

FOR INFORMATION AND ACTION
DA-2015-18
April 3, 2015

Subject: APHIS Revises *Phytophthora ramorum* Domestic Quarantine by Deregulating Areas in California, Oregon, and Washington

To: State and Territory Agricultural Regulatory Officials

Effective immediately, this Federal Order revises the *P. ramorum* domestic quarantine program and deregulates the regulated areas in California, Oregon, and Washington that are designated in paragraph (b) of 7 *Code of Federal Regulations* (CFR) 301.92-3. However, nurseries in these regulated areas that are under compliance agreements with APHIS due to regulatory samples from the nursery testing positive for *P. ramorum* inoculum remain regulated establishments. These nurseries may ship interstate only under the terms and conditions of their compliance agreement.

The majority of nurseries in regulated areas have not tested positive in years or have never tested positive. This long-standing freedom, coupled with absence of sudden oak death (SOD) caused by *P. ramorum* in the natural environment causing sudden oak death (SOD) is the basis for our deregulation of the areas. This action will minimize uncertainty among trading partners on the extent of *P. ramorum* outbreak in the environment. In addition, this will streamline and harmonize the *P. ramorum* domestic program with the other domestic quarantine programs found in 7 CFR Part 301.

Regulatory requirements for all non-host and the majority of host nurseries in *P. ramorum* regulated areas were already relieved through two previous Federal Orders—DA-2013-27 (July 2013) and DA-2014-2 (January 2014). Prior to July 2013, plants in all non-host nurseries were inspected annually for symptoms of *P. ramorum*, and, prior to March 31, 2014, plants in all host nurseries shipping interstate were inspected annually for such symptoms. State departments of agriculture will no longer need to maintain a list of nurseries in the regulated areas of their state. APHIS will, however, continue to provide regular updates to the state departments of agriculture list of positive nurseries wherever they are located in the country.

This Federal Order does not deregulate the current quarantined areas for *P. ramorum* designated in paragraph (a) of 7 CFR 301.92-3, nor does it deregulate interstate shipping nurseries located within these areas. This is based on the presence of *P. ramorum* in the surrounding natural environment, the inseparability of the areas for quarantine enforcement purposes, and the strategy for risk mitigation. State departments of agriculture in California and Oregon will need to continue to maintain a list of all host and non-host nurseries in the quarantined areas of their states that are certified pursuant to 7 CFR Part 301.92.

This Federal Order, along with the previous Federal Orders issued in 2013 and 2014, have allowed APHIS and state regulatory agencies to refocus resources away from those nurseries that we consider to pose a minimal risk of contributing to the artificial spread of *P. ramorum*. Instead, we can focus on the nurseries that present a significant risk of spreading *P. ramorum*, while also

minimizing the overall burden on the nursery industry. This action is also necessary to avoid confusion among trading partners on the extent of *P. ramorum* in the environment of the United States. Sudden oak death has never been detected in the environment or in the wildlands outside the currently quarantined areas or in the regulated areas of California, Oregon, and Washington.

For additional details on the Federal *Phytophthora ramorum* regulatory program, please call National Policy Manager Prakash Hebbar, Ph.D., at 301-851-2228 or National Operations Manager Stacy Scott at 970-494-7577.

/s/

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Plant Protection and Quarantine

FEDERAL ORDER
Domestic Quarantine
Phytophthora ramorum

DA-2015-18

April 3, 2015

This Federal Order immediately deregulates the areas in California, Oregon, and Washington listed as regulated areas in the *P. ramorum* regulations.

This Federal Order is issued in accordance with the regulatory authority provided by the Plant Protection Act 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 regulations promulgated under the Plant Protection Act found at 7 *Code of Federal Regulations* (CFR) 301.92.

Background

APHIS first enacted a federal quarantine for *P. ramorum* when it was discovered in the natural environment causing sudden oak death (SOD) in fourteen counties in California and portions of one county in Oregon. When the disease was subsequently detected in certain nurseries on the West Coast that shipped nursery stock interstate, we issued an emergency Federal Order that regulated the movement of nursery stock from the states of California, Oregon, and Washington in order to prevent the spread of the disease from these states. APHIS subsequently codified this Federal Order through rulemaking which not only placed restrictions on the movement of regulated articles from nurseries in areas quarantined for *P. ramorum* (currently 15 counties in California and portions of 1 county in Oregon) due to the presence of *P. ramorum* in the environment, but also restricted the movement of regulated articles from all other areas in California and Oregon, as well as Washington.

The regulations designate areas that are quarantined (the 15 counties in California and portions of 1 county in Oregon) and regulated (all remaining areas of California, Oregon, and Washington) for *P. ramorum* and specify the conditions under which articles may be moved interstate from these areas. *P. ramorum* is the causal agent of the disease sudden oak death.

