

FOR INFORMATION AND ACTION  
DA-2016-05

**JAN - 7 2016**

**Subject:** Correction to a Federal Order Revising the Fruit Fly Domestic Quarantine Regulatory Requirements for the movement of tomatoes under a Mediterranean Fruit Fly Quarantine and Texas citrus under a Mexican Fruit Fly quarantine

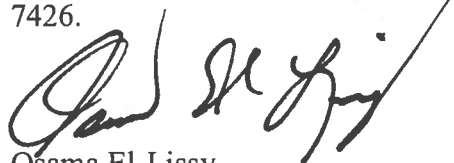
**To:** State and Territory Agricultural Regulatory Officials

On December 11, 2015, APHIS issued Federal Order DA-2015-63, which authorized the interstate movement of citrus from mexfly quarantined areas in Texas and tomatoes from medfly quarantined areas throughout the United States, subject to systems approaches.

In Appendix 2 of that Federal Order, we prohibited citrus from mexfly quarantined areas in Texas from being shipped to certain states that are at risk for mexfly introduction and establishment.

We erroneously failed to include Arizona as such a state. We have revised the Federal Order to correct this error.

For additional information, you may call the Fruit Fly Policy Manager John Stewart at 919-855-7426.



Osama El-Lissy  
Deputy Administrator  
Plant Protection and Quarantine

Attachments: Federal Order and Protocol

## FEDERAL ORDER

### Domestic Quarantine

Fruit Fly Systems Approaches for the Interstate Movement of Tomatoes from Areas in a Mediterranean Fruit Fly Quarantine and the Interstate Movement of Citrus Fruit from Texas during a Mexican Fruit Fly Quarantine

DA-2016-05

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Effective immediately, this Federal Order revises the conditions governing the interstate movement of certain regulated articles from fruit fly quarantined areas. The Federal Order provides for the interstate movement of tomato fruit from Mediterranean fruit fly (medfly) quarantined areas and regulated citrus fruit from Mexican fruit fly (mexfly) quarantined areas in Texas, subject to systems approaches. The systems approaches provide producers with a means of moving tomato or citrus fruit interstate without the use of standard program treatments. This Federal Order applies to commercially produced tomato and citrus fruit only.

This Federal Order is issued pursuant to 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, or means of conveyance, if the Secretary determines the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States. This Order is likewise issued pursuant to the regulations governing APHIS' domestic fruit fly quarantine programs, promulgated under the Plant Protection Act, and found at 7 CFR 301.32 *et seq.* (referred to below as "the regulations").

### **Background**

The regulations designate certain articles as regulated articles for various species of fruit flies. Tomato fruit is designated as a regulated article for medfly, and nine species of citrus fruit (calamondin, citrus citron, grapefruit, lemon, lime, mandarin orange, pummelo, sour orange, and sweet orange) are designated as regulated articles for mexfly.

The regulations also specify the conditions under which such articles may be moved interstate from a quarantined area for medfly or mexfly. Currently, the regulations specify that regulated articles must be treated prior to shipment from a quarantined area, with limited exceptions. For articles originating from a core area within a quarantined area, post-harvest treatment is effectively the only means under which the articles may be moved interstate. These post harvest treatments are very limited and in some cases nonexistent.

Producers have requested a means of shipping tomato fruit from medfly quarantined areas, as well as regulated citrus fruit from quarantined areas within mexfly quarantined areas in Texas<sup>1</sup>, that does not require the use of such post harvest treatment. The producers also have stated that treatment often reduces the shelf-life and commercial viability of the fruit.

## Systems Approaches

We have identified<sup>2</sup> two system approach alternatives that mitigate the risk associated with the interstate movement of tomato fruit from areas quarantined for medfly. The systems approaches apply to the following types of tomato fruit, respectively<sup>3</sup>:

- Green and breaker stage (pink) tomatoes from areas within a medfly quarantined area (including the core area), but outside of the chemical eradication treatment zone in that quarantined area.
- Tomatoes that are riper than breaker stage from areas within a medfly quarantined area (including the core area), but outside of the chemical eradication treatment zone in that quarantined area.

