

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 19. QUARANTINES AND NOXIOUS AND INVASIVE PLANTS

SUBCHAPTER U. CITRUS CANKER QUARANTINE

4 TAC §§19.400 - 19.408

The Texas Department of Agriculture (the Department) adopts on an emergency basis new Title 4, Chapter 19, Subchapter U, Citrus Canker Quarantine, §§19.400 - 19.408, concerning citrus canker quarantine. The new sections are adopted on an emergency basis to establish an emergency quarantine to contain and combat an ongoing infestation of a strain of citrus canker in the Rancho Viejo area near Brownsville, Texas. The new rules are adopted to enforce quarantine restrictions on 155 newly infected lime plants discovered in the general area of those plants which were destroyed under an emergency quarantine which was established pursuant to emergency rules adopted on February 1, 2016, and published in the February 12, 2016, issue of the *Texas Register* (41 TexReg 1047). The rules are also adopted on an emergency basis to reflect a recent reclassification of pests and other terminology which have been modified to assure they are aligned with federal guidance in 7 CFR §§301.75-3.

The term "citrus canker" is historically referred to as a plant disease with a group of strains or pathotypes of the bacterium *Xanthomonas citri*, subsp. *citri*. The best available scientific evidence indicates that a distinctive citrus canker strain was detected on October 16, 2015. Since then, it has been found on young leaves and twigs of 153 Mexican lime, 1 Kaffir lime and 1 Ponderosa lemon trees in the Rancho Viejo area on dooryard trees during the survey and sampling. It has a restricted host range of limes and lemons. The varieties of grapefruit, sweet orange and sour orange commonly grown in the Rio Grande Valley showed no infection. The studies by Texas A&M University-Kingsville Citrus Center (TAMUK-CC) suggest that this strain is probably not the Asiatic or A strain, but is likely the Wellington or Aw strain that has only previously been recorded in Florida and has a very restricted host range amongst limes and lemons. The current infestation is the first known incidence of citrus canker in Texas after its eradication in 1943.

Citrus canker is harmless to humans and animals. However, the newly detected infestation presents a serious risk to lime and lemon trees in the Lower Rio Grande Valley (LRGV). Texas does not have commercial production of lime or lemon fruit; however, homeowners and nurseries in the LRGV produce lime and lemon trees. The disease produces leaf-spotting, fruit rind-blemishing,

defoliation, shoot dieback, fruit drop, and it can expose the interior of fruit to secondary infection by decay organisms. The disease does not travel through the tree to become systemic. The marketability of symptomatic fresh fruit is negatively impacted. Leaf lesions may appear within 14 days following inoculation and can attain 2-10 mm diameter on a susceptible host. In the field, symptoms may take several months to appear, and lower temperatures may increase the latency of the disease. The rod shaped flagellate citrus canker bacteria can enter young leaves through stomata, wounds on leaves, young twigs or shoots. The damage caused by citrus leaf miner larvae (*Phyllocnistis citrella*) can provide access for infection and canker was found associated with leaf minor damage on Ponderosa lime. Citrus canker bacterium can stay viable in old lesions on leaves, branches and other plant surfaces for several months, including in those dropped on the ground. *X. citri*, subsp. *citri* can spread by wind, splashing water, movement of infected plant material or mechanical contamination. The pathogen flourishes under warm moist conditions and requires a host to survive in a natural environment.

Lime and lemon nursery and dooryard trees in the area are in peril without the emergency quarantine, which provides necessary steps to prevent the spread of this devastating plant disease and to undertake actions to prevent further spread of the disease. All owners of trees that have tested positive for citrus canker are voluntarily cooperating in the destruction of infected trees.

The adoption of rules to establish an emergency quarantine is both necessary and appropriate in order to effectively combat and prevent the spread of citrus canker to non-infected areas, including nurseries, groves and residential areas.

The quarantine area covers a total of 57 square miles. There is no commercial citrus production in the quarantined area. For practical purposes, borders of the quarantined area are set using the closest property lines, roads, canals or river and posted on the Department's website: www.texasagriculture.gov.

