

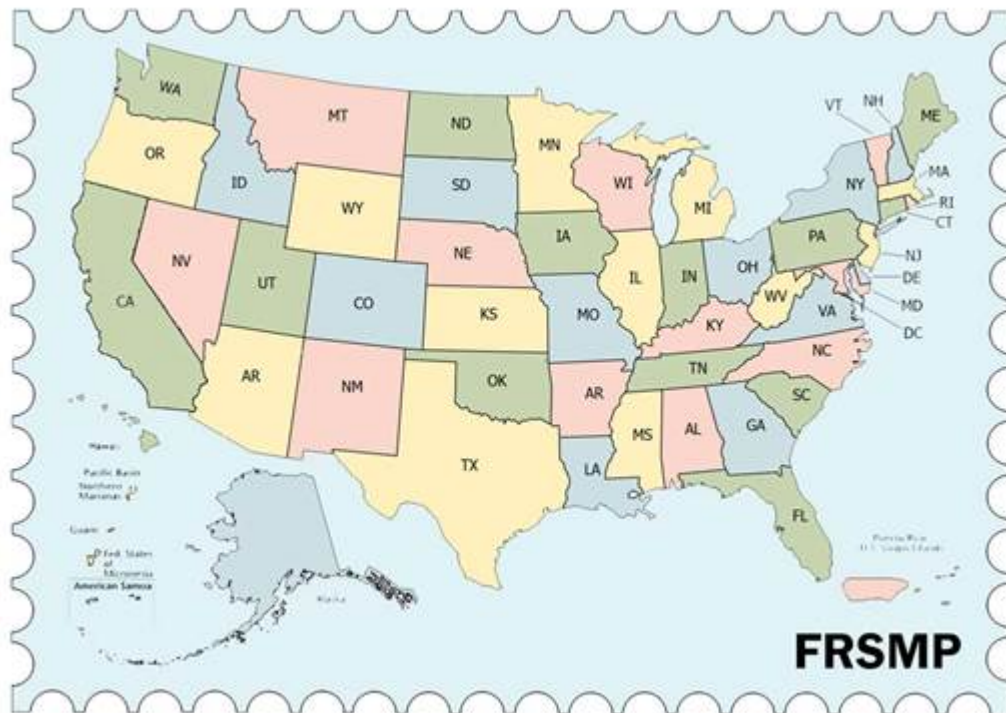
Animal and
Plant Health
Inspection
Service

Plant
Protection and
Quarantine

Professional
Development
Center

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Federally Recognized State Managed Phytosanitary Program (FRSMP) Training for Federal Collaborators



Training Objectives

After reading this booklet, you will be able to:

- Cite the federal acts that allow collaboration between the USDA and the States.
- Identify different Sections of the Plant Protection Act relevant to the Cooperative Arrangement between the Animal and Plant Health Inspection Service (APHIS) and your State.
- Complete appropriate form when detecting FRSMP pests outside ports of entry.
- Complete appropriate form and case file when referring penalties to APHIS.

Background

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. APHIS established the FRSMP Program to promote greater consistency in actions taken against certain plant pests, whether those pests arrive at U.S. ports of entry or are moving interstate. The FRSMP Program allows the United States to meet our obligations under the International Plant Protection Convention (IPPC). FRSMP pests are regulated under the Plant Protection Act of 2000.

The Plant Protection Act of 2000 (PPA) authorizes the Secretary of Agriculture 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.

Besides the PPA, the Talmadge-Aiken Act of 1962 allows the Secretary to enter into cooperative agreements with States 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.

Federal Collaborators are **State** Department of Agriculture officials, with specialized plant health skills, designated under a federal personnel action that authorizes them to complete APHIS program activities, complete APHIS training, or perform APHIS-sanctioned duties under a position description established by APHIS. Federal Collaborators do not receive salary from APHIS.

Responsibilities

The activities performed by Federal Collaborators will be covered by cooperative arrangements and work plans between APHIS and the State. 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 interpretation and application of rules, regulations, and laws in recommending or determining courses of action.

Federal Collaborators may direct subordinates to take remedial action on a foreign origin FRSMP pest as recognized for that state when it is encountered in the course of domestic phytosanitary activities. The authority for such actions will be under the Plant Protection Act of 2000 (PPA). Federal Collaborators and those subordinates will be responsible for taking regulatory enforcement actions within their State under the collaborator agreements.

Also, to clarify, under a FRSMP Cooperative Arrangement, Federal Collaborators will not engage in port of entry inspections or in any inspection activity outside their state. Authority is limited to taking regulatory actions on the specifically recognized FRSMP pest within their state. If other pests of Federal concern are found, they must notify APHIS/PPQ.

