

FOR INFORMATION AND ACTION
DA-2016-34
JUNE 01 2016

Subject: APHIS Changes Requirements for Movement of Soil from *Phytophthora ramorum* Quarantined Areas for Analysis

To: State and Territory Agricultural Regulatory Officials

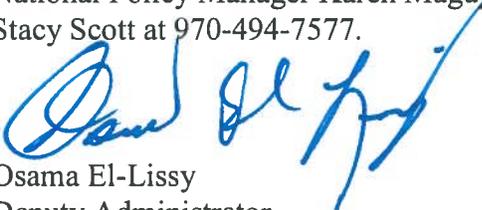
Effective immediately, the Animal and Plant Health Inspection Service (APHIS) is revising the conditions for the interstate movement of regulated soil from *Phytophthora ramorum* quarantined areas when the soil is moving to an APHIS-approved soil laboratory for physical or chemical analysis. This action removes the certification requirement and authorizes movement under a compliance agreement. The movement of bulk soil for other purposes (e.g., disposal, landscaping, use in potting media) is not included in this action and will continue to require certificates per the Code of Federal Regulations (7 CFR 301.92). This action does not include soil to be moved for the isolation of plant pests, which is regulated in accordance with 7 CFR, Part 330.

The movement of soil from a *P. ramorum* quarantined area is regulated in 7 CFR 301.92. Currently, soil from a quarantined area must either have certification of heat treatment or freedom from all duff and freedom from prior direct physical contact with any article infected with *P. ramorum*. The attached federal order authorizes the movement of soil from *P. ramorum* quarantined areas for physical or chemical analysis, provided the soil is a sample moving under a compliance agreement to a laboratory that is approved by the APHIS Administrator. APHIS has determined that a compliance agreement provides improved safeguarding and oversight to allow for this type of movement. The compliance agreement will also mandate the conditions for disposal of the soil: specifically, that it be made nonviable by means of an APHIS-approved treatment at the completion of the analysis.

Details on APHIS-designated *P. ramorum* regulatory requirements, areas, and conditions to move regulated articles are in 7 CFR 301.92 and are also available at:

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

For more information about the *P. ramorum* program and federal regulations, please call National Policy Manager Karen Maguylo at 301-851-3128 or National Operations Manager Stacy Scott at 970-494-7577.



Osama El-Lissy
Deputy Administrator
Plant Protection and Quarantine

Attachment: Federal Order

FEDERAL ORDER

Movement of Soil from *Phytophthora ramorum* Quarantined Areas for Analysis

DA-2016-34

JUNE 01 2016

This Federal Order revises the conditions for the interstate movement of regulated soil from *Phytophthora ramorum* quarantined areas. Specifically, this order removes certification requirements to move soil intended for chemical or physical (compositional) analysis by allowing such soil to instead move to an APHIS-approved soil laboratory under a compliance agreement.

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 CFR 301.92.

The *P. ramorum* regulations located in 7 CFR 301.92-4 describe the requirements for the interstate movement of regulated articles—including soil—from quarantined areas. Any person can move soil with a certificate issued by an inspector if the inspector determines that the regulated article has been treated in accordance with 7 CFR, Part 305 or all duff has been removed from the soil and the soil has not been in direct physical contact with any article infected with *Phytophthora ramorum*.

While these certification requirements are feasible for the commercial movement of bulk soil, they are unsuitable for the movement of soil samples to a laboratory for chemical or physical (compositional) analysis. In the case of treated soil, the required treatment schedule changes the composition of the soil, which interferes with the intended scientific analysis. In the case of untreated soil, the origin of the soil samples, which are often obtained from the natural environment, precludes an inspector's ability to verify that the soil has not been in direct physical contact with any article infected with *P. ramorum*. These problems, in addition to the significant quantity of soil samples being moved for laboratory analysis, present a serious obstacle to industry and APHIS' regulatory enforcement.

APHIS has determined that a compliance agreement provides improved safeguarding and oversight to allow for this type of movement. The compliance agreement will also mandate the conditions governing the disposal of the soil; specifically that it be made nonviable at the completion of the analysis, thus providing safeguards over the disposal of the soil.

Effective immediately, soil samples may be moved from an area quarantined for *P. ramorum* for chemical or physical (compositional) analysis provided the soil is moved to a laboratory that:

- has entered into and is operating under a compliance agreement with APHIS,
- is abiding by all terms and conditions of that compliance agreement, and
- is approved by APHIS to test and/or analyze the samples.

This is consistent with the manner in which other domestic quarantine programs, such as imported fire ant, regulate the interstate movement of soil samples from quarantined areas for chemical or physical (compositional) analysis. This will more adequately address pest risk, while relieving the burden for the soil-testing industry as well as for APHIS and state inspectors.

This action pertains only to soil samples that are moved for chemical or physical (compositional) analysis. This action does not pertain to bulk soil that is moved for commercial sale or other purposes, which must still be moved under a certificate issued in accordance with 7 CFR 301.92. In addition, this Federal Order does not pertain to soil for the isolation of plant pests, which is regulated in accordance with 7 CFR, Part 330. A plant pest permit (PPQ Form 526) must be obtained for this use.

For more information about the *P. ramorum* program and federal regulations, please call National Policy Manager Karen Maguylo at 301-851-3128 or National Operations Manager Stacy Scott at 970-494-7577.