

In title 3, Division 3, Chapter 1, Subchapter 4, adopt Sections 1430.54-1430.57 to read:

1430.54 Definitions

(a) "Protection Area" means the area within two miles of any registered seedless mandarin acreage in Madera, Fresno, Tulare or Kern County from March 1 through May 31.

(b) "Seedless Mandarin" means mandarin or tangerine varieties that do not produce seeds when fertilized by pollen of the same plant or another plant of the same genotype.

(c) "Exempt Seedless Mandarin" means mandarin or tangerine varieties that do not produce seeds when fertilized by pollen of the same plant or another citrus plant.

(d) "Beekeeper" means every person that is the owner or is in possession of an apiary which is located within the state.

(e) "Bees" is defined as set forth in Section 29004, Food and Agricultural Code.

(f) "Apiary" is defined as set forth in Section 29002, Food and Agricultural Code.

(g) "Colony" is defined as set forth in Section 29006, Food and Agricultural Code.

(h) "Hive" is defined as set forth in Section 29011, Food and Agricultural Code.

(i) "Owner" means any person who owns seedless mandarin acreage within the Protection Area and includes a joint owner, operator, co-owner, guardian, executor, administrator, or any other person that holds property in a trust capacity under appointment of court.

(j) "Commissioner" is defined as set forth in Section 29008, Food and Agricultural Code.

Note: Authority Cited: Sections 407, 29002, 29004, 29006, 29008, 29011 and 29812, Food and Agricultural Code.

Reference Cited: Sections 29810 and 29811, Food and Agricultural Code.

1430.55 Voluntary Registration of Seedless Mandarin Acreage

(a) An owner may annually register seedless mandarin acreage planted within the Protection Area with the commissioner of the county in which the acreage is located. Registration shall include acreage(s) by variety, total number of acres by variety, and number of trees by variety upon the adoption of this regulation, and between January 1st and January 31st of each year thereafter. An owner shall pay an annual registration fee of ten dollars (\$10.00) per year to the commissioner for each registration in each county. Registration can be made for up to and including five years at a time. Registration updates (including but not limited to acreage, variety, and number of trees) can be made annually thereafter.

(b) An owner is responsible for updating, if necessary, the information provided in previous registrations upon the submission of a current annual registration.

(c) A commissioner may rely upon the most recent information provided by the owner in previous registrations unless it has been updated.

Note: Authority Cited: Sections 407 and 29812, Food and Agricultural Code.

Reference Cited: Sections 29810 and 29811, Food and Agricultural Code.

1430.56 Voluntary Release of Confidential Information by Beekeepers

(a) A beekeeper may agree to a limited waiver of the confidentiality of information submitted to comply with apiary registration requirements set forth in Division 13, Chapter 1, Article 4 and Division 13, Chapter 1, Article 5 of the Food and Agricultural Code.

(b) The waiver shall limit the release of confidential apiary registration information to registered owners of seedless mandarin acreage within the county where the apiary has been registered.

(c) The waiver must be in writing, and accompany the apiary registration form, after the beekeeper has been informed, in writing, that the purpose of the waiver is to make confidential apiary registration information available to owners of seedless mandarin acreage

(d) A commissioner shall only release information subject to the waiver upon request as follows:

(1) during each calendar year for a period commencing on March 1st and concluding on May 31st; and

(2) to a owner who has registered seedless mandarin acreage within two miles of the registered apiary or apiaries.

Note: Authority Cited: Sections 407, 29040, 29041, 29042, 29043, 29045, 29070, 29070.5 and 29812, Food and Agricultural Code.

Reference Cited: Sections 29810 and 29811, Food and Agricultural Code.

1430.57 Dispute Resolution

(a) The owner of registered seedless mandarin acreage may request that a registered beekeeper move an apiary to an alternative location provided by the owner if the apiary is located within two miles of the acreage. An owner may request that multiple apiaries be moved if they have been registered by the same beekeeper.

(b) Beekeepers of registered apiaries shall be available by telephone or other form of electronic verbal communication between 4 p.m. and 7 p.m., Monday through Saturday from March 1st through May 31st to receive requests from a registered seedless mandarin grower to move an apiary as provided in subsection (a).

(c) If agreement upon a new location of an apiary cannot be reached between the owner and the beekeeper, either may request, in writing, that the commissioner of the county in which the acreage and the apiary is located provide an ~~advisory opinion~~ recommendation as to whether the beekeeper should move the apiary to the alternative location. If the acreage and the apiary are located in different counties, the request may be directed to either the commissioner in the county in which the acreage is located or the commissioner in the county where the apiary is located. The party making the request shall also provide the commissioner with a summary of any attempts to resolve the dispute through negotiation. Requests can only be made between March 1st and May 31st of any calendar year.

(d) The commissioner shall, within two business days after receiving the request, notify the owner and the beekeeper in writing that a request for an ~~advisory opinion~~ recommendation has been received.

(e) The owner and the beekeeper shall provide the commissioner, in writing, with their last offer, reasons for rejection of the other party's last offer, and an indication as to what they believe would be required to reach an agreement. The owner and the beekeeper shall provide a written response that conforms to these requirements within four days of receipt of the notice.

(f) Upon receiving the request and the responses, the commissioner shall issue an ~~advisory opinion~~ recommendation that recommends either of the following

(a) the apiary shall not be moved;

(b) the apiary or a portion of the hives, as defined by the commissioner, shall be moved to a new location determined by the commissioner.

(g) The commissioner shall give pollination needs priority when issuing the ~~advisory opinion~~ recommendation.

(h) The owner and the beekeeper shall provide the commissioner with a fax number for the transmission of the ~~advisory opinion~~ recommendation. The commissioner shall deliver the ~~opinion~~ recommendation to them by fax, with a confirmatory hard copy by mail, and it shall be deemed received upon electronic confirmation. The owner and the beekeeper may thereafter comply with the ~~advisory opinion~~ recommendation within 48 hours of receipt.

(i) The commissioner shall issue an advisory opinion within eleven (11) business days upon receipt of the request.

(j) The commissioner shall establish a cost not to exceed the cost of the program to issue the ~~advisory opinion~~ recommendation to be paid by the owner of seedless mandarin acreage to the commissioner.

Note: Authority Cited: Sections 407 and 29812 Food and Agricultural Code.

Reference Cited: 407, 29810 and 29811 Food and Agricultural Code.