

OPM noted its continuing use of the *in loco parentis* standard described in Administrator's Interpretation No. 2010-3 in the Supplementary Information to the proposed rule under the section, "Children of Same-Sex Couples," which referenced OPM's August 31, 2010, memorandum titled *Interpretation of 'Son or Daughter' Under the Family and Medical Leave Act*. (See CPM 2010-15 at <https://www.chcoc.gov/content/interpretation-son-or-daughter-under-family-and-medical-leave-act>.) As noted in the memorandum, Administrator's Interpretation No. 2010-3 applies only to title I of FMLA; however, OPM has adopted the interpretation to also apply to employees covered by title II of FMLA. The memorandum specifies how individuals may be determined to stand *in loco parentis* and that neither the law nor OPM regulations restrict the number of parents a child may have under FMLA.

Two commenters asked that OPM consider amending the definition of *parent* to extend eligibility to parents-in-law. The definition of *parent* in the regulations derives from the statutory definition at 5 U.S.C. 6381(3). Inclusion of parents-in-law would require a statutory change; therefore, it is outside the scope of these regulations.

Three commenters noted that the phrase "in a same-sex or common law marriage" used in the definition of *spouse* could be interpreted as excluding same-sex common law marriages. We do not see the need to deviate from DOL's definition on this point. The definition uses the term "common law marriage" without exclusion; therefore, it applies to all common law marriages, including same-sex common law marriages. Additionally, OPM's October 21, 2013, memorandum (cited above in the Background section) makes clear that same-sex spouses in common law marriages are included in the definition of *spouse*.

One commenter said the Federal Government should take legislative action to meet the needs of working families excluded by FMLA because of the business-size threshold and employee tenure and hours-worked requirements. These exclusions do not apply to Federal employees covered by title II of FMLA and, regardless, legislation is outside the scope of the regulations. The same commenter expressed the need for paid family leave. FMLA does not authorize paid family leave; therefore, this comment is outside the scope of the regulations.

A Federal agency suggested adding "at the time of the marriage ceremony"

in four places within the definition of *spouse* to make clear that, for purposes of the FMLA entitlement, the marriage need only have been valid in a State at the point in time that the ceremony took place. We believe that the verb tense used in the definition provides the needed clarity on this point where applicable. Therefore, we are not adopting this suggestion.

We made a minor editorial change to the definition of *spouse* (changing "was valid" to "is valid" in subparagraph (2)) to conform to the definition used by DOL in its title I regulations. We also made a minor change to the wording of the definition of *parent* to ensure coverage not only of individuals who stood *in loco parentis* to an employee but also of individuals who still stand *in loco parentis* to an employee. Because OPM received no comments requiring further changes to the definitions provided in the proposed rule, we are adopting the definitions as final.

#### Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.

**Beth F. Cobert,**

*Acting Director.*

Accordingly, OPM amends 5 CFR part 630 as follows:

#### PART 630—ABSENCE AND LEAVE

■ 1. The authority citation for part 630 continues to read as follows:

**Authority:** 5 U.S.C. 6311; § 630.205 also issued under Pub. L. 108-411, 118 Stat 2312; § 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410 and Pub. L. 108-411, 118 Stat 2312; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722, and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100-566, 102 Stat. 2834, and Pub. L. 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100-566, and

Pub. L. 103-103; subpart K also issued under Pub. L. 105-18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102-25, 105 Stat. 92.

■ 2. In § 630.1202, the definitions of *parent* and *spouse* are revised and the definition of *State* is added in alphabetical order to read as follows:

#### § 630.1202 Definitions.

\* \* \* \* \*

*Parent* means a biological, adoptive, step, or foster father or mother, or any individual who stands or stood *in loco parentis* to an employee meeting the definition of son or daughter below. This term does not include parents "in law."

\* \* \* \* \*

*Spouse*, as defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

- (1) Was entered into in a State that recognizes such marriages, or
- (2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

*State* means any State of the United States or the District of Columbia or any Territory or possession of the United States.

\* \* \* \* \*

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#### DEPARTMENT OF AGRICULTURE

#### Food and Nutrition Service

#### 7 CFR Parts 271, 272 and 275

[FNS-2011-0035]

RIN 0584-AD86

#### Supplemental Nutrition Assistance Program: Review of Major Changes in Program Design and Management Evaluation Systems; Approval of Information Collection Request

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule; notice of approval of Information Collection Request (ICR).

