FRSMP Frequently Asked Questions for Importers

Last Modified:

Expand All

What is the Federally Recognized State Managed Phytosanitary Program?

The Federally Recognized State Managed Phytosanitary (FRSMP, pronounced “free-stamp”) program establishes a process for the Federal recognition of certain state-managed plant pest programs. The U.S. Department of Agriculture’s (USDA) Animal and Plant Health Inspection Service (APHIS) will consider State programs developed to eradicate, exclude, 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.

Why did APHIS create the FRSMP program?

APHIS created this program to promote greater consistency in actions taken against certain plant pests arriving at U.S. ports of entry in a consignment of goods imported into the United States, or are in a shipment that is moving interstate. By harmonizing certain U.S. import and interstate plant pest restrictions, APHIS will be able to support and strengthen State-managed phytosanitary programs. It is important to support such State programs since their aim is to exclude a pest that is not present or only has limited distribution, and where economic or environmental harm could result from the pest’s introduction or spread in the State. This program also strengthens APHIS’ ability to advocate for safe, fair, and reciprocal treatment of

U.S. exports by our trading partners.

In addition, the program allows APHIS to focus its resources on plant pests that truly represent risk to agriculture and need to be kept out of the United States. It accomplishes this by providing a process for APHIS to review current pest categories and to re-categorize those pests no longer considered a risk, thus allowing APHIS to lift its requirements for regulatory action if such re-categorized pests are subsequently intercepted at a U.S. port of entry. As of January 2023, 135 pests were re-categorized in this manner. This program also reduces restrictions on commerce by allowing some States to keep out a particular pest of concern without affecting imports destined for States that do not consider the pest a concern.

How will the FRSMP program change the way APHIS responds at U.S. ports of entry when a pest listed under the program is intercepted?

If APHIS intercepts a FRSMP program pest at a U.S. port of entry located in a State that restricts that pest under the program, APHIS will determine the appropriate control action, if any, to implement. The determination may be to issue an Emergency Action Notification (EAN) ordering the infested shipment to be treated, re-exported, re-directed to a State that does not restrict the pest, or destroyed. The least restrictive action will apply.

If APHIS intercepts a FRSMP program pest at a U.S. port of entry located in a State that does not restrict that pest under the program, APHIS may allow the importation of the commodity shipment into the United States without any phytosanitary treatment at that port of entry but may, at the same time, decide under certain circumstances that it is appropriate to issue an EAN ordering certain restrictions on the interstate movement and further destinations of that commodity shipment.

How will importers benefit from changes resulting from the FRSMP program?

The FRSMP program has the potential to reduce trade restrictions with the United States. This is accomplished in two ways. First, the program provides a process for reevaluating the phytosanitary risks of certain federally listed plant pests, thus reducing the number of pest interceptions on imported commodities that would require a Federal control action at ports of entry. In anticipation of the establishment of this program, APHIS, in close collaboration with the States, has already identified 135 pests (as of January 2023) that no longer require Federal control action at U.S. ports of entry because they are pests that are already

established enough in the United States to be unlikely to further seriously harm the U.S. environment or the economy.

Second, the FRSMP program provides a process for APHIS to decide whether it needs to impose or require any additional remedial measures for imports that are intercepted with infestations of FRSMP plant pests. Prior to the FRSMP program, APHIS' regulatory provisions required that all shipments found infested with plant pests arriving anywhere in the United States had to be treated, re-exported, or destroyed. Under the FRSMP program, imports found infested with FRSMP pests will be evaluated by APHIS to determine if APHIS needs to take any Federal control action on that pest and whether or not APHIS should impose any remedial measures on a commodity shipment infested with a FRSMP program pest. Thus APHIS will be able to determine if a particular shipment involving a FRSMP program plant pest can be adequately mitigated or safeguarded to enter into the United States without any phytosanitary mitigation treatment. This gives APHIS the ability to not impose unnecessary importation and mitigation restrictions on certain plants pests, namely, on specific FRSMP pests.

How will I be notified if one of my shipments contains a pest controlled under the FRSMP program?

If a pest regulated under a FRSMP program is detected in a shipment arriving at a U.S. port of entry, a U.S. Customs and Border Protection (CBP) Agriculture Specialist or APHIS Plant Protection and Quarantine (PPQ) Officer will issue an Emergency Action Notification (EAN, PPQ Form 523) to the importer if they determine it is appropriate and necessary. The EAN will provide information regarding the importer's options, including a link to the FRSMP program Web site, where the importer can find detailed information about the specifically required mitigations. Such mitigation 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 determined to be appropriate for that specific pest. The least restrictive action will apply.

If a pest controlled under the FRSMP program is found in one of my shipments, what do I need to do to meet Federal requirements for the FRSMP program?

