

FOR INFORMATION AND ACTION
DA-2012-53
December 10, 2012

SUBJECT: APHIS Revises Federal Order Requiring Notification for *Phytophthora ramorum* high-risk hosts

TO: STATE AND TERRITORY AGRICULTURAL REGULATORY OFFICIALS

Effective immediately, the Animal and Plant Health Inspection Service (APHIS) is amending two Federal Orders, dated January 28, 2011 (DA-2011-04) and February 25, 2011 (DA-2011-10) requiring advance notification for certain shipments of *P. ramorum* high-risk host nursery stock.

The attached Federal Order, which supersedes all previous Federal Orders on *P. ramorum* notification, removes notification requirements for nurseries in counties within regulated areas that have never tested positive for *P. ramorum* or have tested negative for the past three years.

Effective immediately, interstate shipments of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* nursery stock (defined in the regulations as high-risk) from all quarantine areas must continue to provide written notification to non-regulated states. The nurseries located in the following quarantined counties of California and Oregon will be affected by this requirement:

- California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma counties
- Oregon: Curry County

However, only previously (since 2010) or newly positive nurseries in the regulated areas of California, Oregon, and Washington shipping any species of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* to non-regulated states will be required to notify. Rather than requiring notifications for all nurseries located in a regulated county, the amended Federal Order will instead focus on specific nurseries within regulated counties that are currently positive for *P. ramorum* or have tested positive for *P. ramorum* over the last 3 years (since 2010). In addition, if *P. ramorum* is detected in the future for example, during nursery certification surveys or surveys resulting from trace investigations, these nurseries will also be required to provide notifications. Therefore, nurseries located in a regulated county that have never detected *P. ramorum* on their premises or have tested negative for *P. ramorum* for the last consecutive 3 years are no longer required to provide notification.

APHIS and the State Regulatory Agencies in the regulated states will jointly review regulatory history of nurseries in the regulated areas to determine if they will be affected by this Federal Order. If it is determined that a nursery needs to comply, the nursery owner will be notified by their respective State Regulatory Agency. Affected nurseries must comply with this requirement while under the Confirmed Nursery Protocol, and for two years after their release. APHIS will provide trace information to non-regulated states. Notifications will serve as an additional

source of information for states receiving high-risk *P. ramorum* host nursery stock, and at the same time minimize burden on the regulatory agencies and the nursery industry.

Affected nurseries are required to maintain notification records for a period of 1 year from the notification date to assist with assessing compliance.

This action is necessary based on the results of the advance notification review and information provided to APHIS by state regulatory authorities and the nursery industry. The review findings indicated that advance notification in its current form did not meet the stated goals of providing the states with sufficient information to allow them to prioritize resources and assure rapid response. These changes will enable APHIS and state regulatory agencies to focus resources on nurseries in high-risk quarantine areas and those where *P. ramorum* has been detected.

The Federal Order and a guidance document will be available on the APHIS' website www.aphis.usda.gov/plant_health/plant_pest_info/pram/regulations.shtml

For more information on *P. ramorum*, please contact Prakash Hebbar, APHIS' National *P. ramorum* Policy Manager, at (301) 851-2228 or Stacy Scott, Field Operations Manager, at (970) 494-7577.

/s/ Rebecca A. Bech

Rebecca A. Bech
Deputy Administrator
Plant Protection and Quarantine

Attachment (1)
- Federal Order

**Domestic Quarantine for
Phytophthora ramorum 7 CFR 301.92
DA-2012-53
December 10, 2012**

The purpose of this Federal Order is to prevent the spread of harmful plant diseases caused by *P. ramorum*, through regulatory authority pursuant to the Plant Protection Act of June 20, 2000, as amended, Section 412(a), 7 U.S.C. 7712(a), which 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 supersedes all previous Federal Orders pertaining to *Phytophthora ramorum* notification including the January 28, 2011 (DA-2011-04) and the subsequent Federal Order dated February 25, 2011 (DA-2011-10). The Animal and Plant Health Inspection Service (APHIS) issued the above-referenced Federal Orders to require certain nurseries in quarantine and regulated areas to provide advance notification for shipments of *P. ramorum* high-risk host nursery stock. This Federal Order amends the requirements for nurseries in the regulated areas and describes the timeframe for maintaining records.

APHIS is taking this action based on the findings of the advance notification review and additional information provided by State Regulatory Authorities and industry stakeholders. The review findings indicated that the advance notification requirement, in its current form, did not meet the established goals of providing non-regulated states sufficient information to allow them to prioritize resources and assure rapid response.