Since annual inspections began in more than 3,000 nurseries in California, Oregon and Washington, *P. ramorum* has been detected in a very small percentage of these nurseries within regulated areas—usually no more than three percent annually. Additionally, of those nurseries within regulated areas where *P. ramorum* was detected, a majority had detections in the first years of the program that were traced to shipments of infested nursery stock into the nursery. In conjunction with their respective state departments of agriculture, the nurseries adopted APHIS protocols to rid their establishments of the pathogen and prevent future introductions through shipments of infested nursery stock. Based on the absence of detections for at least the past three years, there is not sufficient risk to continue inspecting the nurseries.

The Federal Order DA-2013-27, issued on July 3, 2013, revised the *P. ramorum* domestic quarantine regulations located at 7 CFR Part 301.92-3(b) to relieve regulatory requirements for over 1,500 nurseries considered as non-host nurseries located in the regulated areas of California, Oregon, and Washington that do not contain and do not ship any species of proven host plant taxa or associated plant taxa as defined under 7 CFR 301.92-2 (d) and (e). APHIS no longer imposes *P. ramorum* regulatory requirements for interstate movement of non-host nursery stock from nurseries that do not contain and that do not ship the listed proven host taxa and associated plant taxa, including assembling for inspection, inspection and sampling, certificates, compliance agreements, and recordkeeping.

The Federal Order DA-2014-2, issued on January 10, 2014, and effective March 31, 2014, also relieved the annual regulatory inspections and sampling requirements for interstate shipping nurseries located in the regulated areas where *P. ramorum* was not detected on or after March 31, 2011. The Administrator had determined that, based on regulatory data from annual inspections conducted pursuant to 7 CFR 301.92-5(b) and 301.92-11(c), if sources of *P. ramorum* inoculum existed within or in proximity to a nursery, it was highly unlikely that plants at the nursery will test negative for *P. ramorum* for three consecutive years.

Requirements in Quarantined Areas

This Federal Order does not change any regulatory requirements in the current *P. ramorum* quarantined areas designated in paragraph (a) of 7 CFR 301.92-3. State departments of agriculture in California and Oregon will continue to maintain a list of all host and non-host nurseries in the quarantined areas of their states that are certified pursuant to 7 CFR Part 301.92. Accordingly, APHIS will continue to regulate all interstate shipping nurseries located in the quarantine areas for *P. ramorum*, including those that contain only non-host nursery stock. Under 7 CFR 301.92-5(a) and 301.92-11(a) and (b), nurseries in *P. ramorum* quarantined areas are subject to stringent inspection requirements in order to ship regulated nursery stock interstate.

Requirements in Non-Quarantined Areas

This Federal Order also does not change the regulatory protocol for nurseries located outside of the quarantined areas and located anywhere in the U.S and its territories, if *P. ramorum* is discovered on nursery stock, or in soil, standing water, drainage water, water for irrigation, growing media, pots used for nursery stock, or other sources of inoculum.

If regulatory samples in a nursery test positive for *P. ramorum*, and the nursery wants to continue shipping any regulated or associated articles for *P. ramorum* interstate, the nursery **must enter** into a compliance agreement with APHIS. To prevent the spread of *P. ramorum*, the nursery must also agree to address its sources of *P. ramorum* so that it is not spread through the interstate movement of regulated or associated articles. All critical control points identified by APHIS must be addressed through specific, detailed measures within this compliance agreement. To ship *P. ramorum* regulated or associated articles interstate from the nursery, the nursery must undergo two inspections annually and an inspector must determine that the risk of spreading *P. ramorum* has been mitigated at the nursery.

Positive interstate shipping nurseries in California, Oregon, and Washington that opted out of the APHIS compliance program after March 31, 2014, will not be allowed to ship interstate until all APHIS requirements listed in January 2014, Federal Order DA-2014-2 are met.

Deregulation of Regulated Areas in California, Oregon, and Washington

Effective immediately, this Federal Order deregulates the regulated areas designated in paragraph (b) of 7 CFR 301.92-3. However, nurseries in these regulated areas that are under compliance agreements with APHIS due to regulatory samples from the nursery testing positive for *P. ramorum* inoculum remain regulated establishments. These nurseries may ship interstate only under the terms and conditions of their compliance agreement.

The majority of nurseries in regulated areas have not tested positive in years or have never tested positive. This long-standing freedom, coupled with absence of *P. ramorum* in the natural environment is the basis for our deregulation of previously identified regulated areas.

This action will minimize uncertainty among trading partners on the extent of *P. ramorum* outbreak in the environment. In addition, this will streamline and harmonize the *P. ramorum* domestic program with the other domestic quarantine programs found in 7 CFR Part 301.

Applicability

This Federal Order only pertains to the *P. ramorum* domestic quarantine program. Prior to movement, nursery stock from regulated areas must be eligible for unrestricted movement under all other federal and state domestic plant quarantines and regulations applicable to the nursery stock.

To receive additional details on the federal *Phytophthora ramorum* regulatory program, please call APHIS' National Policy Manager Prakash Hebbar, Ph.D., at 301-851-2228 or National Operations Manager Stacy Scott at 970-494-7577.