

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 360 and 361

[Docket No. APHIS-2008-0097]

#### Noxious Weeds; Old World Climbing Fern and Maidenhair Creeper

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the noxious weed regulations by adding Old World climbing fern (*Lygodium microphyllum* (Cavanilles) R. Brown) and maidenhair creeper (*Lygodium flexuosum* (Linnaeus) Swartz) to the list of terrestrial noxious weeds. This action is necessary to prevent the artificial spread of these noxious weeds within and into the United States.

**DATES:** Effective on May 3, 2010, we are adopting as a final rule the interim rule published at 74 FR 53397-53400 on October 19, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan V. Tasker, Noxious Weeds Program Coordinator, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737-1236, (301) 734-5225; or Ms. Dorothy Wayson, Regulatory Coordination Specialist, Regulatory Coordination and Compliance, Permits, Registrations, Imports, and Manuals, PPQ, APHIS, 4700 River Road Unit 52, Riverdale, MD 20737-1236, (301) 734-0772.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the authority of the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), the Animal and Plant Health

Inspection Service (APHIS) administers the noxious weeds regulations in 7 CFR part 360, which prohibit or restrict the importation and interstate movement of those plants that are designated as noxious weeds in § 360.200. The PPA defines “noxious weed” as “any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, and the natural resources of the United States, the public health, or the environment.”

Under the authority of the Federal Seed Act of 1939, as amended (7 U.S.C. 1551 *et seq.*), the U.S. Department of Agriculture regulates the importation and interstate movement of certain agricultural and vegetable seeds and screenings. Title III of that Act, “Foreign Commerce,” requires shipments of imported agricultural and vegetable seeds to be labeled correctly and to be tested for the presence of the seeds of certain noxious weeds as a condition of entry into the United States. APHIS’ regulations implementing the provisions of title III of the Federal Seed Act are found in 7 CFR part 361. A list of noxious weed seeds is contained in § 361.6. Paragraph (a)(1) of § 361.6 lists species of noxious weed seeds with no tolerances applicable to their introduction into the United States.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on October 19, 2009 (74 FR 53397-53400, Docket No. APHIS-2008-0097), we amended the regulations by adding Old World climbing fern (*Lygodium microphyllum* (Cavanilles) R. Brown) and maidenhair creeper (*Lygodium flexuosum* (Linnaeus) Swartz) to the list of terrestrial noxious weeds in § 360.200(c) and to the list of noxious weed seeds with no tolerances applicable to their introduction in § 361.6(a)(1). In that interim rule, we also made the weed risk assessment (WRA) and the Federal decision document available for public review and comment.

We solicited comments concerning the interim rule, WRA, and the Federal decision document for 60 days ending

December 18, 2009. We received three comments, two from private citizens and one from a State Department of Agriculture and Consumer Services, by that date. All of the commenters supported the addition of both Old World Climbing Fern (*L. microphyllum*) and Maidenhair Creeper (*L. flexuosum*) to the list of Federal Noxious weeds.

One of the commenters asked that we consider adding other species within the Schizaeaceae family to the list of Federal noxious weeds. Specifically, the commenter was concerned that other species in the Schizaeaceae family are weedy and/or invasive, because *L. microphyllum* and *L. flexuosum* have been reported to interbreed with closely related species. A link to a reference on the Internet was provided by the commenter to try to illustrate that behavior.

In our assessment of *L. microphyllum*, *L. flexuosum*, and *L. japonicum* we did not encounter any evidence that these species are capable of hybridizing with any other species. The study that the commenter referred to examines the reproductive biology of *L. microphyllum* and *L. japonicum* and provides evidence that *L. microphyllum* is capable of intergametophytic crossing. Intergametophytic crossing refers to two different gametophytes of the same species crossing with each other; it does not refer to crossing of two different species, which concerned the commenter. Two other species of *Lygodium* were once reported to hybridize, but there is no immediate indication that these or any other members of the Lygodiaceae or Schizaeaceae families are weeds. APHIS will continue to explore the literature to determine whether any additional Lygodiaceae or Schizaeaceae warrant regulation.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

<sup>1</sup>To view the interim rule, the supporting documents, and the comments we received, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0097>).

