

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3286, Tomato Yellow Leaf Curl Virus Exterior Quarantine

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 regulation 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 within California.

Specific Purpose and Factual Basis

The specific purpose of Section 3286 is to provide authority to the State to establish tomato yellow leaf curl virus, as a quarantine pest, the area under quarantine area, the articles and commodities covered and the restrictions on movement.

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

Tomato yellow leaf curl virus (TYLCV) was first detected in March 2007 in Brawley, California in a non-commercial greenhouse. Subsequent surveys resulted in the detection of TYLCV in a planting of tomatoes in Niland (Imperial County), in tomato transplants in Thermal (Riverside County) and in perennial jimson weed and in whitefly vectors in the environment. In 2008, the Department convened an ad hoc meeting of regulators, industry and scientific experts to determine the best regulatory strategy to protect other areas from the disease. In November 2008, the Department notified the California County Agricultural Commissioners that it appeared the best option was to utilize a protected area concept around commercial tomato production areas. In December of 2008, the Department again notified the California County Agricultural

Commissioners and requested their feedback in order to proceed. In February 2009, the TYLCV Ad Hoc Working Group met. The primary outcome was that there were two methods of protection being considered: a State regulation or the implementation of county ordinances. Additionally, for both it was necessary to estimate the costs of enforcement. In April 2009, all California County Agricultural Commissioners were presented an overview of the protected versus county ordinance concepts and requested to submit their estimated costs for implementation. These estimated costs were revised in July 2009. These estimated costs were presented to industry and industry decided not to move forward with funding a regulation or ordinance.

Additionally, besides Florida, this disease is now known to occur in Alabama, Arizona, Georgia, Hawaii, Kentucky, Louisiana, Mississippi, North Carolina and Texas. The Department determined that it cannot eradicate this disease from California and it is not implementing an interior quarantine to prevent the artificial movement of this disease. Therefore, it is necessary to repeal this regulation as it would be inequitable to maintain it without a parallel interior quarantine regulation.

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

The Department of Food and Agriculture has determined that the repeal Section 3286 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 also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with 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 Section 3286.

The cost impact of the changes in the regulations 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:

The repeal of Section 3286 removes authority for the Department to conduct quarantine activities against TYLCV and there are no known private sector cost impacts.

Assessment

The Department has made an assessment that the repeal of the regulation would not 1) create or eliminate jobs within California; 2) create new business or eliminate existing businesses with California; or 3) affect the expansion of businesses currently doing business with California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department relied upon the following studies, reports, and documents in the proposed adoption and subsequent amendment of Section 3408:

"Tomato Yellow Leaf Curl Virus Continues to Surface," dated December 20, 2007, Western Farm Press.

Letter November 19, 2008, from Nick Condos to Commissioners.

Letter December 2, 2008, from Nick Condos to County Agricultural Commissioner.

“Tomato, Tomato Yellow Leaf Curl,” reviewed January 2008 and updated March 2008 “Tomato Yellow Leaf Curl Virus, Revised Estimated Costs per County, dated July 9, 2009.

“Tomato Yellow Leaf Curl,” dated December 2009, College of Tropical Agriculture and Human Resources, University of Hawai'i at Manoa.

Letter April 10, 2009, from Nick Condos to All County Agricultural Commissioners.

“Diseases of Tomato (*lycopersicon esculatum*) in Arizona, Toamto Yellow Curl Virus,” printed on March 11, 2011.

“First Report of Tomato Yellow Leaf Cur5l Virus in Greenhouse Tomatoes in Kentucky,” printed on March 11, 2011.

Tomato Yellow Leaf Curl Virus, *Begomovirus TYLCV*, printed on March 14, 2011.