

FEDERAL ORDER

Tomato Leafminer (*Phthorimaea absoluta*)

DA-2023-02

The purpose of this Federal Order is to prevent the entry or introduction of the tomato leafminer, *Phthorimaea absoluta* (formerly *Tuta absoluta*), into the United States. In 2009, 2010, 2011, 2012, 2014, and 2019, the Animal and Plant Health Inspection Service (APHIS) issued Federal Orders that imposed import requirements for tomato leafminer hosts from infested countries. This Federal Order, effective March 31, 2023, replaces the current Federal Order DA-2019-18 and any previous *T. absoluta* Federal Orders. This Federal Order provides a list of 111 countries considered infested by the tomato leafminer. In addition, this Federal Order adds Trinidad and Tobago to the list of countries APHIS considers to be infested by tomato leafminer, but have market access for tomato fruit (*Solanum lycopersicum*) into the United States. The following 33 countries have market access for tomatoes into the United States and may ship consignments of tomatoes only if they are able to meet the import requirements of this Federal Order in addition to existing import requirements targeting other pests:

- Algeria
- Belgium
- Benin
- Burkina Faso
- Cabo Verde
- Chile
- Costa Rica
- Cote D'Ivoire
- Cyprus
- France
- Gambia
- Ghana
- Greece
- Guinea
- Guinea-Bissau
- Haiti
- Israel
- Italy
- Liberia
- Mali
- Morocco
- Netherlands
- Niger
- Nigeria
- Panama
- Poland
- Portugal
- Senegal
- Sierra Leone
- Spain
- Togo
- Trinidad and Tobago
- United Kingdom

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 and found in the *Code of Federal Regulations* at 7 CFR 301.53.

APHIS determined that the introduction and establishment of tomato leafminer poses a serious threat to U.S. agriculture. The restrictions to prevent the introduction and establishment of tomato leafminer are needed and warranted to address the plant pest risks associated with imports of tomato fruit and propagative material of *Salpichroa* spp., *Datura* spp. and synonyms, except seeds.

The tomato leafminer is widely distributed in South America. In 2006, it was reported in Spain and later spread to other European, Mediterranean, African, and Asian countries. The main host for tomato leafminer is the tomato (*Solanum lycopersicum*).

Since the 2014 Federal Order, the tomato leafminer has continued to spread and more countries have become infested with this pest. As amended by this Federal Order, APHIS considers the following countries to be infested with tomato leafminer, and therefore prohibits imports of propagative materials from *Datura* spp. and *Salpichroa* spp., and synonyms except seeds.

- Afghanistan
- Albania
- Algeria
- Argentina
- Austria
- Bahrain
- Bangladesh
- Belgium
- Benin
- Bolivia
- Bosnia and Herzegovina
- Botswana
- Brazil
- Bulgaria
- Burkina Faso
- Cabo Verde
- Chile
- Costa Rica
- Cote D'Ivoire
- Colombia
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Ecuador
- Egypt
- Estonia
- Ethiopia
- Finland
- France
- Gambia
- Georgia
- Germany
- Ghana
- Greece
- Guernsey
- Guinea
- Guinea-Bissau
- Haiti
- Hungary
- India
- Iran, Islamic Republic of
- Iraq
- Ireland
- Israel
- Italy
- Jordan
- Kenya
- Kosovo
- Kuwait
- Kyrgyzstan
- Latvia
- Lebanon
- Liberia
- Libya
- Lithuania
- Luxembourg
- Mali
- Malta
- Mayotte
- Montenegro
- Morocco
- Mozambique
- Namibia
- Nepal
- Netherlands
- Niger
- Nigeria
- Norway
- Oman
- Panama
- Paraguay
- Peru
- Poland
- Portugal (including the Azores)
- Qatar
- Romania
- Russian Federation
- Rwanda
- Saudi Arabia
- Senegal
- Serbia
- Sierra Leone
- Slovakia
- Slovenia
- South Africa
- South Sudan
- Spain (including the Balearic Islands and Canary Islands)
- Serbia
- Sudan
- Sweden
- Switzerland
- Syrian Arab Republic
- Tajikstan
- Tanzania, United Republic of
- Togo
- Trinidad and Tobago
- Tunisia
- Turkey
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom (including Bermuda, Cayman Islands, Montserrat, regions of England, Orkney Islands, Scotland Wales,

