

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Repeal sections: 3259 and 3276

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

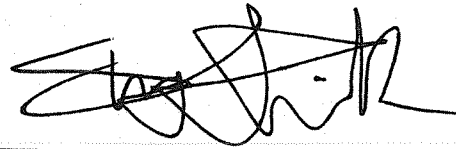
OAL Matter Number: 2021-0514-01

OAL Matter Type: Regular (S)

In this regular rulemaking, the Department of Food and Agriculture is repealing quarantines established against pathogens that cause (1) either peach yellows, little peach, or red suture diseases on peach and (2) peach rosette disease.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2022.

Date: October 26, 2021



**Steven J. Escobar
Senior Attorney**

Original: Karen Ross, Secretary
Copy: Rachel Avila

For: Kenneth J. Pogue
Director

NOTICE PUBLICATION/REGULATION SUBMISSION

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2021-0112-03	REGULATORY ACTION NUMBER 2021-0514-015	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2021 MAY 14 A 10:34
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT. 26 2021

1:23 PM

AGENCY WITH RULEMAKING AUTHORITY
Department of Food and Agriculture

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER 2021, No. 4-2	PUBLICATION DATE 1/22/2021

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Peach Disease Repeal		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	REPEAL 3259, 3276

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Rachel Avila	TELEPHONE NUMBER 916-679-6813	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rachel.avila@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Kevin Masuhara	DATE 5/13/2021
TYPED NAME AND TITLE OF SIGNATORY Kevin Masuhara, Deputy Secretary	

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ENDORSED APPROVED

OCT 26 2021

Office of Administrative Law

Per agency request: SE, 6/28/2021, 10/12/2021

Repeal CCR Section 3259. Peach Yellows, Little Peach and Red Suture Diseases Exterior Quarantine to read:

3 CCR § 3259

§ 3259. Peach Yellows, Little Peach and Red Suture Diseases Exterior Quarantine (Quarantine Proclamation 11). (Repealed)

A quarantine is established against the following pests, their hosts, and possible carriers:

(a) ~~Pests. The pathogens which cause either peach yellows, little peach, or red suture diseases on peach. The pathogen that causes peach yellows disease is a mycoplasma-like organism. All three diseases are presently considered to be caused by strains of the same pathogen.~~

(b) ~~Area Under Quarantine. The entire states of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.~~

(c) ~~Articles and Commodities Covered. Trees and all parts capable of propagation (budsticks, scions, rootstocks, etc.), except seed (fruit pits), of all species of the genus Prunus are declared hosts and possible carriers, except three cherries: P. avium, mazzard cherry, sweet cherry; P. besseyi, sand cherry, western sand cherry; P. cerasus, sour cherry; and the evergreens: P. caroliniana, American cherry laurel, Carolina cherry laurel; P. ilicifolia, hollyleaf cherry, California cherry; P. laurocerasus, cherry laurel, English laurel; P. lusitanica, Portugal laurel; P. lyonii, atalina cherry.~~

(d) ~~Restrictions. All commodities and/or articles covered are prohibited entry into the state unless specific conditions are met.~~

(1) ~~Symptomless Carriers Prohibited. Plum trees and all parts capable of propagation (including their use as understock for other species), except seed, are prohibited entry into the state, specifically: Prunus americana, American plum; P. cerasifera, myrobalan plum, cherry plum; P. cerasifera 'Atropurpurea,' purple-leaf plum; P. domestica, European plum, prune; P. hortulana, hortula plum; P. munsoniana, wild goose plum; P. salicina, Japanese plum; their hybrids; and wild native species of plum.~~

(2) ~~Nursery Stock. Nursery stock of the restricted Prunus species (other than symptomless carriers, or stock budded onto symptomless carriers, paragraph (1) above) is permitted entry provided all the labeling and certification requirements listed below are met.~~

(A) ~~Each species and variety shall be properly labeled as to scientific name and state of origin.~~

~~(B) Each lot or shipment shall be accompanied by a certificate issued by the Department of Agriculture of the state of origin verifying that surveys were made at the proper time in relation to the diseases and hosts. The survey findings shall show that:~~

~~1. no symptomless plum species or other species on symptomless plum understock existed on the growing grounds during production of the nursery stock; and~~