We have also identified<sup>4</sup> three systems approach options that mitigate the risk associated with the interstate movement of regulated citrus fruit from areas in Texas that are quarantined for mexfly. The systems approaches apply to the following types of regulated citrus fruit, respectively:

- Citrus from areas within a quarantined area that were under routine preventative sterile insect techniques prior to the mexfly outbreak.<sup>3</sup>
- Citrus from core areas within a quarantined area that were **not** under routine preventative sterile insect techniques prior to the mexfly outbreak, and are 250 meters or more from a mexfly find.
- Citrus from core areas within a quarantined area that were **not** under routine preventative sterile insect techniques prior to the mexfly outbreak, and are within 250 meters of a mexfly find.

The provisions of these systems approaches are specified in protocol documents that accompany this Federal Order (see appendices 1 and 2). Alternatively the documents are available on the APHIS website at <http://www.aphis.usda.gov/plant-health/ff>.

## Compliance Agreements

In order to ship tomato or citrus fruit under any of these systems approaches, a producer must first enter into a compliance agreement with his or her state department of Agriculture. The

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<sup>1</sup>While mexfly outbreaks do periodically occur in other states, they tend to occur in urban areas or areas that do not have significant commercial citrus production. In Texas, in contrast, outbreaks often affect areas of commercial citrus production.

<sup>2</sup>“Systems Approach for Managing Risk Associated with Movement of Fresh Tomatoes during a Medfly Outbreak” (February 2014). Available at <http://www.aphis.usda.gov/plant-health/ff>

<sup>3</sup> Tomatoes for processing including canning of tomatoes may move out of a medfly quarantine area under a compliance agreement that includes appropriate safeguards as stated in the compliance agreement.

<sup>4</sup>“Systems Approaches for Managing the Risk of Citrus Fruit in Texas during a Mexican Fruit Fly Outbreak” (August 14, 2015). Available at <http://www.aphis.usda.gov/plant-health/ff>

compliance agreement will specify the relevant systems approach (or systems approaches) from the protocol documents that apply to the producer. The compliance agreement may also specify additional conditions determined by APHIS and/or the state department of Agriculture to be necessary in order to prevent the spread of medfly or mexfly through the interstate movement of his or her articles. Finally, the compliance agreement will specify that the state or APHIS may amend the compliance agreement, and any such amendments will be communicated to the producer.

A producer must agree to all terms and conditions of the compliance agreement, and must adhere to all other relevant conditions of the regulations, in order to ship citrus or tomato fruit pursuant to this Federal Order. If APHIS or the state department of agriculture determines that a producer has failed to continually adhere to any of the terms or conditions of the compliance agreement, or any of the relevant conditions of the regulations, the compliance agreement may be cancelled, orally or in writing, and the producer may not ship citrus or tomato fruit under its conditions.

Any person whose compliance agreement has been cancelled may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Administrator may grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

This Federal Order provides a degree of regulatory relief for tomato producers in medfly quarantined areas and citrus producers in mexfly quarantined areas in Texas, without contributing to the further dissemination of these plant pests within the United States.

For further information regarding this Federal Order, contact John C. Stewart, APHIS PPQ Fruit Fly Policy Manager (919) 855-7426.

**Definitions:**

*Chemical Eradication Treatment Zone.* The area in the immediate vicinity around a fruit fly find site where fruit stripping and ground spray occurs.

*Core Area.* The area within a circle surrounding each site where fruit flies have been detected using a 1/2 -mile radius with the detection site as a center point.

*Sterile Insect Technique:* The release of sterile adult Mexflies into a target area.

## **Appendix 1: Protocol document for tomato fruit from medfly quarantined areas**

This protocol provides conditions for the interstate movement of tomato from quarantine areas under a systems approach. Fruit within the chemical eradication treatment zone (as part of the core square mile area, is not eligible for this systems approach. There are two systems approach alternatives depending on degree of fruit ripeness. This protocol is based on a USDA APHIS PPQ systems approach risk assessment document entitled “Systems Approach for Managing Risk Associated with Movement of Fresh Tomatoes during a Medfly Outbreak.”

### **1. General Requirements**

#### **A. Compliance Agreements, Certificates, and Inspection**

1. Facilities engaged in processing, handling, and packaging of fresh tomato fruit must enter into a compliance agreement with the state department of agriculture and comply with any other requirements in 7CFR 301.32et.seq. before shipping under one of the applicable systems approach alternatives. An evaluation of the local quarantine situation is required prior to initiation of the compliance agreement.
2. The fresh tomato fruit intended for consumption may be shipped interstate to all U.S. states if accompanied by a certificate issued by the state or federal department of agriculture inspector verifying that all conditions of this protocol and any additional requirements stipulated in the compliance agreement have been met. A copy of the certificate must be attached to the consignee’s copy of the accompanying waybill.
3. The adoption and use of this protocol must be subject to monitoring by an inspector who is responsible for documenting inspection and compliance.

