

Please also see Federal Domestic Quarantine 301.92 for regulations on the interstate movement of regulated articles.

3700. OAK MORTALITY DISEASE CONTROL

State Miscellaneous Ruling

Restrictions are hereby established against this pest, its hosts, and possible carriers.

A. Pest. A fungus, *Phytophthora ramorum*, which causes oak mortality disease (sudden oak death).

B. Regulated Area. The regulated area for the pest is:

- (1) The entire counties of Alameda, Contra Costa, **Del Norte**, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, and Trinity.

C. Articles and Commodities Covered. The following are declared to be hosts or potential carriers of the pest:

- (1) Plants and plant parts (except acorns or seed and a * includes the bole) of:

Acer macrophyllum (bigleaf maple)
Acer pseudoplatanus (planetree maple)*
Adiantum aleuticum (Western maidenhair fern)
Adiantum jordanii (California maidenhair fern)
Aesculus californica (California buckeye)
Aesculus hippocastanum (horse chestnut)*
Arbutus menziesii (madrone)
Arctostaphylos manzanita (manzanita)
Calluna vulgaris (Scotch heather)
Camellia spp. (includes all species, hybrids and cultivars)
Castanea sativa (sweet chestnut)
Cinnamomum camphora (camphor tree)
Fagus sylvatica (European beech)*
Frangula californica (= *Rhamnus californica*) (California coffeeberry)
Frangula purshiana (= *Rhamnus purshiana*) (cascara)
Fraxinus excelsior (European ash)*
Griselinia littoralis (Griselinia)
Hamamelis virginiana (witch hazel)
Heteromeles arbutifolia (Toyon or Christmas berry)
Kalmia spp. (includes all species, hybrids and cultivars)
Laurus nobilis (bay laurel)
Lithocarpus densiflorus (tanoak)*
Lonicera hispidula (California honeysuckle)
Magnolia doltsopa (= *Michelia doltsopa*) (Michelia)
Maianthemum racemosum (= *Smilacina racemosa*, false Solomon's seal)
Parrotia persica (Persian ironwood)
Photinia fraseri (red tip or Fraser's photinia)
Pieris spp. (includes all species, hybrids and cultivars)
Pseudotsuga menziesii var. *menziesii* and all nursery grown *P. menziesii* (Douglas-fir)
Quercus agrifolia (coast live oak)*
Quercus cerris (European turkey oak)*
Quercus chrysolepis (canyon live oak)*
Quercus falcata (Southern red oak)*

Quercus ilex (Holm oak)
Quercus kelloggii (California black oak)*
Quercus parvula var. *shrevei* and all nursery grown *Q. parvula* (Shreve's oak)*
Rhododendron species (azaleas and rhododendrons)
Rosa gymnocarpa (wood rose)
Salix caprea (goat willow)
Sequoia sempervirens (coast redwood)
Syringa vulgaris (lilac)
Taxus baccata (European yew)
Trientalis latifolia (Western star flower)
Umbellularia californica (California bay laurel)
Vaccinium ovatum (huckleberry)
Viburnum spp. (All species of viburnum);

- (2) Associated articles (nursery stock) of the following plants:

Abies concolor (white fir)
Abies grandis (grand fir)
Abies magnifica (red fir)
Acer circinatum (vine maple)
Acer davidii (striped bark maple)
Acer laevigatum (evergreen maple)
Arbutus unedo (strawberry tree)
Arctostaphylos columbiana (manzanita)
Arctostaphylos uva-ursi (Kinnikinnick)
Ardisia japonica (Ardisia)
Berberis diversifolia (= *Mahonia aquifolium*) (Oregon grape)
Calycanthus occidentalis (spicebush)
Castanopsis orthacantha (Castanopsis)
Ceanothus thyrsiflorus (blue blossom)
Cercis chinense (Chinese redbud)
Choisya ternate (Mexican orange)
Clintonia andrewsiana (Andrew's clintonia bead lily)
Cornus kousa (Kousa dogwood)
Cornus kousa x *Cornus capitata* (Cornus Norman)
Corylopsis spicata (Spike Winter hazel)
Corylus cornuta (California hazelnut)
Daphniphyllum glaucescens
Distylium myricoides (myrtle-leaved distylium)
Drimys winteri (Winter's bark)
Dryopteris arguta (California wood fern)
Eucalyptus haemastoma (Scribbly gum)
Euonymus kiautschovicus (spreading euonymus)
Fraxinus latifolia (Oregon ash)
Garrya elliptica (Silk tassel tree)
Gaultheria procumbens
Gaultheria shallon (salal, Oregon wintergreen)
Hamamelis x *intermedia* [(*H. mollis* and *H. japonica*) (hybrid witchhazel)] *Hamamelis mollis* (Chinese witchhazel)
Ilex aquifolium (European holly)
Ilex cornuta (Buford holly, Chinese holly, horned holly)
Ilex purpurea (Oriental holly)
Illicium parviflorum (Yellow anise)
Larix kaempferi (Japanese larch)
Leucothoe axillaries (fetter-bush, dog hobble)
Leucothoe fontanesiana (drooping leucothoe)
Lithocarpus glaber (Japanese oak)
Loropetalum chinense (Loropetalum)
Magnolia cavaleri (Michelia)
Magnolia denudata x *salicifolia* (magnolia)
Magnolia denudate (lily tree)

