

FOR INFORMATION AND ACTION

DA-2020-10

May 20, 2020

Subject: APHIS Modifies Conditions for Interstate Movement of Regulated Articles in Quarantined Areas for European Cherry Fruit Fly (*Rhagoletis cerasi*)

To: State and Territory Agricultural Regulatory Officials

Effective immediately, the Animal and Plant Health Inspection Service (APHIS) is modifying conditions for the interstate movement of regulated articles from areas quarantined for European cherry fruit fly (ECFF) as described in Federal Order DA-2019-13. The new conditions include a revised systems approach to allow the interstate movement of cherry fruit without methyl bromide fumigation from areas within a half-mile radius of ECFF detections. This action also makes modifications to locations prohibited from receiving cherry fruit from the quarantine area. The host list remains unchanged.

APHIS will regulate the interstate movement of ECFF host articles from all ECFF quarantine areas in the United States in accordance with the regulations in 7 CFR 301.32 and any applicable provisions of this Federal Order. APHIS has posted the current ECFF quarantine areas, the ECFF host list, and this Federal Order on the following site:

<https://www.aphis.usda.gov/plant-health/ff>

For additional information about the ECFF program, you may contact Fruit Fly National Policy Manager, Richard Johnson, at 301-851-2109.

/s/

Osama El-Lissy
Deputy Administrator
Plant Protection and Quarantine

Attachment: Federal Order

FEDERAL ORDER

Conditions for the Interstate Movement of Regulated Articles from European Cherry Fruit Fly (*Rhagoletis cerasi*) Quarantined Areas

DA-2020-10
May 20, 2020

Effectively immediately, the Animal and Plant Health Inspection Service (APHIS) is modifying the conditions governing the interstate movement of certain regulated articles from the European cherry fruit fly (ECFF) quarantined areas as described in Federal Order DA-2019-13. This Federal Order provides for the interstate movement of ECFF host articles from areas of the United States quarantined for ECFF, and includes a systems approach for cherry fruit. The systems approach allows producers within the quarantined area to move cherry fruit without the use of fumigation, which is otherwise required for host articles. This systems approach applies to commercially-produced cherry fruit only.

This Federal Order is issued pursuant to the regulatory authority provided by the Plant Protection Act (PPA) of June 20, 2000, as amended, Section 412(a), 7 U.S.C. 7712(a). The Act authorizes the Secretary of Agriculture to prohibit or restrict the movement in interstate commerce of any plant, plant part, or article if the Secretary determines the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States. This Federal Order is also issued pursuant to the domestic fruit fly regulations promulgated under the PPA and found in the Code of Federal Regulations (CFR) at 7 CFR 301.32. This Federal Order supersedes previous Federal Orders for ECFF.

ECFF is a major pest of cherry crops. It is native to Europe, and its presence confirmed in Canada (in 2016), and the United States (2017). Important U.S. crops at risk include sweet cherries, sour cherries, and other crops. Damage occurs when the female deposits eggs in unripe fruit. The eggs hatch into larvae, which tunnel through the flesh of the fruit making it unfit for consumption.

On June 7, 2018, in accordance with the process described in 7 CFR 301.32, APHIS and the New York State Department of Agriculture and Markets (NYSDAM) established an ECFF quarantine in New York. On January 8, 2020, APHIS and NYSDAM expanded the ECFF quarantine to include all of Orleans County, New York. The APHIS website below describes the current ECFF quarantine areas in the United States:

<http://www.aphis.usda.gov/plant-health/ff-quarantine>

This Federal Order is necessary to provide the host list for ECFF as well as the conditions for interstate movement of host articles from areas of the United States quarantined for ECFF. Effective immediately, all interstate movement of host articles of ECFF must be in accordance with this Federal Order and applicable conditions of 7 CFR 301.32.

Rationale for the Systems Approach

Currently, federal regulations specify that fruit fly host articles must be treated prior to shipment from a quarantined area, with limited exceptions. For articles originating from a core area within a quarantine zone, a post-harvest fumigation treatment is the only way the articles may be moved interstate. There are a limited number of post-harvest treatments.

Producers in the quarantined area of New York require a means for shipping cherry fruit from ECFF-quarantined areas that does not require post-harvest treatment, which often reduces the shelf life and commercial viability of the fruit. This document provides a systems approach under which articles originating from a quarantined area may enter interstate commerce without post-harvest treatment.

USDA-APHIS-PPQ Science and Technology (S&T) prepared a systems approach risk mitigation document entitled “**Systems Approaches for Managing the Risk Associated with the Domestic Movement of Fresh Cherry, *Prunus spp.*, Produced in Areas of New York State Quarantined for European Cherry Fruit Fly, *Rhagoletis cerasi* (L.)**” which is available on the APHIS Fruit Fly Program website:

<https://www.aphis.usda.gov/plant-health/ff>

Based on the findings of this document, APHIS has determined that fresh cherry fruit may be safely moved from an area quarantined for ECFF, without methyl bromide fumigation, under certain conditions. This Federal Order specifies these conditions, below.

I. Quarantined Area for *Rhagoletis cerasi* (European Cherry Fruit Fly, ECFF); Designation and Removal of Quarantined Areas

- A.** Areas of the United States quarantined for ECFF are listed on the following website:

<http://www.aphis.usda.gov/plant-health/ff-quarantine>

- B.** Areas will be designated and removed from quarantine in accordance with 7 CFR 301.32-3. APHIS will communicate changes to the quarantined area to the public through State and Territory Agricultural Regulatory Official (SPRO) letters.

II. Host List

The berries, fruit, and nuts of the plant species listed on the following website are considered host articles for ECFF. Unless proven otherwise, all cultivars, varieties, and hybrids of the plant species listed are considered suitable hosts of ECFF. APHIS will communicate changes to this host list by SPRO letter.