Actions taken by the collaborator to mitigate pest risk must be the least drastic action that is feasible to address the risk. If a treatment is available to mitigate pest risk, it must be recognized by APHIS¹ to be effective and in accordance with EPA label requirements and any applicable state requirements.

The Plant Protection Act of 2000 (PPA)

The Plant Protection Act is Title IV of the Agricultural Risk Protection Act enacted into law on June 20, 2000. It consists of 35 Sections grouped into five Subtitles.

The sources of your federal authority to regulate FRSMP pests included in your State's program are limited to Sections 414 and 422 of the Plant Protection Act. Section 414 provides the authority to apply remedial measures to items in order to destroy or dispose of FRSMP pests in foreign commerce. Section 422 provides the authority to gather and compile information and to conduct investigations necessary for the administration and enforcement of FRSMP pests. Refer to the PPA at www.ag.senate.gov/download/plant-protection-act for more details.

PPQ Form 523 Emergency Action Notification (EAN) and PPQ Form 518 Report of Violation

PPQ Form 523 Emergency Action Notification is a document that allows a Federal Collaborator to communicate the status of a shipment to the interested parties. This form specifies to stakeholders why the shipment is being refused and a basic explanation as to what action is necessary. PPQ Form 523 should only be issued when the FRSMP pest found can be traced back to a foreign origin.

¹ In the Treatment Manual

By completing blocks 1-16 in PPQ Form 523, the Federal Collaborator documents specific information about the issue that prompted the completion of an Emergency Action Notification (EAN). It also presents remedial actions to correct the problem. After completing the Form, the collaborator presents the EAN to the person responsible for the articles involved. That person signs and dates the form (in block 17) to acknowledge receipt of the document. The collaborator does the same (in block 18). After the action is executed and the problem is resolved, the collaborator makes a record in block 19.

Upon detection of a FRSMP pest during inspection activities, the Federal Collaborator will complete a PPQ form 523 to officially communicate the required remedial action to the shipper. The collaborator will submit a copy to APHIS/PPQ for entry into the APHIS databases.

PPQ Form 518 is a document used to refer violations of APHIS regulations. In the event of a failure to comply with the instructions specified in PPQ form 523, the collaborator will document the failure on a PPQ form 518, write an officer statement, gather evidence and submit to APHIS/PPQ as soon as possible. The collaborator should keep notes on all communications with the alleged violator to be able to provide detailed information to APHIS if necessary.

Case file in support of PPQ Form 518 Report of Violation

A case file consists of a written statement by the Federal Collaborator who witnessed or identified the violation and any other evidence collected. The statement should be completed as close to the violation date as possible. Be specific. Identify all known facts, dates, names, titles, quantities and common and scientific names, if available.

Collect evidence in a fair and impartial manner, making every effort to obtain a complete, factual record. Examples of evidence are:

- Federal Collaborator's statement
- Airway bill, bill of lading, waybill
- Photographs
- Invoices
- Packing lists
- Permits

Give an exhibit number to each piece of evidence that you collect. Label and assemble your evidence in the following order:

1. PPQ Form 518 Report of violation.
2. Federal Collaborator statement.
3. Other documentary evidence. When submitting photographs, write date, description and photographer's name on the back of the photograph. Or on a piece of paper on which the photograph is mounted.
4. Physical evidence.

After all evidence is collected, send to APHIS/PPQ.

Case Studies

Case Study #1

Cargo arriving in a Florida state interdiction station is infested with a FRSMP pest. The shipment originated in Mexico and made entry into U.S.A. in Brownsville, Texas. Florida participates in a FRSMP program for that pest. While conducting their investigation, State inspectors find out that CBP Agriculture Specialists in Brownsville had issued an Emergency Action Notification (EAN) to the shipper. The EAN ordered the importer NOT to take the cargo to Florida, a FRSMP state.

The Florida inspectors are Federal Collaborators. What actions should they take?

Answer. Federal Collaborators should:

1. Issue an EAN providing options for disposition of the cargo (re-direct and avoid², destroy or treat³).
2. Submit a Report of Violation (PPQ form 518) to APHIS-PPQ –include evidence and statement (s). NOTE: Importer violated the order given in the EAN issued by CBP in Brownsville.
3. Witness the destruction or treatment of the shipment.
4. Document the action taken in the EAN (destruction, treatment).
5. Submit the EAN to APHIS-PPQ for entry in the EAN database.