The movement, distribution or sale of citrus plants within or out of the quarantined area is prohibited. Regulated articles or equipment coming in direct contact with infected plant material must be decontaminated prior to moving out of the quarantined area using any approved decontaminant. The citrus fruits sold, distributed or moved to packing houses for processing may only be sold subject to a compliance agreement. Landscapers and mowers servicing the quarantined area must come under compliance agreement with the Department, and decontaminate equipment by steam cleaning or washing prior to moving out of the quarantined area. To manage the disease, removal of infected tree and plant material and disposal should be made by burning, or bagging and burying at least 2 feet deep at the municipal landfill. Residents and visitors of the quarantined area should be aware of the disease and may help combat it by contacting the Depart-

ment, Texas A&M University AgriLife Extension, TAMUK-CC, United States Department of Agriculture, or Texas Citrus Pest and Disease Management Corporation for more information.

The new sections are adopted on an emergency basis under the Texas Agriculture Code, §71.004, which authorizes the Department to establish emergency quarantines; §71.007, which authorizes the Department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for specific treatment of a grove or orchard or of infested or infected plants, plant products, or substances; §12.020, which authorizes the Department to assess administrative penalties for violations of Chapter 71 of the Texas Agriculture Code; and Texas Government Code, §2001.034, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

The codes affected by the adoption are Texas Agriculture Code, Chapters 12 and 71.

§19.400. Quarantined Pest.

The quarantined pest, a serious plant disease that is not widely distributed in this state, is citrus canker and its causal agent, the bacterial pathogen *Xanthomonas citri* subsp. *citri*.

§19.401. Quarantined Areas.

Quarantined areas described under this Subchapter U, and as found at the Department's webpage at www.TexasAgriculture.gov. A map of the quarantined area is also available on the Department's website.

(1) On the basis of new or revised information, the Department may declare, augment, diminish, fuse, eliminate, rename or otherwise modify quarantined areas.

(2) Designation or modification of a quarantined area is effective upon the posting of the notification of the quarantined area on the department's webpage on Citrus Canker Quarantine.

§19.402. Regulated Articles.

For purposes of this subchapter, regulated articles are:

(1) Plants or plant parts, including fruit and seeds, or any of the following: all species, clones, cultivars, strains, varieties, and hybrids of the genera *Citrus* and *Fortunella*, and all clones, cultivars, strains, varieties, and hybrids of the species *Clausena lansium* and *Poncirus trifoliata*. The most common of these are: lemon, pummelo, grapefruit, key lime, Persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliolate orange, and wampi.

(2) Grass, plant, and tree clippings.

(3) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (1) of this section, when it is determined by an inspector that it presents a risk of spreading citrus canker, and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this subchapter.

(4) Any other article that is a regulated article under 7 CFR §§301.75-3.

(5) A quarantined article under §71.0092 of the Texas Agriculture Code.

§19.403. Requirements and Restrictions for Movement of Regulated Articles.

(a) Movement of regulated plants within, into, or from the quarantined area for sale, distribution or planting is prohibited.

(b) Regulated fruits must be free of leaves, stems and debris if offered for sale or distribution. Fruit can only move out of the quarantined area for sale, distribution, processing or packing at a packing house under a compliance agreement with the Department or the USDA.

(c) Regulated articles intended for movement, distribution or sale through or out of the quarantined area or between noncontiguous quarantined areas for intrastate or interstate movement shall conform to the restrictions and requirements of 7 CFR §301.75 Subpart-Citrus Canker, including the corresponding restrictions and requirements applying to intrastate or interstate movement, distribution or sale.

(d) Landscapers and mowers servicing the quarantined area must come under compliance agreement with the Department or USDA, and decontaminate tools, appliances and equipment by steam cleaning or washing with an approved disinfectant prior to moving out of the quarantined area.

(e) Infected plants, plant parts or regulated articles that are completely covered can move out of the quarantined area for burning or burial in the municipal landfill under a compliance agreement or permit issued by the Department.

§19.404. Ongoing Pest Management.

At all times, all the citrus plants for sale or distribution must be inspected regularly for symptoms of citrus canker. If any regulated article exhibits symptoms of citrus canker, the closest regional office of the Department must be immediately notified.

(1) The regulated article must be held at the location of sale or distribution, pending inspection, sampling and testing by the Department.

(2) Plants or plant parts that test positive for citrus canker must be destroyed and disposed of under Department supervision in accordance with this subchapter.

§19.405. Citrus Fruit Harvest.

(a) Compliance agreement required. Regulated fruit from a quarantined area intended for noncommercial or commercial movement, sale or distribution outside of the quarantined area, shall not be moved from the production site, except under a compliance agreement with the Department or USDA.

(b) Disinfecting of regulated fruit.

(1) Disinfecting of regulated fruit shall include chemical treatment of regulated fruit, according to D301.75-11(a-1) or (a-2) or (a-3) of the USDA Treatment Manual.