<https://www.aphis.usda.gov/planthealth/ff-host-lists>

III. Conditions for the Interstate Movement of Host Articles

- A. Except as provided in paragraph B of this section, the conditions for the interstate movement of host articles for ECFF are those found in 7 CFR 301.32 *et seq.*, and certificates, limited permits, and compliance agreements will be issued and revoked in accordance with the provisions of that subpart.
- B. The interstate movement of fresh cherry fruit is prohibited from areas within 0.5 mile of an ECFF detection site, unless moved in accordance with (1) the regulations contained in 7 CFR 301.32; (2) all applicable State laws, and (3) the systems approach requirements in Section IV below.

IV. **Systems Approach for the Interstate Movement of Cherry Fruit from ECFF Quarantined Areas of the United States**

A. **General Requirements**

1. Orchards engaged in growing and interstate movement of fresh cherry fruit in an area quarantined for ECFF must meet the conditions specified in paragraph B of this section in order to ship under the conditions of the systems approach.
2. Growers and packers engaged in growing and shipping fresh cherry fruit in a quarantined area for ECFF must enter into a compliance agreement with their state department of agriculture before shipping under the systems approach option. This compliance agreement will specify the terms of the systems approach as well as any other orchard-specific requirements determined to be necessary to prevent the spread of ECFF. The state department of agriculture evaluates the location of the orchard in relation to the quarantine boundary prior to initiation of the compliance agreement.
3. An APHIS limited permit verifying that all conditions of the systems approach protocol and any additional requirements listed in the compliance agreement have been met must accompany fresh cherry fruit found eligible for interstate movement under the systems approach. A copy of the limited permit must be attached to the consignee's copy of the accompanying waybill.
4. Cherry fruit must be properly labeled. Boxes or other containers of regulated cherry fruit, and shipping documents accompanying the boxes must be clearly marked with the statement "**Limited Permit: USDA-APHIS-PPQ, Not for distribution in California; Idaho; Michigan; Montana; Oregon; Utah; Washington; and the counties of Chautauqua, Columbia, Schuyler, Ulster, and Wayne in New York.**"
5. If two or more ECFF are detected within the orchard under the systems approach, the orchard will be suspended from shipping under the terms of the systems approach for the remainder of the shipping season.

6. The adoption and use of this protocol is subject to monitoring by an inspector.

B. Orchard Requirements

1. **General orchard requirements:** Orchards must be determined to be areas of low-pest prevalence for ECFF. To be considered an area of low-pest prevalence, APHIS must confirm that appropriate trapping and verification activities have taken place.
 - Regulatory trapping requires that each cherry orchard participating in the systems approach must have at least one ECFF trap and a minimum of two traps for each five acres. The trap will be placed inside of the orchard. The State Department of Agriculture will monitor these traps on a weekly basis, beginning approximately 30 days prior to and through harvest.
 - The orchard must have no more than one current-season ECFF detection.
 - APHIS and the State Department of Agriculture must complete regulated trapping program activities.
 - If a portion of an orchard block in the quarantine falls within an area not eligible for the systems approach, the entire contiguous cherry orchard is ineligible.

2. **Fruit from higher risk quarantined areas** may be shipped fresh when the following conditions have been met:
 - Cherry orchards have undergone at least 30 days of regulatory trapping at a minimum density of 100 traps per mi² with zero captures or at most one capture of an adult ECFF in the production area;
 - For pre-harvest spray, growers must use one or more chemicals as specified by ECFF cooperative program managers to achieve a mortality rate of at least 0.71. Growers must apply chemical treatments under regulatory supervision (i.e., certification). The systems approach risk mitigation document provides a list of approved chemicals; and
 - Cherry shipments follow restriction for certain specified states and counties.

Higher-risk quarantined areas are those within 10 miles of a validated capture of an adult ECFF. With regard to validated captures of ECFF in production areas, PPQ program personnel will decide, based on local circumstances, whether or not a capture changes the eligibility status of defined sections (e.g., blocks, orchards) as high or low risk area. If a fly is captured, they may also require a short delay before continuing harvest, to verify continued low-pest prevalence.

3. **Fruit from lower-risk quarantined areas** may be shipped fresh when the following conditions have been met:
 - There have been no validated captures of an adult ECFF within 10 miles of the production area;

- Cherry orchards have undergone at least 30 days of regulatory trapping at a minimum density of 5 traps per mi² with zero captures of an adult ECFF in the production area;
- For pre-harvest spray, growers should use one or more chemicals as specified by ECFF cooperative program managers to achieve a mortality rate of at least 0.71, or, if that efficacy level is unattainable, program-approved spray(s) which achieve a mortality rate of at least 0.52. Growers must apply chemical treatments under regulatory supervision (i.e., certification). The systems approach risk mitigation document provides a list of approved chemicals;
- Weekly float tests are negative for the presence of any larvae in fruit, beginning with first harvest and continuing until the end of harvesting; and
- Cherry shipments follow restriction for certain specified states and counties.

In certain circumstances, PPQ program managers may also decide that fruit which might otherwise not be able to ship fresh, could maintain eligibility if weekly float tests are completed and are negative for the presence of ECFF larvae. The systems approach risk mitigation document presents the sampling protocol for such tests.

4. **All other fruit** may be shipped for processing, under permit, following the procedures described in **Safeguarding Protocol for the Transport of Cherry Fruit for Processing Outside the ECFF Quarantine Zone** which is available on the APHIS Fruit Fly Program website:

<https://www.aphis.usda.gov/plant-health/ff>

For further information on the APHIS Fruit Fly Exclusion and Detection Program, please contact Fruit Fly National Policy Manager, Richard Johnson, at 301-851-2109.