- and the Channel Islands)
- United Arab Emirates
- Uruguay
- Uzbekistan
- Venezuela
- West Bank (Palestinian Authority)
- Yemen
- Zambia
- Zimbabwe

Import requirements for tomatoes from countries infested with *Phthorimaea absoluta* and which have market access into the United States

This Federal Order requires tomato fruit from infested countries be imported **without vines, stems, or calyces** unless they were produced in a pest-free area, or fumigated with methyl bromide treatment schedule T101-c-3-1 in a preclearance program. Commercial shipments of tomato fruit from countries infested with tomato leafminer and approved to export tomato fruit to the United States must meet one of the following U.S. import requirements:

1. Tomato leafminer pest-free area

- Tomato fruit must be imported as commercial consignments only.
- Each tomato consignment must include a phytosanitary certificate of inspection issued by the national plant protection organization (NPPO) of the country of origin and bearing the following additional declaration: Tomato fruit in this consignment was produced in a pest-free area for *Phthorimaea absoluta* that meets the requirements of 7 CFR 319.56-5.

2. Systems approach

The systems approach **must** include **all** of the following:

- Tomato fruit must be imported as commercial consignments only.
- Tomato fruit must be imported **without** vines, stems, or calyces.
- Tomatoes must be grown in pest-exclusionary structures (PES), for example, greenhouses or screen houses registered with the NPPO of the country of origin.
- The PES must be equipped with double self-closing doors, and all vents or openings in the PES (other than the double closing doors) must be covered with 1.6 mm or smaller screening to prevent the entry of quarantine pests into the PES.
- The PES must be equipped with pheromone-baited traps for tomato leafminer at a minimum rate of two traps per hectare or equivalent and with no fewer than two traps per PES for detection and monitoring.
- All traps must be placed at least 2 months prior to harvest, maintained throughout the growing season, and monitored and serviced weekly.

- The registered PES must be inspected by the NPPO or its designee throughout the growing season for evidence of tomato leafminer. The NPPO must maintain trapping records of tomato leafminer throughout the growing season for APHIS review.
- If within 30 days of harvest 2 tomato leafminers are captured inside the PES or a single tomato leafminer is found inside the fruit or in a consignment, shipments from the PES will be suspended until APHIS and the NPPO determine that risk mitigation is achieved.
- The NPPO must maintain an APHIS-approved quality control program to monitor or audit the program. A list of approved pest-exclusionary structures should be provided to APHIS, and the NPPO must also notify APHIS when a PES is removed or added to the program. APHIS may conduct periodic site visits to monitor the program.
- After harvest, tomatoes must be safeguarded by an insect-proof mesh size 1.6 mm or smaller screen or plastic tarpaulin while in transit from the PES to the packinghouse and while awaiting packing.
- Tomatoes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse.
- When the packinghouse processes tomatoes for export to the United States, it must accept only tomatoes from registered pest-exclusionary structures.
- For transit to the United States, tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof 1.6 mm mesh or plastic tarpaulin. These safeguards must remain intact until arrival in the United States. Otherwise, the consignment may be refused entry.
- Each consignment of tomatoes must be accompanied by either:
 - A phytosanitary certificate of inspection issued by the NPPO of the country of origin and bearing the following additional declaration: Tomato fruit in this consignment was produced and prepared for export in accordance with an APHIS-approved systems approach, and was inspected and found free of *Phthorimaea absoluta*.

or

- A reexport phytosanitary certificate accompanied by a copy of the phytosanitary certificate issued by the NPPO of the country of origin including the additional declaration: Tomato fruit in this consignment was produced and prepared for export in accordance with an APHIS-approved systems approach, and was inspected and found free of *Phthorimaea absoluta*.

3. Phytosanitary Treatment

- As provided in 7 CFR 305, methyl bromide treatment schedule T101-c-3-1 is approved for green, red, or pink tomatoes produced in areas infested with tomato leafminer.

- The methyl bromide treatment may only be applied in a preclearance program. Any tomato leafminer-infested country interested in forming a preclearance program should contact APHIS Plant Protection and Quarantine.

For additional information regarding this Federal Order, please contact Regulatory Policy Specialist Ms. Julie Orr at 301-851-4022, or via email at Julie.Orr@usda.gov.