

OFFICE OF GENERAL COUNSEL
(850) 245-1000
(850) 245-1001 FAX



THE MAYO BUILDING
407 SOUTH CALHOUN STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER WILTON SIMPSON

August 31, 2023

Anya Owens
Florida Department of State
Administrative Code and Register Section
The Capitol, Room 701
Tallahassee, Florida 32399-0250

RE: 5BER23-6 – Exposed Citrus Nursery Stock Movement

Dear Ms. Owens:

Please find enclosed the certification package for the referenced emergency rule. Please let me know if you have any questions.

My contact information is:

Allan J. Charles
Florida Department of Agriculture and Consumer Services
407 South Calhoun Street, Suite 520
Tallahassee, Florida 32399-0800
(850) 245-1000
(850) 245-1001 – fax
Allan.Charles@fdacs.gov

Sincerely,
WILTON SIMPSON
COMMISSIONER OF AGRICULTURE

/s/Allan J. Charles
Senior Attorney

CERTIFICATION OF FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
EMERGENCY RULE FILED WITH THE DEPARTMENT OF STATE

I hereby certify that an immediate danger to the public health, safety, or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with Section 120.54(4), F.S. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No:

5BER23-6

Under the provision of Section 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing, is set out below:

Effective Date:

(month) (day) (year)



Wilton Simpson, Commissioner of Agriculture

Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE
DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

Rules covered by this certification:

Rule No(s). 5BER23-6



Wilton Simpson

Commissioner of Agriculture

Title

5BER23-6 – Exposed Citrus Nursery Stock Movement

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE:

Section 581.1843(2), Florida Statutes, requires all citrus nursery stock to be produced in a protective structure approved by the Department. Rule 5B-62.010, Florida Administrative Code, adopts the Department's standards for those structures. Hurricane Idalia has created emergency conditions jeopardizing the movement of citrus nursery stock in structures that have been compromised and impacted industry's ability to move nursery stock.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

The provisions of this rule are narrowly tailored to assist in the movement of exposed citrus nursery stock during the emergency conditions created by Hurricane Idalia. Due to the emergency conditions, citrus nurseries may be forced to destroy valuable nursery stock that are needed by the industry to help replace trees damaged by the hurricane without the allowances provided by this emergency rule. The Department will immediately begin formal rulemaking to adopt the provisions of the emergency rule.

SUMMARY OF RULE:

This emergency rule allows for exposed citrus nursery stock to be moved into structures away from clean material and be sold to growers.

5BER23-6 – Exposed Citrus Nursery Stock

(1) Any citrus nursery stock within a greenhouse that was damaged due to the impact of Hurricane Idalia or otherwise exposed shall be moved from the certified greenhouse into a non-certified structure within the permitted nursery or voluntarily destroyed by the nursery by November 30, 2023. All citrus nursery stock moved into a non-certified structure must be tracked by the nursery and the tracking records shall be made available to the Department upon request.

(2) Any citrus nursery stock moved into a non-certified structure within the permitted nursery will be exempt from compliance with Rule 5B-62.010, F.A.C., while this rule is in effect. No new nursery stock will be permitted to be started in a house with plant material that was impacted by the storm.

(3) Any exposed citrus nursery stock with Asian Citrus Psyllid nymphs or eggs present or exhibiting visual symptoms of Asiatic Citrus Canker, shall not be moved to another greenhouse nor be sold. All remaining exposed citrus nursery stock with no Asian Citrus Psyllid nymphs and or eggs present or no visual symptoms of Asiatic Citrus Canker, sold or provided to citrus growers shall be accompanied by a written notice that the citrus nursery stock may have been exposed to citrus diseases due to Hurricane Idalia.

(4) Repaired certified citrus nursery greenhouses that were damaged due to Hurricane Idalia shall be cleaned and sanitized as required by Rule Chapter 5B-62, F.A.C. Upon inspection and approval by the Department, the citrus nursery may start new citrus nursery stock plantings within the greenhouse that will be subject to the full requirements of Rule Chapter 5B-62, F.A.C.

(5) Scion houses that were compromised due to the hurricane are encouraged to be restarted from Foundation material as soon as possible. However, recognizing the shortage that destroying this material could cause, the Division will require testing quarterly and continuous inspection every thirty (30) days of these trees while this rule is in effect.

Rulemaking Authority 570.07(23), 581.031(1), (3), (8), 581.1843(3) FS. Law Implemented 570.07(2), (13), 581.031(1), (14), (17), (23) FS. History–New 8/31/2023.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 8/30/23