

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Sections 3259 and 3276

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

Peach Rosette Disease Exterior Quarantine (Quarantine Proclamation 30).

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of Public Problem, Administration Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

This repeal of these regulations is intended to address the obligation of the Department of Food and Agriculture to protect the agricultural industry from the movement and spread of injurious plant pests into California.

Specific Purpose and Factual Basis

The specific purpose of Sections 3259 and 3276 of the California Code of Regulations (CCR) is to specify and implement exterior quarantines that regulates the movement of hosts and possible carriers of peach rosette, peach yellows, little peach, or red suture diseases from infested states into California.

The factual basis for the determination by the Department that the repeal of this regulation is necessary is as follows:

The peach rosette, peach yellows, little peach, or red suture diseases are all diseases that in 2013 were discovered to be caused by *Candidatus* Phytoplasma pruni (*Ca. Phytoplasma pruni*), a species group of phytoplasma. Symptoms of this phytoplasma include tattered, shot-holed leaves, chlorosis, loss of severely affected leaves, which leaves a cluster of leaves at the terminal tips of shoots (rosettes), dieback of branches, and death of trees. This pathogen is transmitted by multiple species of leafhoppers that overwinter on herbaceous weeds and infect trees in spring and summer. It can also be transmitted through infected plant material used for budding and grafting.

The exterior quarantine of peach yellows, little peach, or red suture diseases prohibits the movement of: “Trees and all parts capable of propagation (budsticks, scions, rootstocks, etc.), except seed (fruit pits), of all species of the genus *Prunus* except eight 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*, Catalina cherry.” The states under quarantine are 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.

The exterior quarantine of peach rosette disease prohibits the movement of trees and all parts capable of propagation (budsticks, scions, rootstocks, etc.), except seed (fruit pits), of all species of the genus *Prunus* except the evergreen species Carolina cherry laurel (*P. caroliniana*), holly-leaf cherry (*P. ilicifolia*), cherry laurel (*P. laurocerasus*), Portugal laurel (*P. lusitanica*), and Catalina cherry (*P. lyonii*). The states under quarantine are Alabama, Arkansas, Georgia, Mississippi, Oklahoma, South Carolina, Tennessee, and West Virginia.

The regulations allow for movement of prohibited material through the use of a certificate.

CCR Section 3162 requires pests in California to be rated using a metric to determine risk of introduction into California, reduction of future harm by government action, and what regulatory action needs are required. The research establishing that peach rosette, peach yellows, little peach, or red suture diseases were all caused by the same pathogen initiated a pest rating review. While these four diseases were previously rated “A”; which required mitigating regulatory actions, the review of the pathogen *Candidatus* *Phytoplasma pruni* in 2016 found that it is well established in California. Widespread pests and pathogens may be harmful, but the ability of regulatory action to reduce their future harm is limited. The pathogen received a “C” rating, which is described in CCR Section 3162 as for pests of the agricultural industry or environment which score medium to low risk and are of common occurrence and generally distributed in California. Authorized mitigating regulatory actions for plants and plant products found infested or infected with or exposed to a “C”-rated pest are not subject to any State enforced regulatory actions listed under CCR subsection 3162(e).

While peach rosette, peach yellows, little peach, or red suture diseases are harmful, the pathogen causing the diseases is already establish in California, and this 2016 rating change does not provide for regulatory actions. Due to this change the Department has decided to repeal CCR Sections 3259 and 3276, as they are for a pest that no longer requires regulatory actions.

### Project Description

The effect of the repeal of this regulation is to remove the State's exterior quarantines that regulate the interstate movement of peach rosette, peach yellows, little peach, or red suture diseases host material and other regulated articles.

Peach rosette, yellows, little peach, or red suture diseases are serious diseases and ceasing enforcement of the quarantines does not imply that the Department will discontinue its vigilance for the disease. Stone fruit surveys, nursery inspections, and general fruit quality inspections, activities that would reveal the disease if present, will continue.

### Economic Impact Analysis

Economic losses due to peach rosette, yellows, little peach, or red suture diseases will not be affected, as the diseases are already established and widespread in California.

### Anticipated Benefits from This Regulatory Action

The repeal of this regulation benefits interstate shippers into California of host commodities and regulated articles which would otherwise face unfair interstate commerce restrictions. Nurseries shipping regulated material to California from within the quarantines will benefit by not having to hold their material for proper certification. Additionally, counties currently receiving regulated material will benefit by not being required to enforce the quarantines. They can direct resources toward more effective activities.

### Assessment

Based upon the Economic Impact Analysis, the Department has made an assessment that the repeal of these regulations would not 1) create or eliminate jobs within California; 2) create new

businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

The Department is the only agency that can repeal plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### Estimated Cost of Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that the repeal of CCR Sections 3259 and 3276 does not impose a mandate on local agencies or school districts and no reimbursement is required under Section 17561 of the Government Code.

The Department has determined that a small amount of savings would accrue to the Department in ceasing enforcement of these quarantines. These program savings would amount to less than \$20,000 per year. The Department also has determined that there will be no increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Government Code Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the repeal of CCR Sections 3259 and 3276.

The cost impact of the changes of the regulation on private persons and businesses are expected to be insignificant.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states. The Department's determination that the action will not have a significant statewide adverse economic impact on business was based on the following:

There are no costs for compliance as the repeal of this regulation removes all regulatory requirements.

Based on the preceding information, the Department determined that the repeal of CCR Sections 3259 and 3276 does not have a Statewide adverse economic impact on a representative business or private party.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Alternative approaches would not be in line with the National Plant Board's Principles of Plant Quarantine. It is the Department's responsibility to remove a quarantine for an established pest.

#### Information Relied Upon

The Department relied upon the following studies, reports, and documents in the proposed adoption of CCR Sections 3259 and 3276:

Chitambar, J. 2016. California Pest Rating for *Candidatus* Phytoplasma pruni (= Peach X-disease, Peach Rosette, Peach Red Suture, and Little Peach Phytoplasmas); Accessed: June 9, 2020