### **2. Specific System Approach Requirements**

**System Approach for green and breaker stage tomatoes** – This system approach is applicable to growers and packers who harvest and pack only green and breaker stages of tomatoes and may only be utilized for tomatoes grown within the quarantine area, but outside the chemical eradication treatment zone.

1. Tomatoes must be moved to an approved packinghouse within or outside of the quarantine area only under currently approved safeguards as specified in 7 CFR 301.32. The product can then be treated with ethylene to ripen, store, and/or ship before or after the fruit ripens.
2. Culled fruit moved to packinghouses outside of the quarantine area must be:
  - a.) Moved to an approved landfill under PPQ or state cooperator supervision; or
  - b.) Moved back to the quarantine area for immediate use as animal feed; or
  - c.) Mitigated using the application of other approved mitigations.

**System Approach for tomatoes riper than breaker tomatoes** – This system is applicable to growers who harvest tomatoes riper than breaker tomatoes that include cherry and grape tomato varieties, and various types of round tomatoes that are packed and generally sold for wholesale

distribution. This includes certified producers that harvest fruit for immediate sale at certified farmer markets by the producer (or agent). This applies only to tomatoes grown within the quarantine area, but outside the chemical eradication treatment zone.

1. The grower must participate in a regulatory trapping program on the grower's production site.
2. The regulatory trapping must consist of the following:
  - There must be 2 traps per 5 acres (ac) with at least two traps per tomato growing site.
  - One of the traps (per 5 ac or per growing sites) must utilize a Trimedlure and the other must use a food lure (3 component lure or torula yeast pellets).
  - The two traps must be placed at separate locations from each other.
  - Regulatory trapping in an area subject to either Sterile Insect Technique (SIT) or aerial bait spray may be reduced by one half using the trap that is most conducive to the treatment strategy.
  - Traps must be in place for at least 7 days prior to harvest for tomatoes grown within the quarantine area but excluding the core square mile area.
  - Traps must be in place for 30 days prior to harvest for tomatoes produced in the core square mile area but outside the chemical treatment zone (200 to 400 meter radius) around a given fruit fly find.
3. Culled fruit moved to packinghouses outside of the quarantine area must be:
  - a.) Moved to an approved landfill under PPQ or state cooperator supervision; or
  - b.) Moved back to the quarantine area for immediate use as animal feed; or
  - c.) Mitigating using the application of other approved mitigations.

## **Appendix 2: Protocol document for regulated citrus fruit from mexfly quarantined areas**

This protocol provides conditions for the interstate movement of citrus fruit from quarantined areas in Texas under a systems approach. There are three citrus system approach options depending on whether the quarantined citrus groves are under routine sterile insect technique (SIT) and depending on the distance from a mexfly detection. This protocol is based on a USDA APHIS PPQ systems approach risk assessment document entitled “Systems Approaches for Managing the Risk of Citrus Fruit in Texas during a Mexican Fruit Fly Outbreak.”

### **I. General Requirements**

#### **A. Compliance Agreements, Certification, Labeling, and Inspection**

1. Facilities engaged in growing and interstate movement of fresh citrus fruit in an area quarantined for mexfly must enter into a compliance agreement with the state department of agriculture before shipping under one of the applicable systems approach options. An evaluation of the local situation is required prior to initiation of the compliance agreement.
2. The fresh citrus fruit found eligible for interstate movement under systems approaches must be accompanied by a Limited Permit, issued by the state or federal departmental of agriculture inspector, verifying that all conditions of this protocol and any additional requirements stipulated in the compliance agreement have been met. A copy of the certificate must be attached to the consignee’s copy of the accompanying waybill.
3. Citrus fruit shipped from the core area must be properly labeled. Boxes or other containers of regulated citrus, and shipping documents accompanying the boxes must be clearly marked with the statement “**Limited Permit: USDA-APHIS-PPQ, Not for distribution in AL, AZ, CA, FL, GA, HI, LA, MS, NM, SC, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.**”
4. Program fruit cutting will be carried out in high risk residential sites next to the grove(s) when quarantines are established. At least 100 fruit selected at random from host plants in the immediate area of an adult capture must be cut open and closely examined for signs of oviposition stings or exit holes left by larvae. This inspection must be conducted by experienced personnel trained to inspect for first and second instar larva on the property. If 2 or more flies are trapped in close proximity, fruit cutting may be extended to all properties within a 200-meter radius of the finds.
5. The adoption and use of this protocol must be subject to monitoring by an inspector who is responsible for documenting inspection and compliance.

## **II. Trapping, Treatment, and Limited Distribution of Citrus**

1. The major components for the systems approach are (1) Area of low pest prevalence, (2) Certified pre-harvest foliar bait spray treatments, and (3) Limited distribution of shipped fruits. The three main components of these systems approaches may vary slightly depending on the specific grove.
  - a. Growers must participate in a regulatory trapping program on the production site to be considered an area of low pest prevalence when a mexfly quarantine action is triggered. Regulated trapping program activities will be completed by USDA and Texas Department of Agriculture officials and must consist of the following:
    - i. There must be 1 trap per 25 acres with at least 1 trap per grove.
    - ii. Traps must be baited with food-based attractants (Torula yeast/Borz, Nu-lure in water, or the 2 component lure ammonium acetate plus putrescine) in either a McPhail or Multilure trap.
    - iii. When a new mexfly is detected within the core area, groves shipping under systems approaches must increase trapping from 1 trap per 25 acres to 3 traps per 25 acres. Note: the capture of additional flies within a core area does not reset the clock in terms of the number of days of trapping or bait spray treatments required prior to movement.
    - iv. If additional Mexflies (5 or more individuals) or larvae are detected within a quarantine core area that is currently under this systems approach protocol, then the system will be suspended for the remainder of the season.
  - b. Pre-harvest foliar bait spray treatments in quarantine core areas beginning prior to harvest and continuing through end of harvest using certified applicators must be conducted as a second major component of this systems approach.
  - c. Shipments of citrus from the core area will be prohibited from distribution to Alabama, Arizona, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, New Mexico, South Carolina, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.
2. If a portion of a citrus grove within a core area of a quarantine falls within an area not eligible for systems approaches, the entire grove is ineligible.

## **III. Systems Approach Requirements**

- A. Systems Approach for citrus fruit from quarantined areas which are under routine preventative Sterile Insect Technique (SIT)**



Option 1: Under this systems approach, all citrus fruit in the quarantine area is eligible for movement, including fruit from groves within the core area.

1. Grove must be under routine SIT before a mexfly quarantine is triggered.
2. The citrus grove must be under at least 30 days of regulatory trapping, beginning 30 days prior to harvest and continuing through the end of harvest.
3. The grove must have no fruit fly detections.
4. The grove must be under pre-harvest certified sprays beginning 30 days prior to harvest and continuing through end of harvest.

**B. Systems Approach for citrus fruit from quarantined areas that are not under routine SIT.**

Option 2: Under this systems approach, citrus fruit is eligible to move interstate if it comes from a grove greater than 250 meters from a mexfly detection. Fruit from groves within 250 meters of a mexfly detection is not eligible for interstate movement under this systems approach.

1. The citrus grove must be under at least 30 days of regulatory trapping, beginning 30 days prior to harvest and continuing through the end of harvest.
2. The grove must have no fruit fly detections.
3. The grove must be under pre-harvest certified sprays beginning within 72 hours of first detection of a mexfly, continuing on a weekly basis through the end of the harvest.
4. The grove must have a minimum of 30 days of regulatory bait sprays prior to harvest.

Option 3: Under this systems approach, citrus fruit under quarantine is eligible to move if it comes from a grove within 250 meters of a mexfly detection.

1. The citrus grove must be under at least 60 days of regulatory trapping, beginning 60 days prior to harvest and continuing through the end of harvest.
2. The grove must have no fruit fly detections.
3. The grove must be under pre-harvest certified sprays beginning within 72 hours of the first detection of a mexfly, continuing on a weekly basis through the end of the harvest.
4. The grove must have a minimum of 60 days of certified bait sprays after the establishment of the quarantine prior to harvest and continuing through the end of the harvest.