

# Biosecurity (Tomato Brown Rugose Fruit Virus) Control Order (No. 2) 2024

under the

## Biosecurity Act 2015

I, Shane Hetherington, Acting Chief Plant Protection Officer, with the authorisation of the Minister administering the *Biosecurity Act 2015* and under section 62 of that Act make the following Control Order under Part 6 of the Act.

Dated 20 September 2024



Shane Hetherington  
Acting Chief Plant Protection Officer  
Agriculture & Biosecurity  
Department of Primary Industries and Regional Development

## Part 1 Preliminary

### 1 Name of control order

This control order is the *Biosecurity (Tomato Brown Rugose Fruit Virus) Control Order (No. 2) 2024*.

### 2 Commencement and duration (s 63(e))

This Control Order commences on 20 September 2024 and has effect until 20 September 2029.

**Note.** Notice of this Control Order will be given by publishing it in the Department's website.

### 3 Revocation of *Biosecurity (Tomato Brown Rugose Fruit Virus) Control Order 2024*

The *Biosecurity (Tomato Brown Rugose Fruit Virus) Control Order 2024* dated 17 September 2024, published on the Department's website at <https://www.nsw.gov.au/departments-and-agencies/dpird/our-agencies/agriculture-and-biosecurity#toc-orders-2024> is revoked.

### 4 Definitions

In this control order:

***area freedom certificate*** means a biosecurity certificate or an interstate biosecurity certificate that certifies the State or Territory, or part of the State or Territory, is free of the pest, ToBRFV.

***complying identifier*** has the meaning given in clause 112, the Regulation.

***complying label*** has the meaning given in clause 112, the Regulation.

***holding*** means:

- (a) a parcel of land, or
- (b) several parcels of land which—
  - (i) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, and
  - (ii) constitute or are worked as a single enterprise.

***interstate authorised officer*** means a person who may issue a certificate or document under a corresponding law that certifies a matter for which a biosecurity certificate could be issued under the Act.

***plant health certificate*** means a biosecurity certificate or interstate biosecurity certificate that relates to plant biosecurity issued by an authorised officer under the Act or a corresponding law in a State or Territory that relates to plant biosecurity.

***processed*** means processed in the following ways:

- (a) juicing,
- (b) any process that involves heating to a temperature of at least 90 degrees Celsius for a minimum of 5 minutes.

***the Act*** means the *Biosecurity Act 2015*.

***the Regulation*** means the Biosecurity Regulation 2017.

***ToBRFV*** means the tomato brown rugose fruit virus.

***ToBRFV carrier*** means:

- (a) a ToBRFV host plant,
- (b) part of a ToBRFV host plant that is not processed,
- (c) ToBRFV host plant seed,

- (d) ToBRFV soil,
- (e) a ToBRFV vehicle,
- (f) used covering, and
- (g) used equipment.

**ToBRFV host plant** means any part of these plants:

- (a) tomatoes (*Solanum lycopersicum*), including *Solanum* species hybrids, and
- (b) capsicum and chillis (*Capsicum annum*).

**ToBRFV host plant seed** means seed of a ToBRFV plant.

**ToBRFV infected holding** means a holding that is known or suspected to be infected with ToBRFV.

**ToBRFV linked holding** – see clause 14.

**ToBRFV soil** means any natural or artificial matter in which a ToBRFV plant was grown in 24 months before the proposed movement into the ToBRFV control zone.

**ToBRFV unlinked holding** means a holding that is not a ToBRFV infected holding or a ToBRFV linked holding.

**ToBRFV vehicle** means any vehicle that has been used in the cultivation, harvesting or transport of a ToBRFV host plant or ToBRFV soil.

**used covering** means a covering or packaging that has been in contact with a ToBRFV host plant or ToBRFV soil.

**used equipment** means any machinery or equipment that has been used in the cultivation, harvesting, processing or packaging of a ToBRFV host plant or ToBRFV soil.

**Note.** Section 11 of the *Interpretation Act 1987* provides that words or expressions used in this Control Order have the same meaning as in the Act.