**SUMMARY:** The final rule entitled Supplemental Nutrition Assistance Program: Review of Major Changes in Program Design and Management Evaluation Systems was published on January 19, 2016. The Office of Management and Budget (OMB) cleared the associated information collection requirements (ICR) on March 10, 2016. This document announces approval of the ICR.

**DATES:** The ICR associated with the final rule published in the **Federal Register** on January 19, 2016, at 81 FR 2725, was approved by OMB on March 10, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mary Rose Conroy, Chief, Program Design Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2803, or [SNAPMajorChange@fns.usda.gov](mailto:SNAPMajorChange@fns.usda.gov).

**SUPPLEMENTARY INFORMATION:** The final rule entitled Supplemental Nutrition Assistance Program: Review of Major Changes in Program Design and Management Evaluation Systems was published on January 19, 2016. The Office of Management and Budget (OMB) cleared the associated information collection requirements (ICR) on March 10, 2016. This document announces approval of the ICR. The ICR for this rule approved the creation of a new information collection, which has been assigned the OMB Control Number 0584-0579.

Dated: March 31, 2016.

**Audrey Rowe,**  
Administrator, Food and Nutrition Service.  
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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2014-0085]

RIN 0579-AE04

### Importation of Fresh Andean Blackberry and Raspberry Fruit From Ecuador Into the Continental United States

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetables regulations to allow the importation of fresh Andean blackberry and raspberry fruit from Ecuador into

the continental United States. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes requirements for importation in commercial consignments from a pest free production site within a certified low pest prevalence area for fruit flies, and pest monitoring and trapping. The fruit will also have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Ecuador bearing an additional declaration stating that the consignment was produced and prepared for export in accordance with the requirements of the systems approach. This action will allow for the importation of fresh Andean blackberry and raspberry fruit from Ecuador while continuing to provide protection against the introduction of quarantine pests into the continental United States.

**DATES:** Effective May 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claudia Ferguson, M.S., Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations and Manuals, PPQ, APHIS, (301) 851-2352; email: [Claudia.Ferguson@aphis.usda.gov](mailto:Claudia.Ferguson@aphis.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-74, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

On April 24, 2015, we published in the **Federal Register** (80 FR 22927-22930, Docket No. APHIS-2014-0085) a proposal<sup>1</sup> to amend the regulations to allow importation of Andean blackberry (*Rubus glaucus* Benth) and raspberry (*Rubus idaeus* Linnaeus) fruit into the continental United States from Ecuador subject to a systems approach. We also prepared a pest risk assessment (PRA) and a risk management document (RMD). The PRA evaluates the risks associated with the importation of fresh Andean blackberry and raspberry fruit from Ecuador into the continental United States. The RMD draws upon the findings of the PRA to determine the phytosanitary measures necessary to

ensure the safe importation into the continental United States of fresh Andean blackberry and raspberry fruit from Ecuador.

In the proposed rule, we noted that the PRA rated three plant pests as having a high pest risk potential for following the pathway of fresh Andean blackberry and raspberry fruit from Ecuador into the continental United States: *Anastrepha fraterculus* (South American fruit fly), *Ceratitis capitata* (Mediterranean fruit fly, or Medfly), and *Copitarsia decolora*, a moth.

We determined in the PRA that measures beyond standard port of arrival inspection will adequately mitigate the risks posed by these plant pests and proposed a systems approach that includes requirements for importation in commercial consignments from a pest free production site within a certified low pest prevalence area for fruit flies, pest monitoring, and pest trapping. We also proposed that the fruit be imported in commercial consignments only and accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Ecuador stating that the consignment was produced and prepared for export in accordance with the systems approach.

We solicited comments concerning our proposal for 60 days ending June 23, 2015. We received five comments during the comment period from members of the public and an employee of a foreign NPPO. The comments are discussed below.

#### General Comments

Two commenters stated that the importation of fresh Andean blackberry and raspberry fruit into the continental United States should not be allowed due to the associated plant pest risk. One of these commenters added that production of blackberry and raspberry fruit in the United States, along with existing import agreements with other countries, renders importation of Andean blackberry and raspberry fruit from Ecuador unnecessary.

We are making no changes in response to these comments. Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), we have the authority to prohibit or restrict the importation of plants and plant products only when necessary to prevent the introduction into, or dissemination of plant pests or noxious weeds within, the United States. We have determined that fresh Andean blackberry and raspberry fruit from Ecuador may be safely imported into the continental United States under the

<sup>1</sup>To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#:docketDetail;D=APHIS-2014-0085>.