Currently, nurseries shipping interstate high-risk nursery stock of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* (as defined under 7CFR 301.92-2) from quarantine areas in California and Oregon must provide written notification to the non-regulated states. In addition, nurseries shipping interstate high-risk nursery stock located in several regulated areas in California, Oregon and Washington have to notify whether or not *P. ramorum* has been detected on their premises.

The amended Federal Order will require any nursery located in the current quarantined counties shipping interstate any species of the genera *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* (defined under 7 CFR 301.92-2 (d) proven host taxa) to non-regulated areas, to continue providing notification to destination states. In the regulated areas, however the amended Federal Order will apply only to specific nurseries that are currently positive for *P. ramorum* or have tested positive for *P. ramorum* over the last 3 years (since 2010). In addition, if *P. ramorum* is detected in the future, for example, during nursery certification surveys or surveys resulting from trace investigations, these nurseries will also be required to provide notifications. Therefore, nurseries located in a regulated county that have never detected *P. ramorum* on their premises or have tested negative for *P. ramorum* for the last consecutive 3 years are no longer required to provide notification. This amendment to the Federal Order will assist both APHIS and State Regulatory Agencies to refocus their resources on nurseries located

in quarantine areas and those high-risk nurseries where *P. ramorum* has been detected, while minimizing the burden on the nursery industry.

Effective immediately, any nursery located in the current quarantined counties shipping interstate any species of the genera *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* (defined under 7 CFR 301.92-2 (d) proven host taxa) to non-regulated areas, must continue to provide notification to destination states. The current quarantined counties are:

California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma
Oregon: Curry.

Effective immediately, only previously or newly positive nurseries in the regulated areas of California, Oregon, and Washington shipping interstate any species of the genera *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* will be required to notify. This revised Federal Order removes notification requirements for nurseries in counties within regulated areas that have never tested positive for *P. ramorum* or have tested negative for the past three years.

APHIS and the State Regulatory Agencies in the regulated states will jointly review regulatory history (presence or absence of *P. ramorum*) of nurseries in the regulated areas to determine if they will be affected by this revised Federal Order and if they do, the nurseries that need to comply will be notified by their respective State Regulatory Agency. In addition, nurseries affected by the Federal Order must provide notification while under the Confirmed Nursery Protocol, and for two years after their release. APHIS will provide trace information to non-regulated states. Notifications will serve as an additional source of information for states receiving high-risk *P. ramorum* host nursery stock.

Notification of an outgoing shipment must be received by the State Plant Regulatory Agency before the shipment arrives at its destination. Nurseries may send notifications by mail, facsimile, or email. The requirement is satisfied by providing a bill of sale, manifest, or other forms of documentation that includes the following information:

- Name, telephone number, and address of the consignee;
- Name, telephone number, and address of the shipper;
- Plant name, number of each plant species/variety shipped;
- Mode of transportation (air, courier, ground); and
- Date of shipment

Nurseries within the regulated areas affected by this Federal Order and all interstate shippers of the five high-risk host plants in the quarantine areas are required to maintain notification records for a period of 1 year from the notification date to assist with assessing compliance. If nursery stock shipments arrive to the non-regulated state(s) without notification due to technical problems or emergencies, or arrive with errors, the shipping nurseries have 3 business days from the day the shipment(s) arrives to its destination to provide appropriate notification and explanation. If after the third business day neither the notification(s) nor explanation for non-

compliance is provided, the receiving state may return the shipment to the point of origin or shipments may be destroyed at the shipper's expense. Failure to comply with the Federal Order or compliance agreement issued under the Federal Order could result in suspension or revocation of the compliance agreement. APHIS State Plant Health Directors from the receiving state and the APHIS *P. ramorum* National Operations Manager will assist State Regulatory Agencies when there are issues related to non-compliance.

Affected nurseries with new positive detections are required to provide APHIS with trace forward information (i.e., interstate shipment details of the positive plant species/cultivar and of any high-risk genera for the previous 1-year from the date of detection) within 10 business days. APHIS will provide trace information to the receiving states. While carrying out the functions specified in this Federal Order, the receiving states must follow procedures consistent with Federal regulations, which are detailed in 7 CFR 301.92.

The notification contact information for each State is listed on the APHIS website:

http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/downloads/pdf_files/pram-prenotification-statecontacts.pdf and within the States' law and regulation documents on the following Website:

<http://www.nationalplantboard.org/laws>.

If further clarification is needed from the state, please contact the State's SPRO office through <http://www.nationalplantboard.org/member/index.html>.

To receive additional details on the Federal *Phytophthora ramorum* regulatory program, please contact Dr. Prakash Hebbar, APHIS' National Policy Manager, at (301) 851-2228 or Stacy Scott, Field Operations Manager, at (970) 494-7577.