~~2. a one-mile zone, free of symptomless hosts and free from peach yellows, little peach, and red suture diseases, existed around the bud source for two years prior to taking the budwood and around the growing grounds for two years prior to digging the nursery stock.~~

~~(3) Reshipment Permitted Under Certificate. An agricultural official of a state in the area under quarantine may issue a certificate for reshipment of dormant host trees and propagative parts which have been produced outside of the area under quarantine and have remained dormant while within the area. Certificates shall set forth the name of the state where produced and state that the material remained dormant while in the area under quarantine.~~

~~Note: Authority cited: Sections 407, 5301 and 5302, Food and Agricultural Code.
Reference: Sections 5301 and 5302, Food and Agricultural Code.~~

Repeal CCR Section 3276. Peach Rosette Disease Exterior Quarantine to read:

3 CCR § 3276

§ 3276. Peach Rosette Disease Exterior Quarantine (Quarantine Proclamation 30). (Repealed)

~~A quarantine is established against the following pest, its hosts and possible carriers:~~

~~(a) Pest. The pathogen which causes peach rosette disease. The pathogen is a mycoplasma-like organism.~~

~~(b) Area Under Quarantine. The entire states of Alabama, Arkansas, Georgia, Mississippi, Oklahoma, South Carolina, Tennessee and West Virginia.~~

~~(c) Articles and Commodities Covered. Trees and all parts capable of propagation (budsticks, scions, rootstocks, etc.), except seed (fruit pits) of all species of the genus Prunus are declared hosts and possible carriers, except the evergreen species: P. caroliniana, American cherry laurel, Carolina cherry laurel; P. ilicifolia, holly leaf cherry, California cherry; P. laurocerasus, cherry laurel, English laurel; P. lusitanica, Portugal laurel; P. lyonii, Catalina cherry.~~

~~(d) Restrictions. All articles and commodities covered are prohibited entry into California from the area under quarantine except as provided in (2) below.~~

~~(1) Symptomless Carriers Prohibited. Trees and all parts capable of propagation, except seed, of the 'Wilson' cultivar of apricot (P. armeniaca) and Marianna plums (P. cerasifera x P. munsoniana), and any tree budded or grafted on Marianna plum understock, are declared symptomless carriers and prohibited entry.~~

~~(2) Nursery Stock. Nursery stock of the restricted Prunus species (other than symptomless carriers, or stock budded onto symptomless carriers, as stated in paragraph (1) above) is permitted entry provided:~~

~~(A) Each species and variety is properly labeled as to scientific name and state of origin; and~~

~~(B) Each lot or shipment is accompanied by an origin certificate issued by an authorized official of the origin state Department of Agriculture verifying that the stock met all requirements for certification as prescribed by the director. Certificates may be issued under the following conditions:~~

~~(1) Origin certificates may be issued after competent and adequate surveys have been made by the origin State Department of Food and Agriculture or the United States Department of Agriculture at the proper time in relation to the disease and hosts. No peach rosette disease shall have been found during the last two~~

~~growing seasons previous to digging the trees or taking the buds either on or within one mile of the growing grounds or bud source properties.~~

~~(2) No certificates shall be issued for movement of host trees to this State if during the period of their production there has existed on the growing grounds any Wilson apricot or Marianna plum tree or any other tree growing on Marianna plum understock, nor if during the last two growing seasons previous to digging the trees or taking the buds any Wilson apricot or Marianna plum tree has existed within one mile of the growing grounds or bud source properties.~~

~~(3) Seedling trees or trees budded on admissible rootstocks which are grown from seed and shipped in one growing season, may be certified provided any budwood used in the production of such trees meets all conditions in (1) and (2) of this paragraph and no peach rosette disease has occurred during the growing season either on or within one mile of the growing ground property.~~

~~(4) Certificates may be issued for reshipments of dormant host trees and propagative parts which have been produced outside of the area under quarantine and have remained dormant while within the area. Certificates shall set forth the name of the state where produced and shall state that the trees and propagative parts remained dormant while within the area under quarantine.~~

~~Note: Authority cited: Sections 407, 5301 and 5302, Food and Agricultural Code.~~

~~Reference: Sections 5301 and 5302, Food and Agricultural Code.~~