

In Division 4, Chapter 4, Subchapter 5, amend Articles 1, Sections 3652. and adopt Article 4, Sections 3661-3663 to read:

Subchapter 4. Pierce's Disease Control Program

Article 1. General Provisions

Section 3650. Legislative Intent and Authority.

(a) The Legislature has declared that the plant killing bacterium, *Xylella fastidiosa* and the resulting Pierce's disease, and its vectors present a clear and present danger to California's grape industry, as well as to many other commodities and plant life. The Legislature has created the Pierce's Disease Control Program in the Department of Food and Agriculture.

(b) The Secretary is authorized to establish, maintain, and enforce regulations consistent with the intent of the Legislature as expressed in Sections 6045-6047, Food and Agricultural Code, as may be necessary to interpret, clarify, or implement Sections 6045-6047. This authority shall be liberally construed to effectuate the intent of Sections 6045-6047.

(c) The regulations in this subchapter are of statewide interest and concern and are intended to wholly occupy the field.

Authority: Sections 407, 5323, and 6047, Food and Agricultural Code.

Reference: Section 5323, 6045, and 6046, Food and Agricultural Code.

Section 3651. Control Program.

(a) The Pierce's Disease Control Program is to be conducted by the local public entity designated by that county's board of supervisors under a Department approved local Pierce's disease workplan, including proposed treatment of Pierce's disease and its vectors.

(b) The Department shall provide logistical support for combating Pierce's disease and its vectors.

(c) Workplans.

(1) The Pierce's Disease Control Program workplan elements are as specified in Section 6046, Food and Agricultural Code.

(2) The Department may permit the local public entity to establish variations from

the standards set forth in this subchapter based on the written submission to the Department of clear and convincing evidence of stakes and risks to justify a more stringent standard.

(3) The local public entity shall conduct a hearing if an application of the workplan is appealed in writing to that entity. The results of said hearing shall be transmitted to the Department. The hearing notice procedures shall meet minimum due process standards appropriate for the circumstances. The notice and hearing procedures shall be set out in the workplan of the local public entity.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Sections 6045 and 6046, Food and Agricultural Code.

Section 3652. Definitions.

The following definitions apply to this subchapter:

(a) “Bulk Citrus” means any unprocessed citrus fruit which have not been commercially packed.

(b) “Bulk grapes,” means any unprocessed grapes which have not been commercially packed.

(c) “Certification” means the issuance of a certificate in written, stamp, or sticker format by an agricultural commissioner or commissioner representative which affirms that a shipment meets all applicable regulatory requirements.

(d) “Infestation” shall mean the detection of five (5) or more adult vectors within any five-day period and within a 300-yard radius, or the detection of multiple life stages. Vectors detected in direct association with a shipment from an infested area do not, in themselves, constitute an infestation.

If no additional vectors are detected within one complete vector life cycle, or if only adult vectors were detected and thorough vector survey/detection activities document that a breeding population is not present, the infestation designation shall be removed.

(e) “Infested area” shall mean an area within one (1.0) mile of a vector infestation or an area which has not been surveyed in a manner approved by the Department to detect vectors.

(f) “Non-infested area” shall mean one in which no infestations have been detected after

survey in a manner approved by the Department to detect vectors or where the infestation designation has been removed.

(g) “Pierce’s disease” means the disease of grapevines caused by *Xylella fastidiosa*, a bacterium

(h) “Plants” means nursery stock and privately owned plants which may host vectors of Pierce’s disease, except when in the form of seeds, bulbs, stolons, corms, pips, buds, or when otherwise specified by the Department as not presenting a risk for the artificial spread of vectors. The Department shall provide electronic and/or written notification of the kinds of plants which may host vectors to the local public entities and other interested or affected parties.

(i) “Processed grapes” means grapes which have been juiced, canned, crushed, or dried.

(j) “Vectors or Vectors of Pierce’s disease” shall mean *Homalodisca coagulata*, glassy-winged sharpshooter.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3653. Area Designation Procedures.

(a) An area shall be designated as non-infested based on written affirmation to the Department by the local public entity that the area has been surveyed in a manner approved by the Department to detect vectors with negative results.

(b) An area shall be designated as infested when the survey results indicate an infestation is present, the Department has defined the infested area, and the local public entity is notified immediately. The Department shall also provide electronic and/or written notification of the area designations to the other local public entities and other interested or affected parties.

(c) The local public entity may appeal an area designation by submission to the Department of a written request for review of the designation, accompanied by clear and convincing evidence justifying a change in the designation. The appeal must be filed no later than ten (10) working days following receipt of the notice of designation. The Department must respond with a written decision no later than ten (10) working days following receipt of the appeal. During the pending of the appeal, the designation under appeal shall remain in effect.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3654. Inspection of Shipments and Disposition of Infested Shipments.