Case Study #2

Cargo arriving at an Oregon distribution center is infested with a FRSMP pest. The shipment originated in South Korea and made entry in Portland. Oregon participates in a FRSMP program for that pest. While conducting their investigation, State inspectors find out that this pest had not been detected at the port of entry.

What actions should the Federal Collaborators take?

Answer. Federal Collaborators should:

1. Issue an EAN providing options for disposition of the cargo (re-direction, destruction or treatment).
2. Witness the re-direction, destruction or treatment of the shipment.
3. Document the action taken in the EAN (re-direct and avoid destroy, treat).
4. Submit the EAN to APHIS-PPQ for entry in the EAN database.

² Redirect and Avoid: If pest is found in a FRSMP state for that pest, the shipment may be redirected to a non-FRSMP state, BUT must also avoid (prevent movement to) all states that regulate this pest under FRSMP.

³ PPQ approved treatment.

APPENDIX I: PPQ Form 523 Emergency Action Notification (EAN)

U.S. DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE PLANT PROTECTION AND QUARANTINE		SERIAL NO.	
EMERGENCY ACTION NOTIFICATION		1. PPQ LOCATION	2. DATE ISSUED
		3. NAME AND QUANTITY OF ARTICLE(S)	
6. SHIPPER		4. LOCATION OF ARTICLES	
		5. DESTINATION OF ARTICLES	
9. OWNER/CONSIGNEE OF ARTICLES Name: _____ Address: _____ _____ PHONE NO. _____ FAX NO. _____ SS NO. _____ TAX ID NO. _____		7. NAME OF CARRIER	
		8. SHIPMENT ID NO.(S)	
		10. PORT OF LADING	11. DATE OF ARRIVAL
		12. ID OF PEST(S), NOXIOUS WEEDS, OR ARTICLE(S)	
		12a. PEST ID NO.	12b. DATE INTERCEPTED
		13. COUNTRY OF ORIGIN	14. GROWER NO.
		15. FOREIGN CERTIFICATE NO.	
		15a. PLACE ISSUED	15b. DATE
<p>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.</p> <p>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:</p>			
16. ACTION REQUIRED			
<input type="checkbox"/> TREATMENT: _____ <input type="checkbox"/> RE-EXPORTATION: _____ <input type="checkbox"/> DESTRUCTION: _____ <input type="checkbox"/> OTHER: _____			
<p>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.</p>			
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>I hereby acknowledge receipt of the foregoing notification.</i>			
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.			
Clear Form			

APPENDIX II: Instructions for Completing an Emergency Action Notification. FRSMP Federal Collaborators

Block Number	Field Name	Instructions
1	PPQ Location	Enter location where the EAN is being issued.
2	Date Issued	Enter date that the EAN was issued.
3	Name and Quantity of Articles	<p>Article Name. Determine the commodity of the shipment. Do not list packing material as Articles unless they are the actual commodity being shipped.</p> <p>Specify if the commodity is a plant product, animal product. If description does not fit animal or plant definition. Define as ‘Miscellaneous’.</p> <p>Quantity. Write numerical quantity of the shipment</p> <p>Unit of Measure. Disclose the unit of measure for the quantity (e.g. kilogram, box, bag, etc.).</p>
4	Location of Articles	Enter place where the shipment is located. Name of warehouse, business, dock, etc.
5	Destination of Articles	Enter address of final destination. Do NOT use the broker address as destination.
6	Shipper	Enter address of person or business that shipped articles into your state. If origin of shipment is foreign, use foreign address of shipper.
7	Name of Carrier	Enter name of airline, ship line, trucking company involved. Write flight number, voyage number or truck license number.
8	Shipment ID No(s)	Examples: airway bill, bill of Lading, waybill, container numbers. Other identifying numbers are acceptable.
9	Owner/Consignee of Articles	Enter name and address.
10	Port of Lading	Enter the foreign city and country where shipment was loaded onto the conveyance.
11	Date of Arrival	Enter the date that the shipment entered port of entry.
12	Id of Pests(s), Noxious Weeds, or Article(s)	Enter scientific name of pest
12a	Pest Id No.	If pest was identified by PPQ, provide Pest Id Number.
12b	Date Intercepted	Enter the date the pest was intercepted
13	Country of Origin	Enter county of origin
14	Grower No.	Field only applies to foreign facilities in which the product was grown or processed. Leave blank if unknown or if it does not apply
15	Foreign Certificate No.	Enter number if known. Otherwise, leave blank.
15a	Place Issued	If block 15 is completed. Enter place where foreign certificate