If a pest regulated under the FRSMP program is detected in a shipment, CBP or PPQ will determine what, if any, control or mitigation action is appropriate and necessary, and may issue an EAN ordering some restrictions on the interstate movement and

further destinations of that commodity shipment. The EAN will also include a link to the FRSMP program Web site, where the importer can find detailed information about the specifically imposed mitigation actions for interstate movement. It is possible that not all FRSMP pests will have an appropriate or effective mitigation action, and therefore a shipment could be prohibited entry into a particular FRSMP State.

If a pest controlled under the FRSMP program is detected in a shipment, and I can find a willing buyer of the commodity infested with a FRSMP pest in a State that isn't regulating that FRSMP pest, can the shipment be redirected to the other State without being treated, re-exported, or destroyed?

If a pest controlled under the FRSMP program is detected in a shipment arriving in a participating FRSMP State, APHIS can evaluate the pest and the circumstances and then may determine that the importer can re-direct the shipment to a State that has no concerns about the particular FRSMP pest. APHIS may also consider other necessary and appropriate options, including treatment (if available), re-exportation, or destruction. The importer will be given the opportunity to choose the least restrictive approved option given by APHIS at the time of the importation.

If a pest controlled under the FRSMP program is detected in a shipment arriving in a State that has no concerns about the particular FRSMP pest, and the shipment is ultimately destined for a FRSMP State that does have a concern about the pest (that is, the FRSMP State entry restrictions on that specific FRSMP pest), APHIS may determine that the importer can change the shipment's final destination to any State that has no concerns about the particular FRSMP pest. If the importer wishes to move the shipment to a FRSMP State that does have a concern about the particular FRSMP pest, then the importer must comply with whatever APHIS-approved treatment or other mitigation action APHIS determines to be necessary and appropriate for that pest. If APHIS determines that there is no appropriate treatment or other mitigation action which is available or feasible, then APHIS may prohibit the shipment from entering the FRSMP State that has concerns about the particular FRSMP pest.

Let's assume that a pest controlled under the FRSMP program is detected in a shipment, and I redirect the untreated shipment to a State that does not have a concern with that particular FRSMP pest. Can I change my mind and request treatment later so that I can send the shipment to a State that does have a concern with that particular FRSMP pest?

If you wish to change the destination State for a shipment that has a pest controlled under the FRSMP program to a FRSMP State that has concerns about the particular FRSMP pest in your shipment, then you must contact APHIS' Plant Protection and Quarantine (PPQ) program so that it can determine whether to allow the shipment and whether or not to impose any restrictions or mitigation actions on that shipment. Such decisions by PPQ will be made on a case-by-case basis. So, make sure to contact the APHIS State Plant Health Director's office in the intended destination FRSMP State.

What constitutes a violation under the FRSMP Program?

For example, moving a shipment out of the first U.S. port of entry might constitute a violation if APHIS determines that the following three conditions have been met:

1. A pest regulated under the FRSMP program is found during port-of-entry inspections;
2. The broker or importer is provided written notification for example, via an EAN of the pest find and the APHIS imposed phytosanitary actions (which might include restricting or prohibiting the shipment from moving to a FRSMP State); and,
3. An investigation reveals that the importer failed to follow the APHIS requirements stated in the EAN (or otherwise communicated to the importer) allowed the shipment to move to or remain in a FRSMP State.

Can a shipment transit through a FRSMP State if it is found with a FRSMP pest?

If a pest regulated under the FRSMP program is found in a shipment entering the United States, the importer will be notified (usually via an EAN) of the specific FRSMP States that restrict entry for the detected FRSMP pest. Once the shipment leaves the port of entry, APHIS must determine what actions are needed and appropriate, if any, to prevent the spread of the FRSMP pest. Importers should contact the appropriate State Plant Regulatory Official for specific guidance related to transiting shipments through FRSMP States.

Will the phytosanitary actions required to mitigate a particular pest vary from State to State under FRSMP?

No. The phytosanitary actions required to mitigate a particular FRSMP pest will be the same for each FRSMP State that has entry restrictions on that specific FRSMP

pest.

What can I do to stay informed about the FRSMP program, including the pests that will be regulated and the States that are participating?

The FRSMP program Web site will be the primary source of information about the program. The list of federally recognized State-managed phytosanitary programs and the pests that will be controlled under those programs will be available on the FRSMP program Web site. Importers will also find the FRSMP program manual and other important policy and program documents on the site. In addition, importers are strongly encouraged to subscribe to the APHIS Stakeholder Registry (select the Federally Recognized State Managed Phytosanitary Program topic under APHIS-Plant Health Information, Importation into the U.S.). As petitions to recognize State-managed phytosanitary programs are approved, PPQ will announce the programs and the regulated pests via the Stakeholder Registry.

Print