## 5 Grounds for order

The basis for concluding that it is necessary to make this control order is as follows:

- (a) Tomato brown rugose fruit virus is prohibited matter in the whole of the State of New South Wales.
- (b) On 19 August 2024, ToBRFV was confirmed at three commercial premises in the Northern Adelaide Plains region of South Australia. Detections on two properties were on plants within enclosed glasshouses and the detection at the third property on crop plants in a semi-enclosed structure.
- (c) ToBRFV is a highly contagious plant virus that affects some plants in the Solanaceae family, including tomatoes, capsicums and chillies. ToBRFV spreads through mechanical transmission, by direct plant to plant contact, by seeds and through grafting.
- (d) The introduction, presence and spread of ToBRFV into New South Wales has the potential to have an adverse effect on the economy, the environment and the community of New South Wales by reducing crop yields and increasing the costs of production related to crop protection.

- (e) This control order is necessary to prevent, eliminate, minimise and manage the biosecurity risk of ToBRFV.
- (f) The control measures are reasonably necessary to prevent, eliminate, minimise and manage the biosecurity risk of ToBRFV and are no more onerous than necessary having regard to the nature of the biosecurity risk of ToBRFV.

## **6 Biosecurity matter and biosecurity risk (s 63(a))**

- (1) The biosecurity matter which is the subject of this control order is tomato brown rugose fruit virus.
- (2) The biosecurity risk to which this control order relates is the risk of an adverse effect on the economy, the environment, and the community that arises from the introduction of ToBRFV within New South Wales and its presence and increase if it is introduced.

## **7 Control zone (s 63(b))**

The control zone in which control measures are required to be implemented under this control order is the whole of the State of New South Wales (*ToBRFV control zone*).

## **8 Persons to whom the control measures in this control order apply (s 63(d))**

The control measures in this control order apply to any person who moves or causes the movement of a ToBRFV carrier into the ToBRFV control zone.

## **Part 2 Control measures – movements of a ToBRFV carrier into the ToBRFV control zone from a State or Territory free or partially free from ToBRFV or from a ToBRFV unlinked holding**

### **9 Prohibition on movement of a ToBRFV carrier into the ToBRFV control zone**

A person must not move a ToBRFV carrier into the ToBRFV control zone from a State or Territory free or partially free from ToBRFV or from a ToBRFV unlinked holding unless the person complies with the measures in this Part.

### **10 Area freedom certificate**

- (1) A person may move a ToBRFV carrier into the ToBRFV control zone if the ToBRFV carrier was grown in or sourced from a property located in State or Territory that is free from ToBRFV as evidenced by an Area Freedom Certificate currently in force.
- (2) A person may move a ToBRFV carrier into the ToBRFV control zone if the ToBRFV carrier was grown in or sourced from a property located in part of a State or Territory

that is free from ToBRFV as evidenced by an Area Freedom Certificate currently in force.

- (3) Except in the case of a ToBRFV vehicle, used covering or used equipment, the ToBRFV carrier must have a complying label or complying identifier that states the name and postcode of the city or town nearest to the place at which the ToBRFV carrier was grown or sourced.

## **11 Movements from ToBRFV unlinked holdings**

A person may move a ToBRFV carrier into the ToBRFV control zone if:

- (a) the carrier was grown in or sourced from ToBRFV unlinked holding located in a State or Territory or part of a State or Territory for which an Area Freedom Certificate is currently not in force, and
- (b) the ToBRFV carrier has a complying label or complying identifier that states the name and postcode of the city or town nearest to the place at which the ToBRFV carrier was grown or sourced.

## **Part 3 Control measures – movements of a ToBRFV carrier into the ToBRFV control zone from a ToBRFV infected holding**

### **12 Prohibition on movement of a ToBRFV carrier into the ToBRFV control zone**

A person must not move a ToBRFV carrier from a ToBRFV infected holding into the ToBRFV control zone.

## **Part 4 Control measures – movements of a ToBRFV carrier into the ToBRFV control zone from a ToBRFV linked holding**

### **13 Interpretation**

In this Part:

*human external treatment measures* means the person:

- (a) washed any skin or hair that was exposed at the ToBRFV infected holding with warm, soapy water,
- (b) washed any clothing (including personal protective clothing that is reusable) that had, or may have had, contact with a ToBRFV carrier at ToBRFV infected premises, using detergent and hot water to a temperature of at least 60 degrees Celsius for at least 20 minutes,
- (c) cleaned and washed any footwear that had, or may have had, contact with a ToBRFV carrier at ToBRFV infected premises to remove all visible soil and other organic matter and disinfected the footwear using a product that is effect to destroy

plant viruses in accordance with label instructions or Australian Pesticides and Veterinary Medicines Authority permit conditions.

**seed testing rate** means the higher of:

- (a) 20,000 seeds, or
- (b) 20 percent of seeds used to produce the crop.

