

**State of California  
Office of Administrative Law**

In re:  
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Adopt sections: 3445, 3591.30

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Government Code Section 11349.3

OAL Matter Number: 2023-1222-02

OAL Matter Type: Certificate of Compliance  
(C)

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In this certificate of compliance, the Department makes permanent an interior quarantine for the Queensland fruit fly, sets Ventura County as an eradication area, and establishes the host list matching the current United States Department of Agriculture list.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 2/5/2024.

Date: February 5, 2024



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Ashita Mohandas  
Attorney

For: Kenneth J. Pogue  
Director

Original: Karen Ross, Secretary

Copy: Rachel Avila



STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-Z2023-1023-01	REGULATORY ACTION NUMBER 2023-1222-02C	EMERGENCY NUMBER 2023-0906-02E
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For use by Office of Administrative Law (OAL) only

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**FEB 05 2024**  
1:41 PM

OFFICE OF ADMIN. LAW  
2023 DEC 22 AM 8:40

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Department of Food and Agriculture

AGENCY FILE NUMBER (If any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Queensland Fruit Interior Quarantine and Eradication Area	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2023-0906-02E, Z2023-1023-01
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**2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)**

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3445, 3591.30
	AMEND
	REPEAL
TITLE(S) 3	

**3. TYPE OF FILING**

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

**4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)****5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)**

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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**6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Rachel Avila	TELEPHONE NUMBER 916-698-2947	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rachel.avila@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Andrew R. Cline <small>Digitally signed by Andrew R. Cline Date: 2023.12.20 18:47:59 -0800</small>	DATE
TYPED NAME AND TITLE OF SIGNATORY Andrew R. Cline, Assistant Director Plant Health & Pest Prevention Services Division	

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**ENDORSED APPROVED**

**FEB 05 2024**

**Office of Administrative Law**

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Adopt the following:

### § 3445. Queensland Fruit Fly Interior Quarantine.

A quarantine is established against the following pest, its hosts, and possible carriers.

(a) Pest. The fruit fly Queensland fruit fly (*Bactrocera tryoni*).

(b) An area shall be designated as under quarantine when survey results indicate an infestation is present, the Department has defined the infested area, and the local California County Agricultural Commissioner(s) is notified and requests the quarantine area be established. The Department shall also provide electronic and/or written notification of the area designation(s) to other California County Agricultural Commissioners and other interested or affected parties and post the area description to its website. An interested party may also go to the website and elect to receive automatic notifications of any changes in quarantine areas through the list serve option.

(1) An infestation is present when:

(A) Either eggs, a larva, a pupa, a mated female or two or more adult Queensland fruit flies of either sex are detected within three miles of each other and within one life cycle.

(B) Satellite infestations. A detection of a single life stage of Queensland fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5-mile radius surrounding the detection to expand the quarantine area.

(2) The initial area under quarantine shall be a minimum of a 4.5-mile radius surrounding the detections being used as an epicenter. Commercial host properties shall not be split by the quarantine boundary line and the boundary line shall be expanded beyond the 4.5 miles as necessary to encompass such host material in its entirety. Wherever possible, known accepted mapping features, including, but not limited to, roads, streets, highways, creeks, streams, rivers, canals, city, county, state, park, and forest boundary lines are used first, and if there are no acceptable features such as these, then imaginary lines with or without latitude and longitude points may be used.

(3) Any interested party or local 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 submitted to the Department's Legal Office at 1220 N Street, Suite 315, Sacramento, CA 95814 or emailed to [CDFA.LegalOffice@cdfa.ca.gov](mailto:CDFA.LegalOffice@cdfa.ca.gov) no later than ten (10) working days following publication 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.

(4) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within the quarantine area.

(5) The time determined for Queensland fruit fly to complete three life cycles begins from the date of the most recent detection and is measured by a life cycle estimate. A life cycle estimate is an assessment of insect development based on a model derived from the temperatures recorded for each day at the time and in the area of an infestation. Daily minimum and maximum temperatures are used to produce an interpolated temperature curve over each 24-hour period and a calculation of how much time is above and below a base developmental (minimum) temperature needed for insect development. This information is used to estimate the time period necessary for the completion of one full lifecycle of Queensland fruit fly under the specific local and temporal circumstances. The total amount of heat required to develop from one stage to another is calculated in units called degree-days. If the average temperature in 24 hours is one degree higher than the minimum temperature required for a particular pest, one degree-day's temperature is accumulated in the life cycle estimate. Accumulating degree-days is used to determine the generation time. For Queensland fruit fly, the Department uses 1125 degree-days Fahrenheit as the length of one life cycle.

(c) Articles and Commodities Covered. All fruit, vegetables, pericarp of nuts, seeds, or berries listed in Title 3 California Code of Regulations Section 3591.30 (b)(1) Queensland Fruit Fly Eradication Area.

(1) Soil within the drip area of plants producing, or which have produced, fruit or berries as listed in Title 3 California Code of Regulations Section 3591.30 (b)(1) above.