Magnolia ernestii (= *Michelia wilsonii*) (Michelia)
Magnolia figo (= *Michelia figo*) (banana shrub)
Magnolia foveolata (Michelia)
Magnolia grandiflora (Southern magnolia)
Magnolia kobus (kobus magnolia)
Magnolia liliiflora (= *M. quinquepetala*) (purple magnolia)
Magnolia maudiae (= *Michelia maudiae*) (Michelia)
Magnolia salicifolia (= *M. proctoriana*) (anise magnolia)
Magnolia stellata (star magnolia)
Magnolia x loebneri (Loebner magnolia)
Magnolia x soulangeana (saucer magnolia)
Magnolia x thompsoniana (*M. tripetala* and *M. virginiana*) (magnolia)
Mahonia nervosa (Creeping Oregon grape)
Manglietia insignis (red lotus tree)
Molinadendron sinaloense
Nerium oleander (oleander)
Nothofagus obliqua (Roble beech)
Osmanthus decorus [(= *Phillyrea decora*; = *P. vilmoriniana*) (Osmanthus)]
Osmanthus delavayi (Delavay Osmanthus)
Osmanthus fragrans (sweet olive)
Osmanthus heterophyllus (holly olive)
Osmorhiza berteroi (sweet Cicely)
Parakmeria lotungensis (Eastern joy lotus tree)
Physocarpus opulifolius (Ninebark)
Pittosporum undulatum (Victorian box)
Prunus laurocerasus (English laurel)
Prunus lusitanica (Portuguese laurel cherry)
Pyracantha koidzumii (Formosa firethorn)
Quercus acuta (Japanese evergreen oak)
Quercus petraea (Sessile oak)
Quercus rubra (Northern red oak)
Ribes laurifolium (bayleaf currant)
Rosa cultivars: Royal Bonica (tagged: "MEImodac"), Pink Meidiland (tagged: "MEIpouque"), Pink Sevilana (tagged: "MEIgeroka")
Rosa rugosa (rugosa rose)
Rubus spectabilis (salmonberry)
Schima wallichii (Chinese guger tree)
Taxus brevifolia (Pacific yew)
Taxus x media (Yew)
Torreya californica (California nutmeg)
Toxicodendron diversilobum (poison oak)
Trachelospermum jasminoides (Star jasmine, Confederate jasmine)
Vaccinium myrtillus (bilberry)
Vaccinium vitis-idaea (cowberry, lingon berry, mountain cherry)
Vancouveria planipetala (Redwood ivy)
Veronica spicata Syn. *Pseudolysimachion spicatum* (Spiked speedwell)

- (3) Unprocessed wood and wood products (including but not limited to bark chips, mulch and firewood- except when completely free of bark) of the plants listed in paragraph (C)(1) as bole hosts and plant products of the plants in paragraph (C)(1), including but not limited to dried or preserved wreaths;
- (4) **Any other product**, article or means of conveyance when it is determined by the secretary, based upon generally accepted scientific principles, that it presents a risk of spreading the pest because it is a host or potential carrier of the pest.

D. Restrictions.

- (1) Articles and commodities covered in subsection (C) are prohibited movement from the regulated area except as provided in paragraph (a), (b) or (c) below:
 - a) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities have been:
 1. Produced and maintained in an area which has been surveyed by an authorized agricultural official in a manner approved, based upon generally accepted scientific principles, by the secretary to detect the pest and the area has been found to be free of the pest; or,
 2. Grown, produced, manufactured, stored, or handled in a manner approved by the secretary, based upon generally accepted scientific principles, by the secretary to prevent infestation by the pest; or,
 3. Tested in a manner approved, based upon generally accepted scientific principles, by the secretary to detect the pest and found to be free of the pest.
 - b) If the article or commodity does not meet the conditions in paragraph (D)(1)(a), it may nevertheless be moved if a permit is issued by an authorized agricultural official specifying the required containment conditions necessary to prevent potential spread of the pest; the article or commodity covered; the destination; and the handling, utilization, or processing which is authorized by the official and the conditions under which this shall be conducted. If the issuance of a permit is denied, an appeal may be filed with the department as provided in subsection (E).
 - c) If the article or commodity is being moved from outside the regulated area and is being moved through the regulated area by direct route and without delay.
- (2) At the retail level, articles and commodities covered are prohibited movement from the regulated area except when the person in possession has proof of purchase showing the commodity was purchased from a seller who is in compliance with paragraph (D)(1)(a).

E. Appeal/Hearing Procedures.

- (1) An appeal pursuant to paragraph (D)(1)(b) may be filed with the department within seven (7) calendar days of the date of denial of the permit. A hearing shall be conducted within 48 hours of an appeal that is timely filed. An appeal that is not timely filed shall be denied and no hearing shall be conducted in connection therewith.
- (2) Hearings shall be conducted pursuant to Chapter

4.5 (commencing with section 11400) of Division 3 of Title 2 of the Government Code and these regulations.

- (3) Hearings shall be presided over and conducted by a hearing officer designated by the secretary.
- (4) Hearings may be conducted by telephone, at the discretion of the secretary.
- (5) The decision of the hearing officer shall be in writing. The decision shall be in minute order form, containing only a brief statement of the conclusion and findings to support the conclusion. It may be handwritten.
- (6) The decision shall be issued within 24 hours after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.
- (7) The written decision shall be served on the appellant or designated representative either by personal service or, if available, by facsimile transmission.
- (8) The hearing officer's decision shall be final and not appealable to the secretary or any other officer of the Department.
- (9) The appellant may seek judicial review of the hearing officer's decision by filing a petition for a writ of administrative mandamus in the appropriate court pursuant to Code of Civil Procedure section 1084 *et seq.*
- (10) Hearings shall be recorded by audiotape.

NOTE: Authority: Sections 407, 5321 and 5322, Food and Agricultural Code.

Reference: Sections 24.5, 5321, and 5322, Food and Agricultural Code; Sections 11425.50 and 11440.10, Government Code; Section 1084 *et seq.*, Code of Civil Procedure.