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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This final rule revises certain delegations of authority by the Secretary of Agriculture published at 7 CFR part 2. The Secretary delegates to the Assistant Secretary for Administration authority to serve as the USDA Chief Freedom of Information Act Officer; delegates to the Department of Agriculture Chief Information Officer the authority to appoint the USDA Privacy Act Officer; and, removes those delegations from the Department of Agriculture Director of the Office of Communications.

DATES: *Effective Date:* April 29, 2009.

FOR FURTHER INFORMATION CONTACT: Rita Morgan, USDA FOIA Service Center, 202-720-8164.

SUPPLEMENTARY INFORMATION: On December 31, 2007, the Openness Promotes Effectiveness in our National Government Act of 2007 became effective. It directs the head of each agency to appoint a senior official to serve as the Chief Freedom of Information Act Officer.

Therefore, this document amends 7 CFR part 2 section 2.24 of the delegations of authority by the Secretary of Agriculture to the Assistant Secretary of Agriculture for Administration to serve as Department of Agriculture Chief Freedom of Information Act Officer; amends 7 CFR part 2 section 2.37 of the delegations of authority by the Secretary of Agriculture to the Chief Information Officer to appoint a Department of Agriculture Privacy Act Officer; and further amends 7 CFR Part 2 section 2.36 to remove those

delegations by the Secretary of Agriculture to the Director of the Office of Communications.

The Chief Freedom of Information Act Officer is responsible to oversee efficient and appropriate compliance with the provisions of the Freedom of Information Act (5 U.S.C. 552); to monitor implementation of 5 U.S.C. 552 throughout the agency and to keep the Secretary, the General Counsel, and the Attorney General informed regarding agency performance of that implementation; to recommend to the Secretary any necessary adjustments to agency practices, policies, personnel, and funding to improve the implementation of 5 U.S.C. 552; to review agency implementation and report to the Attorney General, through the Secretary, as the Attorney General may direct; and, to facilitate public understanding of the purposes of the statutory exemptions contained in 5 U.S.C. 552.

The delegation of authority to the Chief Information Officer related to the Privacy Act reflects the practice that is already in place.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553(a)(2), notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, because this rule relates to internal agency management, it is exempt from the provisions of Executive Orders Nos. 12291 and 12866. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and is, therefore, exempt from the provisions of the Act. Accordingly, as authorized by 5 U.S.C. 808, this rule may be made effective upon publication.

List of Subjects in 7 CFR Part 2

Authority delegations (government agencies).

■ Accordingly, Title 7 of the Code of Federal Regulations is amended as set forth below.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR parts 1949-1953 Comp. p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

■ 2. Section 2.24 is amended by adding paragraph (a)(3) to read as follows: § 2.24 Assistant Secretary for Administration.

(a) * * *

(3) Related to the Freedom of Information Act. (i) Serve as the Chief Freedom of Information Act Officer for the Department.

(ii) Oversee general officers and agency heads in efficient and appropriate compliance with the provisions of the Freedom of Information Act (5 U.S.C. 552); monitor implementation of 5 U.S.C. 552 throughout the agency and keep the Secretary, the General Counsel, and the Attorney General informed regarding agency performance in its implementation; recommend to the Secretary necessary adjustments to agency practices, policies, personnel, and funding to improve implementation of 5 U.S.C. 552; review and report to the Attorney General, through the Secretary, as the Attorney General may direct; and, facilitate public understanding of the purposes of the statutory exemptions contained in 5 U.S.C. 552.

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Subpart D—Delegation of Authority to Other General Officers and Agency Heads

■ 3. Section 2.36 is amended by removing and reserving paragraph (a)(2)(viii) to read as follows:

§ 2.36 Director, Office of Communications.

(a) * * *

(2) * * *

(viii) [Reserved]

* * * * *

■ 4. Section 2.37 is amended by adding paragraph (b) to read as follows:

§ 2.37 Chief Information Officer.

* * * * *

(b) *Related to the Privacy Act.* (i) Appoint a Department Privacy Act Officer.