(2) Any other product, article, or means of conveyance when it is determined by the Secretary or County Agricultural Commissioner to present a hazard of spreading live life stages of Queensland fruit fly and the person in possession thereof has been so notified, either by public notice, written communication, or verbally by a county, state, or federal agricultural official;

(d) Restrictions.

(1) At the wholesale level, articles and commodities covered in subsection (c) are prohibited movement within or from the area under quarantine except as provided in (A) or (B) below:

(A) If the article or commodity has been treated in a manner to eliminate Queensland fruit fly, is transported in a manner to preclude exposure to Queensland fruit fly, and is accompanied by a written certificate issued by an authorized State or county agricultural official affirming compliance with this subsection; or,

(B) The article or commodity is moving for treatment or processing to eliminate Queensland fruit fly, is transported in a manner to preclude exposure to any Queensland fruit fly, and is accompanied by a written certificate issued by an authorized State or county agricultural official affirming such movement has been authorized under this subsection.

(2) At the wholesale level, articles and commodities covered in subsection (c) which have been commercially produced outside the area under quarantine are prohibited movement into the area under quarantine except when accompanied by a shipping document indicating the point of origin and destination and moved in compliance with (A), (B) or (C) below:

(A) If the article or commodity is moving directly through the area under quarantine without stopping except as dictated by traffic controls and by a direct route in an enclosed vehicle or container or completely enclosed by a covering to prevent exposure to the Queensland fruit fly while enroute through the area; or,

(B) The article or commodity is destined to a wholesale or retail establishment within the quarantined area and, if moving between 9 a.m. and sunset, is transported in an enclosed vehicle or container or completely enclosed by a covering to prevent exposure to Queensland fruit fly; or

(C) The article or commodity is destined to a commercial processing facility.

(3) At the retail level, articles and commodities covered which have been commercially produced are prohibited movement from or within the area under quarantine except when the person in possession has a proof of sale showing the commodity was purchased from a commercial establishment.

(4) Articles and commodities covered which have been noncommercially produced within the area under quarantine, including "backyard" production, are prohibited movement from the premises where grown except under written authorization of the Department or County Agricultural Commissioner.

(5) Articles and commodities covered which have been noncommercially produced outside the area under quarantine are prohibited movement into the area under quarantine except when the person in possession has signed a statement showing the commodity, amount, origin, destination, and date of transportation.

(6) Within the area under quarantine, no wholesale or retail establishment shall handle, sell, or offer for sale any article or commodity covered unless such commodities at all times are maintained securely indoors or covered to minimize exposure to the environment in a manner to effectively preclude Queensland fruit fly access. No commodity covered shall be held for sale or sold from a truck, trailer, or other mobile vehicle within the area under quarantine.

NOTE: Authority cited: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code. Reference: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.



Adopt the following:

§ 3591.30. Queensland fruit fly Eradication Area.

(a) Proclamation of Eradication Area. That portion of the State of California described as follows, within which a certain pest, Queensland fruit fly (*Bactrocera tryoni*), is known to exist, is hereby proclaimed to be an eradication area with respect to said pest:  
The entire county of Ventura.

(b) Hosts.

(1) All fruit, vegetables, pericarp of nuts, seeds, or berries of the following:

Scientific Name	Common Name
<i>Acca sellowiana</i> (O. Berg) Burret	pineapple guava
<i>Actinidia deliciosa</i> (A. Chev.) C.F. Liang & A.R. Ferguson	kiwifruit
<i>Anacardium occidentale</i> L.	cashew
<i>Annona cherimola</i> Mill.	cherimoya
<i>Annona muricata</i> L.	soursop
<i>Annona reticulata</i> L.	bullock's heart
<i>Annona</i> sp.	
<i>Annona squamosa</i> L.	Custard-apple
<i>Artocarpus altilis</i> (Parkinson) Fosberg	breadfruit
<i>Artocarpus heterophyllus</i> Lam.	jackfruit
<i>Asimina triloba</i> (L.) Dunal	pawpaw
<i>Averrhoa carambola</i> L.	carambola
<i>Barringtonia asiatica</i> (L.) Kurz	fish killer tree
<i>Barringtonia edulis</i>	pau nut
<i>Calophyllum inophyllum</i> L.	Alexandrian laurel
<i>Cananga odorata</i> (Lam.) Hook. f & Thomson	ylang ylang tree