#### **14 ToBRFV linked holding**

- (1) A person must not move a ToBRFV carrier into the ToBRFV control zone from a ToBRFV linked holding unless the person complies with the measures in this Part.
- (2) A holding is a **ToBRFV linked holding** if the holding is connected to ToBRFV infected holding in any of the following ways:
  - (a) the holding shares a boundary with a ToBRFV infected holding,
  - (b) irrigation water that is used at ToBRFV infected holding was afterwards used at the holding,
  - (c) any other water moved or flowed from the ToBRFV infected holding to the holding,
  - (d) a person who had contact with a ToBRFV carrier or who entered the production facility at a ToBRFV infected holding attended the holding without carrying out the human external treatment measures after the person was last at the ToBRFV infected premises, or
  - (e) a ToBRFV carrier was moved to the holding from a ToBRFV infected holding without first being treated as required by this Part.
- (3) A ToBRFV linked holding stops being a ToBRFV linked holding (and becomes a ToBRFV unlinked holding) if:
  - (a) for a ToBRFV linked holding that shares a boundary with a ToBRFV infected holding - after an interstate authorised officer has certified the adjoining ToBRFV infected holding has been found free of ToBRFV and there have been no detections of ToBRFV at the ToBRFV linked holding, and
  - (b) for a ToBRFV linked holding that does not share a boundary with a ToBRFV infected holding - after an interstate authorised officer has certified the ToBRFV linked holding has been found free of ToBRFV.

#### **15 Movements of a ToBRFV carrier – fruit for human consumption**

- (1) A person may move a ToBRFV host plant that is fruit for human consumption into the ToBRFV control zone from a ToBRFV linked holding if:
  - (a) the ToBRFV host plant seed used to produce the crop of fruit tested before or when it entered Australia at the seed testing rate and found free of ToBRFV, and

- (b) no earlier than 6 weeks before the initial harvest, an interstate authorised officer inspected the crop from which the fruit was harvested and:
  - (i) the crop was found free to be of symptoms of ToBRFV, or
  - (ii) if the interstate authorised office detected suspect symptoms of ToBRFV, the symptomatic plants were sampled, tested for the virus and found to be free of ToBRFV.
- (2) The consignment of which the fruit is part must be accompanied by a plant health certificate that certifies the requirements of this clause have been met.

## **16 Movements of a ToBRFV carrier – seedlings for planting**

- (1) A person may move a ToBRFV host plant that is a seedling for planting into the ToBRFV control zone from a ToBRFV linked holding if:
  - (a) the ToBRFV host plant seed used to produce the crop of seedlings was tested before or when it entered Australia at the seed testing rate and found free of ToBRFV, and
  - (b) an interstate authorised officer tested the crop of which the seedling is part at the higher of these rates and found the crop free of ToBRFV:
    - (i) if the crop is more than 100 plants – 100 plants, and
    - (ii) if the crop is less than 100 plants – 50 plants.
- (2) The consignment of which the seedling is part must be accompanied by a plant health certificate that certifies the requirements of this clause have been met.

## **17 Movements of a ToBRFV carrier – ToBRFV host plant seed**

- (1) A person may move ToBRFV host plant seed into the ToBRFV control zone from a ToBRFV linked holding if an interstate authorised officer tested the seed at the seed testing rate and found the seed free of ToBRFV.
- (2) The ToBRFV host plant seed must be accompanied by a plant health certificate that certifies the requirements of this clause have been met.

## **18 Movement of a ToBRFV carrier – a ToBRFV vehicle, used covering, and used equipment.**

- (1) A person may move a ToBRFV vehicle, used covering or used equipment into the ToBRFV control zone.
- (2) Any surface of the vehicle, covering or equipment that had contact with a ToBRFV host plant or ToBRFV soil from a ToBRFV linked holding must be treated as required by this clause before the vehicle, covering or equipment enters the ToBRFV Control Zone.
- (3) The person must treat surface of the ToBRFV vehicle, used covering or used equipment that had contact with a ToBRFV host plant or ToBRFV by:

- (a) steam sterilising at 95 degrees Celsius for 40 minutes,
- (b) sterilising by soaking in water at a temperature of 90 degrees Celsius for 5 minutes, or
- (c) treating with a broad-spectrum disinfectant effective to destroy plant viruses in accordance with label instructions or Australian Pesticides and Veterinary Medicines Authority (APVMA) permit conditions.