procedures to eradicate the plant pest or to contain the plant pest within its borders.
2. When APHIS-PPQ does not regulate a plant pest of limited distribution in the United States, a State without that pest may implement procedures to contain (by

means of exclusion) the pest in order to prevent the risk of introduction of the plant pest within its borders.

FOREIGN GOVERNMENT CHALLENGES

When there is a possibility that a foreign government may challenge APHIS-PPQ's import requirements based on the presence of a regulated pest in the United States, APHIS PPQ may encourage the State where that pest is present or is contained by exclusion to establish a recognized Official Control program in order to maintain import requirements at ports of entry. APHIS PPQ will place petitions submitted by States under these circumstances at the top of the list to be considered for recognition.

CONSEQUENCES FOR A STATE WITH NO OFFICIAL CONTROL FOR A PEST.

Without the designation of official control for a plant pest, the pest's designation at ports of entry may change from actionable to non-actionable, i.e. if the pest is detected at ports of entry in a commodity, then no action will be taken. Therefore, by establishing your own official control program, you can help to ensure that the pest remains one of regulatory significance and that action will be taken at ports of entry (POE) in your State or at other POE's if the imported commodity is destined to your State.

NON-DISCRIMINATION

Requirements for imports should not be more stringent than domestic requirements.

HOW A STATE MAY GAIN RECOGNITION OF ITS PEST REGULATIONS AS MEETING THE REQUIREMENTS FOR OFFICIAL CONTROL BY APHIS-PPQ

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

PROTOCOL FOR QUARANTINE PESTS OF CONCERN

The State should provide the following supporting information and documentation.

1. Presence.

Evidence the pest does not exist in the State, or if it does exist, that it is being contained (by exclusion in some cases) 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.

2. 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.

3. Economic/ environmental harm.

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

4. 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.

5. Quarantine regulations.

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

PROTOCOL FOR REGULATED NON-QUARANTINE PESTS

The State should provide the following supporting information and documentation.

1. 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.

2. Quarantine regulations/ Testing.

Evidence 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.

3. 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 mail your Petitions for official control for both quarantine and regulated non-quarantine pests, or your questions regarding the program, to Ms. Diane Schuble, Staff Officer, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737-1231; or send an email to Diane.L.Schuble@aphis.usda.gov. At some time in the future, you will be able to submit petitions through the Internet.

ADMINISTRATIVE REQUIREMENTS

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

CRITERIA TO BE USED TO EVALUATE YOUR PETITION

The criteria are under development and will be explained to you in the future.

AUDIT/REVIEW REQUIREMENTS

States will submit annual accomplishment reports and APHIS-PPQ will audit programs for survey and monitoring in order to confirm compliance. APHIS-PPQ will base the audits on the procedures submitted in protocol items 1, 4, and 5 for Quarantine Pests and protocol item 3 for Regulated Non-Quarantine Pests. Any non-compliance must be addressed appropriately.

DEFINITIONS

From ISPM No 5

Endangered Area – An area where ecological factors favor the establishment of a pest whose presence in the area will result in economically important loss

Monitoring - An official ongoing process to verify phytosanitary situations

Protected Area - A regulated area that an NPPO has determined to be the minimum area necessary for the effective protection of an endangered area

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

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

Survey - 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

From Plant Protection Act of 2000

State- The term “State” means 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.