(2) Personnel using a treatment prescribed under paragraph (1) of this subsection must disinfect their hands according to requirements in D301.75-11 of the USDA Treatment Manual.

(3) Sodium hypochlorite, peroxyacetic acid, and sodium o-phenyl phenate (SOPP) must be applied for disinfecting hands in accordance with label directions.

§19.406. Consequences for Failure to Comply with Quarantine Requirements or Restrictions.

(a) A person who fails to comply with quarantine restrictions or requirements or a Department order relating to the quarantine established under this subchapter is subject to administrative or civil penalties up to \$10,000 per day for any violation of the order and to the assessment of costs for any treatment or destruction that must be performed by the Department in the absence of such compliance.

(b) The Department is authorized to seize and treat, or destroy or order to be treated or destroyed, any regulated article:

(1) that is found to be infested with the quarantined pest; or, regardless of whether infected or not,

(2) that is transported within, out of, or through the quarantined area in violation of this subchapter.

(c) Regulated articles seized pursuant to any Department order shall be destroyed at the owner's expense under the supervision of a Department inspector.

§19.407. Appeal of Department Action Taken for Failure to Comply with Quarantine Restrictions.

An enforcement order issued by the Department under a quarantine may be appealed according to procedures set forth in the Texas Agriculture Code, §71.010.

§19.408. Conflicts between Graphical Representations and Textual Descriptions; Other Inconsistencies.

(a) In the event that discrepancies exist between graphical representations and textual descriptions in this subchapter, the representation or description creating the larger geographical area or more stringent requirements regarding the handling or movement of regulated articles shall control.

(b) The textual description of the plant disease shall control over any graphical representation of the same.

(c) Where otherwise clear as to intent, the mistyping of a scientific or common name in this subchapter shall not be grounds for exemption of compliance with the requirements of this subchapter.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 17, 2016.

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For further information, please call: (512) 463-4075



TITLE 22. EXAMINING BOARDS

PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 465. RULES OF PRACTICE

22 TAC §465.39

The Texas State Board of Examiners of Psychologists adopts on an emergency basis new rule §465.39, LSSP Supervisor Qualifications, effective June 7, 2016.

The new rule is being adopted on an emergency basis in order to ensure that LSSP supervisors will be able to continue providing supervision to students and interns who are currently enrolled in school psychology training programs and undergoing the supervised experience necessary for licensure under Board rule §463.9. The Board further finds that recently adopted rule changes may result in the unintended consequence of LSSP su-

perisors previously qualified under Board rule §465.38(5), not being able to continue their supervision of current students and interns because they no longer qualify under the newly adopted Board rule §465.2(d)(2). This was not the Board's intent when adopting changes to Board rule §465.38(5) and §465.2(d)(2) at its February 25, 2016 meeting.

The Board further finds that without this emergency rule, any supervised experience obtained by a student or intern on or after May 5, 2016 from a supervisor who does not meet the newly adopted requirements set forth in Board rule §465.2(d)(2), would not be acceptable for licensure purposes. Again, this was not the Board's intent when adopting the changes to §465.38(5) and §465.2(d)(2). Lastly, the Board finds that this emergency rule is necessary to prevent future LSSP applicants who are currently in the process of obtaining their supervised experience, from being denied the full use and benefit of any supervised experience obtained under previously acceptable supervisor qualifications.

The new rule is being adopted on an emergency basis under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.39. LSSP Supervisor Qualifications.

(a) Notwithstanding Board rule §465.2(d)(2) of this title (relating to Supervision), supervision may also be provided by a LSSP who has a minimum of three years of experience providing psychological services in the public schools of this or another state. To meet supervisor qualifications, a licensee must be able to document the required experience by providing documentation from the authority that regulates the provision of psychological services in the public schools of that state and proof that the licensee provided such services, documented by the public schools in the state in which the services were provided. Any licensed specialist in school psychology may count one full year as an intern or trainee as one of the three years of experience required to perform supervision.

(b) Supervised experience acquired during the pendency of this rule from a supervisor meeting the qualifications of this rule, will be accepted when reviewing an application under Board rule §463.9 of this title (relating to Licensed Specialist in School Psychology). The expiration of this rule will not affect the validity of any supervised experience acquired from a supervisor qualified under this rule.

(c) This rule shall be retroactive to May 5, 2016, and shall remain in effect through August 31, 2016, after which it shall expire.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 13, 2016.

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