

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service**

[Docket No. APHIS-2009-0037]

**Notice of Determination of Pest-Free Areas in the Republic of South Africa****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Notice.

**SUMMARY:** We are advising the public that we are recognizing 16 additional magisterial districts in 3 provinces in the Republic of South Africa as pest-free areas for citrus black spot. Based on our site visit to the area and our review of the documentation submitted by South Africa's national plant protection organization, which we made available to the public for review and comment through a previous notice, the Administrator has determined that those districts meet the criteria in our regulations for recognition as pest-free areas for citrus black spot.

**EFFECTIVE DATE:** February 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phillip B. Grove, Regulatory Coordination Specialist, Regulatory Coordination and Compliance, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 734-6280.

**SUPPLEMENTARY INFORMATION:** Under the regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-50, 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.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. One of the designated phytosanitary measures is that the fruits or vegetables are imported from a pest-free area in the country of origin that meets the requirements of § 319.56-5 for freedom from that pest and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin.

Under the regulations in § 319.56-5, APHIS requires that determinations of pest-free areas be made in accordance

with the criteria for establishing freedom from pests found in International Standards for Phytosanitary Measures (ISPM) No. 4, "Requirements for the Establishment of Pest-Free Areas." The international standard was established by the International Plant Protection Convention (IPPC) of the United Nations' Food and Agriculture Organization and is incorporated by reference in our regulations in 7 CFR 300.5. In addition, APHIS must also approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

In accordance with that process, we published a notice<sup>1</sup> in the **Federal Register** on July 27, 2009 (74 FR 36999-37000, Docket No. APHIS-2009-0037), in which we announced the availability, for review and comment, of a commodity import evaluation document titled "Recognition of Additional Magisterial Districts as Citrus Black Spot Pest-Free Areas for the Republic of South Africa." In this document, we examined the survey protocols and other information provided by South Africa's national plant protection organization (NPPO) relative to its system to establish freedom, phytosanitary measures to maintain freedom, and system for the verification of the maintenance of freedom from citrus black spot (*Guignardia citricarpa*).

We initially solicited comments on the notice for 60 days ending on September 25, 2009. However, we extended the comment period to October 13, 2009, to give interested persons additional time to prepare and submit comments. We received 12 comments by that date, all but 1 of which supported the recognition of the 16 additional magisterial districts in 3 provinces in South Africa as pest-free areas. Commenters included members of Congress, a diplomatic official, fumigators, importers, distributors, packers, growers, and a citrus marketing association.

The commenter who disagreed with our action to recognize the pest-free areas cited two issues.

The first issue concerns the reliability of the data used by APHIS to support its recognition of pest-free areas for citrus black spot. The commenter stated that the survey data used by APHIS was

largely derived from a sampling of noncommercial production blocks of citrus in the areas recognized as being pest-free, when most of the citrus destined for export to the United States would originate from commercial production blocks. The commenter suggested that APHIS obtain survey data specific to the commercial production blocks that will be exporting to the United States before recognizing these areas as being free of citrus black spot.

The South African NPPO collected data from both commercial and noncommercial production blocks to ensure uniform coverage of the survey region, and examined the data from both types of blocks to determine the pest status of the areas of concern. Because relatively few citrus orchards are currently established in these areas, many of the trees surveyed for citrus black spot are located in home gardens and backyards. None of the samples taken in these areas indicated the presence of citrus black spot.

The second issue raised by the commenter focused on the effectiveness of ongoing pest risk assessment and monitoring efforts in those areas recognized by APHIS as being pest-free. As support, the commenter cited a document produced by a European Union panel of plant health experts that assessed pest risk data provided by the South African NPPO.<sup>2</sup> The panel noted in its assessment that IPPC standards require that an intensive continuous monitoring program be in place to maintain a pest-free area, but that the NPPO of South Africa did not provide sufficient data for an accurate assessment of their monitoring program.

The NPPO of South Africa is a signatory to the IPPC and therefore observes phytosanitary treatment standards that are recognized by other signatories, including the United States. Under the regulations in § 319.56-5(a), APHIS requires that determinations of pest-free areas be made in accordance with standards established by the IPPC. In addition, § 319.56-5(b) requires that the survey protocol used by a foreign NPPO to determine and maintain pest-free status be approved by APHIS.

South Africa participates in an APHIS preclearance program for citrus intended for export to the United States. We only allow citrus from APHIS-approved pest-free areas to participate in the program. In the many years of import history with the preclearance program, which began in the mid-1990s,

<sup>1</sup> To view the notice, the commodity import evaluation document, and the comments we received, go to (<http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0037>).