(a) All shipments of bulk grapes and plants are subject to inspection by the agricultural commissioner upon arrival at destination.

(b) Any shipment found to be infested with live vectors shall be refused delivery and may be immediately destroyed unless no damage would be caused to agriculture if the shipment is returned to origin, or processed or treated in a manner approved by the Department to eliminate the vectors.

Authority: Sections 407, 6521, 6523, and 6047, Food and Agricultural Code.

Reference: Sections 6521-6524 and 6045, Food and Agricultural Code.

Article 2. Standards for Grapes

The Secretary hereby establishes the following standards for the movement of bulk grapes to prevent the artificial spread of the Pierce's disease bacterium and its vectors.

Section 3655. Standards for Movement

Bulk grapes shall meet the following standards prior to shipment from an infested area to a non-infested area:

(a) The bulk grapes have originated from a vineyard which has been treated in a manner approved by the Department to eliminate vectors and the grapes are monitored during harvest; or,

(b) The bulk grapes have originated from a non-infested vineyard as determined by surveys, including trapping and visual, approved by the Department to detect the presence of vectors and the grapes are monitored during harvest; or,

(c) If the county agricultural commissioner at origin and destination determine that compliance with subparagraph (a) or (b) is not feasible, the bulk grapes and associated plant material may be moved for processing in a manner approved by the Department which eliminates the potential artificial spread of vectors and the grapes are monitored during harvest, if feasible, and upon arrival for processing. The commissioners shall notify the Department of their determination as soon as is practicable; or,

(d) The bulk grapes have completed a post-harvest treatment approved by the Department

to eliminate all live vectors.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3656. Certification.

Shipments of bulk grapes shall be certified as meeting the standards for movement in the following manner:

(a) Each shipment of bulk grapes shall be accompanied by a certificate issued by the agricultural commissioner at origin affirming that the shipment meets the standards for movement set forth in Section 3655.

(b) Prior to the movement of each shipment of bulk grapes moved under Section 3655(c), the origin agricultural commissioner shall notify the destination agricultural commissioner of the quantity of grapes being moved, the specific destination, and identification information.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3657. Exemptions.

These standards do not apply to the following types of shipments:

(a) Unprocessed, bulk grapes which are being transported without undue delay or diversion through non-infested areas to an infested destination for processing or treatment, or are being moved to a destination outside the State.

(b) Processed grapes.

(c) Shipments originating from non-infested areas.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Article 3. Standards for Plants

The Secretary hereby establishes the following standards for the movements of plants to prevent the artificial spread of the Pierce's disease bacterium and its vectors.

Section 3658. Standards for Movement

Plants shall meet the following standards prior to shipment from an infested area to a non-infested area:

(a) The plants have been treated in a manner approved by the Department to eliminate vectors; or,

(b) The plants originate from a non-infested premise or a non-infested portion of a premise as determined by surveys, including trapping and visual, approved by the Department to detect the presence of vectors and the plants are monitored during loading for shipment; or,

(c) For lots of five plants or less, the plants have been inspected, found to be free of vectors, and have been safeguarded from vectors until shipped.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3659. Certification

Shipments of plants shall be certified as meeting the standards for movement in the following manner:

(a) Each shipment of plants shall be accompanied by a certificate issued by the agricultural commissioner at origin affirming that the shipment meets the standards for movement set forth in Section 3658.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3660. Exemptions

These standards do not apply to the following types of shipments:

(a) Privately owned plants which have been maintained indoors.

(b) Plants which have been designated by the Department as not presenting a risk for the artificial spread of vectors.

(c) Plants which are being transported without undue delay or diversion through non-infested areas.

(d) Plant shipments originating from non-infested areas.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Article 4. Standards for Citrus Fruit

The Secretary hereby establishes the following standards for the movement of bulk citrus to prevent the artificial spread of the vectors of Pierce’s disease.

Section 3661. Standards for Movement

Bulk citrus shall meet the following standards prior to shipment from an infested area to a non-infested area:

- (a) The bulk citrus have been harvested, handled, or treated in a manner approved by the Department to eliminate all live vectors; or,
- (b) The bulk citrus have originated from a non-infested grove as determined by surveys, including trapping and visual, approved by the Department to detect the presence of vectors and the citrus fruit are monitored during harvest.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3662. Certification.

Shipments of bulk citrus shall be certified as meeting the standards for movement in the following manner:

- (a) Each shipment of bulk citrus shall be accompanied by a certificate or other document issued by the agricultural commissioner at origin affirming that the shipment meets the standards for movement set forth in Section 3661.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.

Section 3663. Exemptions.

These standards do not apply to the following types of shipments:

- (a) Processed citrus fruit, including citrus fruit which has been washed and waxed and is being moved in bulk quantities.

(b) Shipments originating from non-infested areas.

Authority: Sections 407 and 6047, Food and Agricultural Code.

Reference: Section 6045, Food and Agricultural Code.