(ii) Oversee general officers and agency heads in the development and implementation of policies issued pursuant to the provisions of the

Privacy Act, 5 U.S.C. 552a, and provide consultation and guidance regarding those policies.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. E9-9726 Filed 4-28-09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 301 and 305

[Docket No. APHIS-2006-0143]

RIN 0579-AC54

Pale Cyst Nematode; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with two changes, an interim rule that amended the regulations by quarantining parts of Bingham and Bonneville Counties, ID, due to the discovery of the potato cyst nematode there and establishing restrictions on the interstate movement of regulated articles from the quarantined area. As amended by this document, the rule refers to the nematode of concern, *Globodera pallida*, by the common name "pale cyst nematode" rather than by the name "potato cyst nematode;" allows the movement of *Phaseolus* spp. (beans) and *Pisum* spp. (peas) under the same conditions that apply to the movement of other crops to which soil is often attached; and requires that a protocol approved by the Administrator as sufficient to support removal of infested fields from quarantine, rather than a 3-year biosurvey protocol, be completed in order to remove an infested field from quarantine. We are also making minor, nonsubstantive changes. These actions will prevent the spread of the pale cyst nematode via potatoes, soil, and other host material to noninfested areas of the United States.

DATES: *Effective Date:* April 29, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen Y. Smith, National Program Manager, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5235.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule¹ published in the **Federal Register** on September 12, 2007, and effective on November 1, 2007 (72 FR 51975-51988, Docket No. APHIS-2006-0143), we quarantined parts of Bingham and Bonneville Counties, ID, due to the discovery of the potato cyst nematode (*Globodera pallida*) and established restrictions on the interstate movement of regulated articles from the quarantined area. This action was necessary to prevent the spread of this pest to noninfested areas of the United States.

We solicited comments concerning our interim rule for 60 days ending November 13, 2007. We received three comments by that date. They were from a State department of agriculture and two private citizens. We have carefully considered the comments we received. They are discussed below.

The regulations established by the interim rule referred to *G. pallida* as the potato cyst nematode. One commenter stated that our use of the term "potato cyst nematode" to refer to *G. pallida* was confusing, as the term "potato cyst nematode" is used generically to refer to many cyst nematodes that infest potatoes. The commenter suggested that we amend the regulations to instead refer to the "pale potato cyst nematode."

We agree that the use of the term "potato cyst nematode" may make the species to which we refer unclear. For example, in our regulations for the importation of nursery stock in § 319.37-5(a), we refer to *G. rostochiensis* (the golden nematode) and *G. pallida* collectively as "potato cyst nematodes." To avoid confusion, this final rule amends the regulations established by the interim rule to refer instead to the "pale cyst nematode," or PCN.

Section 301.86-2 of the interim rule lists certain articles that present a risk of spreading PCN if they are moved from quarantined areas without restriction. These articles are referred to as regulated articles and include garden and dry beans (*Phaseolus* spp.) and peas (*Pisum* spp.).

One commenter asked why *Phaseolus* spp. and *Pisum* spp. were listed as regulated articles, since these articles are not hosts of PCN. The commenter also noted that we had not included provisions for their movement under certificate in the regulations and asked us to explain why.

¹To view the interim rule and the comments we received, go to <http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0143>.

Phaseolus spp. and *Pisum* spp. are listed as regulated articles because these articles are often moved with soil attached; it is the soil that poses a risk of spreading PCN, rather than the commodity itself. (*Phaseolus* spp. and *Pisum* spp. are produced both for consumption and as seed; in both cases, the risk arises from the potential movement of soil with the articles.) The risk posed by these articles is thus similar to the risk posed by potatoes and root crops intended for consumption, which are also often moved with soil attached.

The regulations established by the interim rule provide conditions under which potatoes and root crops intended for consumption can be moved interstate with a certificate. Paragraph (a)(3) of § 301.86-5 states that an inspector may issue a certificate for the interstate movement of potatoes or root crops intended for consumption from the quarantined area only if the field in which the potatoes or root crops have been grown meets the following requirements:

- The field has been surveyed by an inspector for PCN at least once in the last 3 years and prior to the planting of the potatoes or root crops;
- PCN has not been found in the field; and
- No more than one PCN host crop has been grown in the field the last 3 years.

We should have allowed *Phaseolus* spp. and *Pisum* spp. to move interstate under the same conditions, as the risk posed by these articles is the same as the risk posed by potatoes and root crops for consumption, and the conditions under which potatoes and root crops are allowed to be moved will also be effective for *Phaseolus* spp. and *Pisum* spp. Therefore, we are amending the regulations established by the interim rule to allow *Phaseolus* spp. and *Pisum* spp. to move under the same conditions as potatoes and root crops that are moved for consumption. (We are also making minor editorial changes to § 301.86-5(a)(3) to make it consistent with the other provisions in § 301.86-5.)

Paragraph § 301.86-3(a) of the regulations provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will publish the description of the quarantined area on the Plant Protection and Quarantine (PPQ) Web site, http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml. The description of the quarantined area will include the date the description was last updated and a description of the changes that have been made to the quarantined area.