<sup>2</sup> "Pest risk assessment and additional evidence provided by South Africa on *Guignardia citricarpa* Kiely, citrus black spot fungus-CBS." *EFSA Journal* (2008) 925: 1-4.

we have not detected citrus black spot. However, if it were detected, export of the host material to the United States would be suspended from the production area and APHIS would request South Africa to conduct an investigation.

Therefore, in accordance with § 319.56-5(c), we are announcing the Administrator's determination that the magisterial districts of Boshof, Fauresmith, Jacobsdal, Koffiefontein, and Philippolis in the Free State Province; Christiania and Taung in the North West Province; and Barkly-wes/west, Gordonia, Hay, Herbert, Hopetown, Kenhardt, Kimberly, Namakwaland, and Prieska in the Northern Cape Province meet the criteria of § 319.56-5(a) and (b) with respect to freedom from citrus black spot. Accordingly, we are recognizing those magisterial districts as pest-free areas for citrus black spot and have added them to the list of pest-free areas, which may be viewed on the Internet at ([http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf)). The list of pest-free areas may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 3<sup>rd</sup> day of February 2010.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-2846 Filed 2-8-10; 8:45 am]

**BILLING CODE 3410-34-S**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Lake Tahoe Basin Federal Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Lake Tahoe Basin Federal Advisory Committee (LTFAC) will hold a meeting on February 23, 2010 at Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, Nevada 89451-9500.

This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

**DATES:** The meeting will be held February 23, 2010 beginning at 9 a.m. and ending at 4 p.m.

**ADDRESSES:** The meeting will be held at Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, Nevada 89451-9500.

**FOR FURTHER INFORMATION CONTACT:** Arla Hams, Lake Tahoe Basin Management Unit (LTBMU), Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543-2773.

**SUPPLEMENTARY INFORMATION:** Items to be covered on the agenda include:

- The Tahoe Working Group (TWG) will present their Lake Tahoe Southern Nevada Public Land Management Act (SNPLMA) Round 11 recommendation for capital projects and science themes. The LTFAC will discuss and with possible consensus, put forward a preliminary recommendation for public comment.

- Discuss the status of re-chartering and member nominations for the next LTFAC two year term.

- Public Comment.

Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements for the Committee before or after the meeting. Please refer any written comments attention Arla Hams, Lake Tahoe Basin Management Unit at the contact address stated above.

If you have questions concerning special needs for this public meeting, or to request sign language interpretation, contact Linda Lind at (530) 543-2787 or TTY (530) 543-0956, or via e-mail at [LLind@fs.fed.us](mailto:LLind@fs.fed.us).

If another LTFAC meeting is needed to put forth the Round 11 preliminary recommendation for capital projects and science themes; due to time restraints the **Federal Register** notice will be published less than 15 calendar days prior to the meeting. There will be timely meeting notification through the LTBMU Web site (<http://www.fs.fed.us/r5/ltbmu/local/ltfac>).

Dated: February 2, 2010.

**Terri Marceron,**

*Forest Supervisor.*

[FR Doc. 2010-2671 Filed 2-8-10; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Deposit of Biological Materials

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork

and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before April 12, 2010.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [Susan.Fawcett@uspto.gov](mailto:Susan.Fawcett@uspto.gov).

Include "0651-0022 Deposit of Biological Materials comment" in the subject line of the message.

- *Fax:* 571-273-0112, marked to the attention of Susan K. Fawcett.

- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information should be directed to the attention of Brian Hanlon, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-5047; or by e-mail at [Brian.Hanlon@uspto.gov](mailto:Brian.Hanlon@uspto.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The deposit of biological materials as part of a patent application is required by 35 U.S.C. 2(b)(2) and outlined in 37 CFR Ch. 1, Subpart G, 1.801-1.809. Every patent must contain a description of the invention sufficient to enable a person (knowledgeable in the relevant science), to make and use the invention as specified by 35 U.S.C. 112. The term biological includes material that is capable of self-replication either directly or indirectly. When the invention involves a biological material, sometimes words alone cannot sufficiently describe how to make and use the invention in a reproducible or repeatable manner. In such cases, the required biological material must be both known and readily available (neither condition alone is sufficient) or be deposited in a suitable depository that has been recognized as an International Depository Authority (IDA) established under the Budapest Treaty, or a depository recognized by the USPTO to meet the requirements of 35 U.S.C. 112.

In cases where a deposit is necessary, it must be made under conditions that assure access to those entitled thereto under 37 CFR 1.14 and 35 U.S.C. § 122