		was issued. Otherwise, leave blank.
15b	Date	If block 15 is completed. Enter date when foreign certificate was issued. Otherwise, leave blank.
16	Action Required	Specify PPQ treatment if one is available. Provide options of destruction or treatment as well as redirect and avoid. Use 7CFR 330.106 as the authority to issue this notification.
17	After Receipt of this Notification Complete Specified Action	Select the amount of time for action to take place
	Acknowledgement of Receipt of EAN	Enter the name, signature and title of the person accepting the EAN. Enter the date it was signed.
18	Signature of Officer	Enter signature and name of officer issuing the EAN
19	Revocation of Notification	Enter the action that was actually taken. Record if a penalty form was issued (PPQ Form 518). Record if there were articles mislabeled, misrepresented, or concealed. Write additional remarks if necessary. Enter signature and name of officer who can confirm the action was taken. Enter the date it was signed

APPENDIX IV: Instructions for Completing a Report of Violation.

Block	Instructions
1	Enter date violation was discovered
2	Enter 7CFR 330.106
3	Fill in name of the city and state where the violation was found.
4	Fill in the name of the country where the cargo originated or was grown.
5	Fill in the amount and the name of the cargo involved.
6	Enter airway bill, bill of lading number, etc.
7	Fill in name, position and address of alleged violator
8,9	Check and fill in as appropriate
10	Fill in the name and the business address of the carrier
11	Check in and fill in as appropriate
12	Fill in as appropriate
13	Fill in the name and the business address of the consignee
14	List action(s) taken to eliminate pest risk
15	Fill in any pertinent remarks
16	If the alleged violator did not provide a written statement, record all relevant verbal statements in your statement and indicate so in this block
17	<p>A <i>separate</i> statement must be written and accompany each PPQ Form 518</p> <ul style="list-style-type: none"> • Write your explanation of the violation • Give statement an exhibit number • Describe all the facts that resulted in the article listed in Block 5 being in violation of the regulation listed in Block 2 • State all facts including who, what, when, where and how • Include the following information where appropriate: <ul style="list-style-type: none"> ✓ When and where the violation occurred ✓ How the violation occurred ✓ Identify the owner of the cargo ✓ Identify the employer of the violator ✓ Refer to your exhibits and explain their relevance to the case ✓ State if you witnessed the violation ✓ Sign and date statement. If more than one collaborator was involved in the violation, each official must write a separate statement
18-20	Fill in
21	Leave blank
22-24	Fill in

APPENDIX V: Review Questions

Refer to the Plant Protection Act to answer questions 1-5

1. Which Section provides authority to take remedial action on plant pests?

- A) 401
- B) 411
- C) 412
- D) 414

2. Which Section provides the authority to conduct investigations?

- A) 412
- B) 414
- C) 421
- D) 422

3. PPQ Form _____ is a document that allows a Federal Cooperator to communicate the status of a shipment to the interested parties. This form specifies to stakeholders why the shipment is being refused and a basic explanation as to what action is necessary.

4. PPQ Form _____ is a document used to refer violations of APHIS regulations.

5. When preparing a case file, what are three examples of documents that can be used as evidence?

6. According to instructions for PPQ Form 518, what information should be included in your statement?

7. According to instructions for PPQ Form 523, what three actions may be available when a FRSMP pest is detected?

8. What two acts support the collaboration between the USDA and the States?

APPENDIX VI: Answers to Review Questions

Refer to the Plant Protection Act to answers questions 1-5

1. Which Section provides authority to take remedial action on plant pests?

- A) 401
- B) 411
- C) 412
- D) 414**

2. Which Section provides the authority to conduct investigations?

- A) 412
- B) 414
- C) 421
- D) 422**

3. PPQ Form **523** is a document that allows a Federal Cooperator to communicate the status of a shipment to the interested parties. This form specifies to stakeholders why the shipment is being refused and a basic explanation as to what action is necessary.

4. PPQ Form **518** is a document used to refer violations of APHIS regulations.

5. When preparing a case file, what are three examples of documents that can be used as evidence?

Any of these:

- **Federal Collaborator's statement**
- **Airway bill, bill of lading, waybill**
- **Photographs**
- **Invoices**
- **Packing lists**
- **Permits**

6. According to the instructions for PPQ Form 518, what information should be included in your statement?

- **When and where the violation occurred**
- **How the violation occurred**
- **Identify the owner of the cargo**
- **Identify the employer of the violator**

- **Refer to your exhibits and explain their relevance to the case**
- **State if you witnessed the violation**

7. According to instructions for PPQ Form 523, what three actions may be available when a FRSMP pest is detected?

- **Treatment**
- **Redirect and Avoid**
- **Destruction**

8. What two acts support the collaboration between the USDA and the States?

Plant Protection and Talmadge Aiken Acts