**List of Subjects****7 CFR Part 360**

Imports, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Weeds.

**7 CFR Part 361**

Agricultural commodities, Imports, Labeling, Quarantine, Reporting and recordkeeping requirements, Seeds, Vegetables, Weeds.

**PART 360—NOXIOUS WEED REGULATIONS****PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT**

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR parts 360 and 361 and that was published at 74 FR 53397-53400 on October 19, 2009.

Done in Washington, DC, this 27<sup>th</sup> day of April 2010.

**Kevin Shea**

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

[FR Doc. 2010-10282 Filed 4-30-10; 8:45 am]

**BILLING CODE 3410-34-S**

**FEDERAL HOUSING FINANCE BOARD****12 CFR Parts 985 and 989****FEDERAL HOUSING FINANCE AGENCY****12 CFR Parts 1273 and 1274****RIN 2590-AA30****Board of Directors of Federal Home Loan Bank System Office of Finance**

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final Rule.

**SUMMARY:** Governed by the Federal Housing Finance Agency's (FHFA) regulations, the Federal Home Loan Bank System's (Bank System) Office of Finance issues debt ("consolidated obligations") as agent for the Federal Home Loan Banks (Banks) on which the Banks are jointly and severally liable and publishes combined financial reports on the Banks so that members of the Bank System, investors in the consolidated obligations, and other interested parties can assess the strength of the Bank System that stands behind them. The Office of Finance (OF) is governed by a board of directors, the composition and functions of which are

determined by FHFA's regulations. FHFA's experience with the Bank System and with the OF's combined financial reports during the recent period of market stress suggests that the OF and the Bank System could benefit from a reconstituted board and strengthened audit committee. This regulation is intended to achieve that end.

**DATES:** This rule is effective June 2, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Joseph A. McKenzie, 202-408-2845, Division of Federal Home Loan Bank Regulation, Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006; Neil Crowley, Deputy General Counsel, 202-343-1316; or Thomas E. Joseph, Senior Attorney-Advisor, 202-414-3095, Office of General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is 800-877-8339.

**SUPPLEMENTARY INFORMATION:****I. Background****A. Creation of the Federal Housing Finance Agency and Recent Legislation**

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-289, 122 Stat. 2654, transferred the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), the oversight responsibilities of the Federal Housing Finance Board (FHFB or Finance Board) over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent), and certain functions of the Department of Housing and Urban Development to FHFA, a new independent executive branch agency. *See id.* at section 1101, 122 Stat. 2661-62. FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including that they maintain adequate capital and internal controls, that their activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See id.* at section 1102, 122 Stat. 2663-64. The Enterprises, the Banks, and the OF continue to operate under regulations promulgated by OFHEO and the FHFB until FHFA issues its own regulations.

*See id.* at sections 1302, 1313, 122 Stat. 2795, 2798.

**B. The Bank System Generally**

The twelve Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).<sup>1</sup> *See* 12 U.S.C. 1423, 1432(a). The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank. *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b. Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions. *See* 12 U.S.C. 1427. Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock. *See* 12 U.S.C. 1424; 12 CFR part 1263.

As government-sponsored enterprises (GSEs), the Banks are granted certain privileges under federal law. In light of those privileges and their status as GSEs, the Banks typically can borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity lower than most other entities. The Banks pass along a portion of their GSE funding advantage to their members—and ultimately to consumers—by providing advances and other financial services at rates that would not otherwise be available to their members. Consolidated obligations (COs), consisting of bonds and discount notes, are the principal funding source for the Banks. The OF issues all COs on behalf of the twelve Banks. Although each Bank is primarily liable for the portion of consolidated obligations corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal and interest on all COs. *See* 12 CFR 966.9.

**C. The OF**

The OF was one of a number of joint Bank offices established by regulation by the former Federal Home Loan Bank Board (FHLBB), a predecessor agency to

<sup>1</sup> Each Bank is generally referred to by the name of the city in which it is located. The twelve Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle.