

FOR INFORMATION AND ACTION
DA-2011-10
February 25, 2011

SUBJECT: Amendment to Federal Order Requiring Advance Notification for *Phytophthora ramorum* (*P. ramorum*)

TO: STATE AND TERRITORY AGRICULTURAL REGULATORY OFFICIALS

Effective immediately, the Animal and Plant Health Inspection Service is amending the January 28, 2011, Federal Order (DA-2011-04) requiring advance notification for certain shipments of *P. ramorum*- host nursery stock. The attached Federal Order removes **Santa Barbara and Ventura Counties in California; Lincoln County in Oregon; and Kitsap County in Washington State from the list of affected counties**. This action is necessary based on additional information provided to APHIS by State Regulatory Authorities justifying the exclusion of these counties for several reasons: *P. ramorum* was only detected on trace forward plants and not on host plants grown within the interstate shipping nursery premises of Santa Barbara and Ventura counties, California; Lincoln County, Oregon, does not have *P. ramorum* positive interstate shippers; and Kitsap County, Washington, does not have an interstate shipping nursery that has previously tested positive for the disease. This Federal Order supersedes the Federal Order dated January 28, 2011 (DA-2011-04).

All other counties listed in the January 28 Federal Order (DA-2011-04) as an affected quarantined and regulated county in California, Oregon, and Washington remains the same. Therefore, the affected counties are as follows:

California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Los Angeles, Placer, Sacramento, San Diego, San Joaquin, Shasta, Stanislaus and Tulare.

Oregon: Curry, Clackamas, Columbia, Lane, Marion, Multnomah, Washington and Yamhill.

Washington: Clark, Cowlitz, King, Lewis, Pacific, Snohomish and Thurston.

Beginning on March 1, all nurseries located in the above mentioned counties that ship any species of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* interstate to non-regulated areas must provide advance notification. Advance notification will allow States receiving *P. ramorum*-host nursery stock to assign and prioritize resources, assure rapid response, and provide direct traceability for high-risk nursery stock regulated by genera (as defined under 7 CFR 301.92-2).

The Federal Order and guidance document are also available on APHIS' website at www.aphis.usda.gov/plant_health/plant_pest_info/pram/regulations.shtml.

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For more information on *P. ramorum*, you may contact Prakash Hebbar, APHIS' National *P. ramorum* Program Manager, at (301) 734-5717.

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Plant Protection and Quarantine

2 Attachments:

- Amended Federal Order
- Guidance Document

FEDERAL DOMESTIC QUARANTINE ORDER

Phytophthora ramorum 7 CFR 301.92

DA-2011-10

February 25, 2011

The Animal and Plant Health Inspection Service (APHIS) is amending the Federal Order DA-2011-04 dated January 28, 2011 requiring pre-notification for shipping *P. ramorum*- host nursery stock from regulated and quarantine areas by removing **Santa Barbara and Ventura Counties in California, Lincoln County in Oregon and Kitsap County in Washington State from the list of affected counties**. This action was necessary based on additional information provided to APHIS by State Regulatory Authorities justifying the exclusion of the above counties and thereby the nurseries located in the above counties from advance notification requirements. APHIS removed the abovementioned counties for several reasons: *P. ramorum* was only detected on trace forward plants and not on host plants grown within the interstate shipping nursery premises in Santa Barbara and Ventura counties; there is currently no *P. ramorum* positive interstate shipper in Lincoln County; the retail nursery located in Kitsap County and previously positive for *P. ramorum* was misidentified as an interstate shipper. This Federal Order supersedes the Federal Order dated January 28, 2011 (DA-2011-04).

All other counties listed previously in the Federal Order DA-2011-04 dated January 28, 2011, for quarantined and regulated counties in California, Oregon, and Washington State, host lists and requirements will remain the same. The affected counties in the revised list are:

In California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Los Angeles, Placer, Sacramento, San Diego, San Joaquin, Shasta, Stanislaus and Tulare.

In Oregon: Curry, Clackamas, Columbia, Lane, Marion, Multnomah, Washington and Yamhill.

In Washington State: Clark, Cowlitz, King, Lewis, Pacific, Snohomish and Thurston.

The purpose of the Advance Notification 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.

The existing domestic regulations for *P. ramorum*, located in 7 CFR Part 301.92, authorize the interstate movement of nursery stock from *P. ramorum* quarantined or regulated areas without prior notification to the receiving States. At present, when host nursery stock is found positive for *P. ramorum*, considerable time is spent gathering traceability information, thereby delaying the ability of State and Federal officials to respond rapidly.

To help mitigate the spread and dissemination of *P. ramorum*, the APHIS Administrator considers it necessary for interstate shipping nurseries in the counties listed above that ship host plants regulated for *P. ramorum* at the genus level to provide prior written notification to receiving States in non-regulated areas.

This Federal Order will allow States receiving *P. ramorum*-host nursery stock to assign and prioritize resources, provide direct traceability for high-risk nursery stock (as defined under 7 CFR 301.92-2) and assure rapid response if *P. ramorum* is detected at the originating nursery. While carrying out the functions specified in this Federal Order, the receiving States must follow procedures consistent with Federal regulation, which are detailed in 7 CFR 301.92.

Effective March 1, 2011, any interstate shipping nursery located in the current quarantined counties and/or regulated counties **listed above** and shipping any species of the genera *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* (defined under 7 CFR 301.92-2 (d) proven host taxa) interstate to non-regulated areas must provide advance notification.

Affected nurseries in the abovementioned counties are required to send advance notification to the office of the State Plant Regulatory Official (SPRO) in the receiving State at the time of shipment. This requirement may be fulfilled by sending (via mail, facsimile, or email) a bill of sale, manifest, or other documentation that includes the following information:

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

The advance notification contact information for each State is listed 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>.

Commodities shipped without providing advance notification to the destination States may be held, returned to their point of origin, or destroyed at the expense of the owner if valid information cannot be provided by the shipping nursery within 3 business days that advance notification was made.

To receive additional details on the Federal *Phytophthora ramorum* regulatory program, please contact Dr. Prakash Hebbar, APHIS' National Program Manager, at (301) 734-5717.

**ADDITIONAL GUIDANCE FOR NURSERIES
ADVANCE NOTIFICATION OF *P. RAMORUM*-HOST NURSERY STOCK
FEBRUARY 2011**

On January 28, 2011, the Animal and Plant Health Inspection Service (APHIS) published a revised Federal Order (DA-2011-04) requiring interstate shipping nurseries moving certain *Phytophthora ramorum*-host nursery stock from all quarantined counties in California and Oregon, and several regulated counties in California, Oregon, and Washington (pursuant to Chapter 7 of the *Code of Federal Regulations* (CFR), Part 301.92 *et seq*) to provide advance written notification to the destination State(s).

On February 25, 2011, APHIS amended the Federal Order (DA-2011-10) to remove **Santa Barbara and Ventura Counties in California, Lincoln County in Oregon, and Kitsap County in Washington State from the list of affected counties**. This action was necessary based on additional information provided to APHIS by State Regulatory Authorities justifying the exclusion of these counties for several reasons: *P. ramorum* was only detected on trace forward plants and not on host plants grown within the interstate shipping nursery premises of Santa Barbara and Ventura counties; there is currently no *P. ramorum*-positive interstate shipper in Lincoln County; the retail nursery located in Kitsap County and previously positive for *P. ramorum* was misidentified as an interstate shipper. The February 25 Federal Order (DA-2011-10) supersedes the Federal Order previously issued on January 28, 2011 (DA-2011-04).

Currently, when host nursery stock tests positive for *P. ramorum*, considerable time is spent gathering information on the shipment, thereby delaying the ability of State and Federal officials to rapidly trace any potentially infected plant material. To help mitigate the spread and dissemination of *P. ramorum*, the APHIS Administrator considers it necessary for interstate shipping nurseries in the counties listed below that move host plants regulated for *P. ramorum* at the genus level to provide prior written notification to receiving States.

Effective March 1, 2011, any interstate shipping nursery located in the current **quarantined counties** moving any species of the genera *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* (defined under 7 CFR 301.92-2 (d) proven host taxa) interstate to non-regulated areas must provide advance notification. The current quarantine counties include: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma counties in California; and Curry County in Oregon.

In addition, a nursery located in **regulated counties** must adhere to the advance notification requirements if it is:

- Shipping any species of the five high-risk plant genera (listed above) interstate to non-regulated areas; and
- Located in a regulated county with one or more interstate shipping nurseries that have tested positive for *P. ramorum* since 2003.

Based on these criteria, the currently affected regulated counties are: Los Angeles, Placer,

Sacramento, San Diego, San Joaquin, Shasta, Stanislaus, and Tulare counties in California; Clackamas, Columbia, Lane, Marion, Multnomah, Washington, and Yamhill counties in Oregon; and Clark, Cowlitz, King, Lewis, Pacific, Snohomish, and Thurston counties in Washington.

Advance notification is necessary to allow receiving States sufficient time to assign and prioritize resources, assure rapid response, and provide direct traceability for certain high-risk nursery stock known to be infected with *P. ramorum*.

This document provides answers to questions frequently asked by the nursery industry regarding its role in supporting the requirement of the Federal Order.

Q. How would I know if my shipment requires advance notification?

A. Nurseries located in all currently quarantined counties of California and Oregon (defined in 7 CFR, 301.92-3(3)) and those nurseries located in regulated counties that has one or more detections of *P. ramorum* in interstate shipping nurseries (listed above), must provide advance notification when shipping any species of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including Azalea), and *Viburnum* interstate to non-regulated areas.

That said, the affected quarantine counties include: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma counties in California; and Curry County in Oregon. The affected regulated counties are: Los Angeles, Placer, Sacramento, San Diego, San Joaquin, Shasta, Stanislaus, and Tulare counties in California; Clackamas, Columbia, Lane, Marion, Multnomah, Washington, and Yamhill counties in Oregon; and Clark, Cowlitz, King, Lewis, Pacific, Snohomish, and Thurston counties in Washington. (*please note the attached map showing affected counties*)

Q. Will an interstate shipping nursery be considered positive if detections of *P. ramorum* are only on plants shipped into the nursery and not on host plants being grown within the nursery premises?

No. An interstate shipping nursery will not be considered positive if detections of *P. ramorum* are only on plants shipped into the nursery (trace forward) and not on host plants being grown within the nursery premises.

Q. Why is the advance notification requirement limited to all quarantined counties and certain regulated counties in CA, OR, and WA?

A. After assessing the disease risk in nurseries in the quarantined counties and extensively reviewing the regulatory data from 2003 to 2010 for counties with nursery-positives, it was evident that a majority of the counties in the regulated States of CA, OR, and WA have never detected *P. ramorum* in their nurseries. Based on this data, APHIS decided to limit the advance notification requirement to all nurseries in the quarantined counties and only to those regulated counties where *P. ramorum* was detected in one or more of its nurseries.

Q. Should nurseries in currently quarantined and regulated areas provide advance notification when they ship high-risk host nursery stock within or between the quarantined and regulated areas?

A. No. Under the requirements of the Federal Order, nurseries located within the quarantined and regulated areas do not need to provide advance notification when shipping host-nursery stock within or between the quarantined and regulated boundaries. Only those nurseries moving certain high-risk nursery stock **interstate** from the quarantine counties and certain regulated counties are required to provide advance notification.

Q. What nursery stock requires advance notification?

A. *P. ramorum*-host nursery stock identified as “proven host taxa” and regulated at the genus level as listed in 7 CFR 301.92-2 (d). The hosts regulated at the genus level are: all species of *Camellia*, *Kalmia*, *Pieris*, *Rhododendron* (including *Azalea*) and *Viburnum*.

Q. Why is the advance notification requirement limited to “high risk” genera?

A. After extensive review of the regulatory data from 2003 to 2010 on host plants positive for *P. ramorum* from various nurseries in the regulated States and around the country, it was evident that majority of the detections were in the hosts that are regulated at the genus level. The available data did not merit extending the advance notification requirement to, “all proven host taxa and associated plant taxa” listed in the regulations.

Q. What would the requirements for advance notification be if the identified “high risk” genera (*Rhododendron*, *Camellia*, *Viburnum*, *Pieris*, and *Kalmia*) are mixed with other host species listed in the regulations?

A. Mixed shipments containing one or more plants of the “high risk” hosts listed above will require advance notification.

Q. If new hosts are added to the host list, will the notification requirement be retroactive?

A. No. If new hosts are added to the host list, the notification requirement will not be retroactive.

Q. What are the requirements for submitting advance notification?

A. Affected nurseries must send advance notification to the office of the State Plant Regulatory Official (SPRO) in the receiving State at the time of shipment. This requirement may be fulfilled by sending (via mail, facsimile, or email) a bill of sale, manifest, or other documentation that includes the following information:

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

The advance notification contact information for each State is listed 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. The list of SPROs and their contact information can be found on the following website: <http://www.nationalplantboard.org/member/index.html>.

Q. What additional information should the shipping nursery provide to the receiving nursery regarding advance notification?

A. APHIS recommends that the shipping nursery include the date when the advance notification was transmitted to the receiving SPRO. This will help to verify whether the notification was sent.

Q. How would the receiving nursery know if the SPRO in its State received the advance notification documents?

A. As explained above, the receiving nurseries will know that the shipping nurseries have sent advance notification because the notification date should be indicated on the shipment invoice. APHIS does not need this information. If APHIS needs additional information, it will be obtained from the SPRO in the shipping State.

Q. How will the States use and maintain the advance notification information they receive?

A. The States will use this information to assign and prioritize resources, provide direct traceability for high-risk nursery stock (as defined under 7 CFR 301.92-2), and assure rapid response if *P. ramorum* is detected at the originating nursery. While carrying out the functions specified in this Federal Order, the receiving States must follow procedures consistent with Federal regulation, which are detailed in 7 CFR 301.92. States receiving plant shipments are encouraged to maintain all advance notifications for at least 6 months. The receiving State can file notification information electronically if received as email attachments or as hard copies of those received as faxes or by mail.

Q. If a nursery is found positive, should the shipping nursery provide trace-forward information in addition to the advance notification information already submitted?

A. After the Federal Order is in effect for 6 months, nurseries in the quarantined and regulated areas that have previously provided advance notification and are now positive for *P. ramorum* will not be required to provide trace-forward documentation again. Irrespective of the 6-month period, in the event of a positive find, the shipping nurseries will be required to provide the SPRO in their State the list of States where the plants were shipped. The SPRO, in turn, will provide this information to his/her State Plant Health Director (SPHD) with copies to APHIS'-PPQ Regional Program Manager. APHIS-PPQ reserves the right to audit shipping documents as a part of its review process.

Q. What action would the SPRO from the shipping State take if a nursery from the quarantined or regulated areas is found to be positive for *P. ramorum*?

A. In that situation, the SPRO would be required to inform APHIS of the positive find and take actions described under 7 CFR 301.92 and *APHIS Confirmed Nursery Protocols*. Although trace-forward information is only required to be provided by the shipping nursery for the first 6 months of the current Federal Order implementation period, information on positive plant species/variety and what States the plants were shipped to will continue to be provided to APHIS by the State regulatory agency in the regulated State. APHIS-PPQ will inform the receiving States of a positive find in a nursery.

Q. What are the consequences of not providing advance notification to the destination State?

A. If any species of *Rhododendron*, *Camellia*, *Viburnum*, *Pieris*, and *Kalmia* is shipped without providing prior notification to the destination States, the SPRO in the receiving State will contact the shipping nursery directly to obtain information and verify whether the advance notification was sent. The SPRO from the receiving State will simultaneously keep the receiving State's SPHD and his/her counterpart in the originating State informed of the efforts to obtain information. In this situation, the SPRO in the shipping State will be encouraged to verify whether or not the shipping nursery is in compliance with the Order. If the nursery did not send the required notification document, the receiving State may immediately place the shipment on hold and request that the nursery send the proper notification information within 3 business days. If it is not received in that timeframe, the nursery will be in violation of the Federal Order. The receiving State, in consultation with APHIS-PPQ, will take action, either by having the plant materials held for an additional period, returned to origin, or destroyed in a timely manner (at the discretion of the shipping nursery). *Note: While carrying out the functions specified in this Federal Order, the SPRO will take actions that are consistent with Federal regulation 7 CFR 301.92 and protocols.*

Q. How will the States that do not have the authority to hold or destroy shipments handle shipments that are in violation of the Order?

A. Regardless of the receiving State's authority, it will take appropriate actions, in consultation with APHIS, as specified in the Federal Order. *Note: While carrying out the functions specified in this Federal Order, the SPRO will take actions consistent with Federal regulation 7 CFR 301.92.3.*

Q. How will issues, related to lost documents, malfunctioning of fax machines, firewalls, etc., be resolved by shipping nurseries?

A. If there is uncertainty that proper advance notification was made and not received, the SPRO in the receiving State should contact the shipping nursery to resolve or track the missing information. If needed, the SPRO and/or SPHD in the receiving State can contact their partners in the shipping State for further assistance in resolving the issue. APHIS-PPQ expects both the

shipping nursery and the receiving nursery to cooperate in resolving issues related to the above situations.

Q. What are the record-keeping requirements for SPROs of States with consignees receiving host nursery stock?

A. The receiving State is encouraged to compile the notification information electronically or as hard copies and maintaining these records for at least 1 year. The States receiving *P. ramorum*-host nursery stock can manage the advanced notification by whatever methods best suits the State in order to assign and prioritize resources, assure rapid response, and provide direct traceability for high-risk nursery stock regulated by genera (as defined under 7 CFR 301.92-2). No additional information will be sent from a shipping nursery once the Federal Order is in effect for 6 months. As stated earlier, irrespective of the 6- month period, the shipping nurseries, in the event of a positive find, will be required to provide the SPRO in the shipping State the names of the destination States where the plants were shipped. The SPRO in turn will transmit this information to State Plant Health Director in the shipping State with copies to APHIS'-PPQ Regional Program Manager. The SPRO office in the receiving State will have an identified email address or fax number to receive advance notifications. This information will be posted on the NPB website at <http://www.nationalplantboard.org/laws>.

Q. Can receiving States hold plant materials for testing purposes independent of the advance notification Federal Order?

A. No. The plants cannot be held for the purpose of conducting testing independent of the advance notification Federal Order. The plants can be held only if they have been tested positive for *P. ramorum* or there has been a clear violation of the Order, or both. The receiving State will take action under Federal authority and only in consultation with APHIS. Plant materials cannot be held, returned to origin, or destroyed arbitrarily.

Q. How will APHIS determine whether the advance notification requirement is providing the necessary information to assign and prioritize resources, assure rapid response, and provide direct traceability for the specified high-risk nursery stock?

A. After the fall 2011 shipping season, APHIS, in consultation with stakeholders, will conduct a thorough review to measure the success of the Federal Order. Based on the results of the review, APHIS will determine if any changes to the advance notification requirement are warranted. Periodic audits will be conducted by APHIS-PPQ to determine what information is provided by shipping nurseries and how it is maintained by the receiving State.

Q. Once advance notification is sent, is the shipment exempt from other State and Federal regulatory requirements?

A. No. Advance notification meets the regulatory requirements identified in Federal Order#: 2011-10, but does not replace other State and Federal regulatory requirements that may also apply to the interstate movement of nursery stock.

Washington Counties:
(from north to south)

Regulated:
Snohomish
King
Thurston
Pacific
Lewis
Cowlitz
Clark

Oregon Counties:
(from north to south)

Regulated:	Quarantined:
Columbia	Curry
Washington	
Multnomah	
Yamhill	
Clackamas	
Marion	
Lane	

California Counties:
(from north to south)

Regulated:	Quarantined:
Shasta	Humboldt
Placer	Mendocino
Sacramento	Lake
San Joaquin	Sonoma
Stanislaus	Napa
Tulare	Marin
Los Angeles	Solano
San Diego	San Francisco
	Contra Costa
	San Mateo
	Alameda
	Santa Clara
	Santa Cruz
	Monterey

Legend

- Full County Quarantine for P.ramorum *
- Partial County Quarantine for P.ramorum *
- Whole County Regulated for P.ramorum **

* Effective March 1, 2011, any interstate shipping nursery located in the current quarantined counties shipping any species of the genera Camellia, Kalmia, Pieris, Rhododendron (including Azalea), and Viburnum (defined under 7 CFR 301.92-2 (d) proven host taxa) interstate to non-regulated areas must provide advance notification.

** In addition to the above, a nursery located in a regulated county must adhere to the advance notification requirements if it is: shipping any species of the five high-risk plant genera (listed above) interstate to non-regulated states; and located in a regulated county with one or more interstate shipping nurseries that have tested positive for P. ramorum since 2003.

Data Sources: USDA APHIS PPQ, TeleAtlas Dynamap, ESRI - ArcGIS Online
Coordinate System: Lambert Azimuthal Equal Area