<i>Canarium vulgare</i> Leenh.	Chinese olive
<i>Capsicum annuum</i> L.	chile/sweet pepper
<i>Carica papaya</i> L.	papaya
<i>Casimiroa edulis</i> LaLlave & Lex.	white sapote
<i>Chrysophyllum cainito</i> L.	star apple
<i>Citrus aurantiifolia</i> (Christm.) Swingle	keys lime
<i>Citrus latifolia</i> (Yu. Tanaka) Tanaka	Persian lime
<i>Citrus limon</i> (L.) Burm. F	lemon
<i>Citrus maxima</i> (Burm.) Merr	pomelo
<i>Citrus medica</i> L.	citron
<i>Citrus x paradisi</i> Macfad.	grapefruit
<i>Citrus reticulata</i> Blanco	mandarin
<i>Citrus sinensis</i> (L.) Osbeck	orange
<i>Citrus x tangelo</i> J.W. Ingram & H.E. Moore	tangelo
<i>Coffea</i> sp.	coffee
<i>Cucurbita pepo</i> L.	acorn squash
<i>Cydonia oblonga</i> Mill.	quince
<i>Dimocarpus longan</i> Lour.	longan
<i>Diospyros bicolor</i> (=D. <i>mespiliformis</i> )	jackalberry
<i>Diospyros digyna</i> Jacq.	black sapote
<i>Diospyros kaki</i> Thunb.	Japanese persimmon
<i>Diospyros mespiliformis</i> Hochst. Ex A. DC.	jackalberry
<i>Diospyros</i> sp.	persimmon
<i>Durio zibethinus</i> L.	Durian
<i>Eriobotrya japonica</i> (Thunb. Lindl.)	Loquat
<i>Eugenia brasiliensis</i> Lam	Brazil-cherry
<i>Eugenia uniflora</i> L.	Surinam-cherry
<i>Ficus carica</i> L.	common fig

<i>Ficus pancheriana</i> Bureau	Pancher's fig
<i>Ficus</i> sp.	fig
<i>Fortunella japonica</i> (Thunb.) Swingle	round kumquat
<i>Fragaria x ananassa</i> Duchesne ex Rozier	garden strawberry
<i>Fragaria vesca</i> L.	European strawberry
<i>Garcinia mangostana</i> L.	mangosteen
<i>Hernandia cordigera</i> Vieill.	Bois bleu
<i>Hylocereus undatus</i> (Haw.) Britton & Rose	dragon fruit
<i>Inocarpus fagiferus</i> (Parkinson) Fosberg	Tahiti chestnut
<i>Litchi chinensis</i> Sonn.	litchi
<i>Malpighia glabra</i> L.	acerola
<i>Malus domestica</i> Borkh.	apple
<i>Mangifera indica</i> L.	mango
<i>Manilkara zapota</i> (L.) P. Royen	sapodilla
<i>Mimusops elengi</i> L.	medlar
<i>Morinda citrifolia</i> L.	canary wood
<i>Morus alba</i> L.	Russian mulberry
<i>Musa x paradisiaca</i> L.	edible banana
<i>Musa</i> sp.	banana
<i>Musa troglodytarum</i> L.	fe'i banana
<i>Nephelium lappaceum</i> L.	rambutan
<i>Opuntia ficus-indica</i> (L.) Mill.	mission prickly-pear
<i>Passiflora edulis</i> Sims	passionfruit
<i>Passiflora laurifolia</i> L.	yellow granadilla
<i>Passiflora quadrangularis</i> L.	giant granadilla
<i>Persea americana</i> Mill.	avocado
<i>Phoenix dactylifera</i> L.	date palm
<i>Phyllanthus acidus</i> (L.) Skeels	gooseberry tree

<i>Physalis peruviana</i> L.	cape gooseberry
<i>Planchonella sphaerocarpa</i> (Baill.) Dubard	
<i>Plinia cauliflora</i> (Mart.) Kausei	Brazilian grapetree
<i>Pometia pinnata</i> J.R. Forst. & G. Forst.	Pacific lychee
<i>Pouteria caimito</i> (Ruiz & Pav.) Radlk.	caimito
<i>Prunus americana</i> Marshall	American plum
<i>Prunus armeniaca</i> L.	Apricot
<i>Prunus avium</i> (L.) L.	sweet cherry
<i>Prunus x domestica</i> L.	European plum
<i>Prunus persica</i> (L.) Batsch	peach
<i>Prunus persica</i> (L.) Batsch var. <i>nucipersica</i> (Suckow) C.K. Schneid.	nectarine
<i>Prunus simonii</i> Carriere	apricot plum
<i>Psidium acutangulum</i> DC.	
<i>Psidium cattleianum</i> Sabine	cattley guava
<i>Psidium cattleianum</i> Sabine var. <i>littorale</i> (Raddi) Fosberg	strawberry guava
<i>Psidium friedrichsthalianum</i> (O. Berg) Nied.	Costa Rican guava
<i>Psidium guajava</i> L.	guava
<i>Punica granatum</i> L.	pomegranate
<i>Pyriluma sphaerocarpum</i> (Baill.) Aubrev	
<i>Pyrus communis</i> L.	pear
<i>Pyrus pyrifolia</i> (Burm. F.) Nakai var. <i>culta</i> (Makino) Nakai	Asian pear
<i>Rubus fruticosus</i> auct. Aggr.	European blackberry
<i>Rubus idaeus</i> L.	raspberry
<i>Rubus xloganobaccus</i> L.H. Bailey	loganberry
<i>Sandoricum koetjape</i> (Burm.f.) Merr.	santol
<i>Solanum betaceum</i> Cav.	tree tomato

<i>Solanum lycopersicum</i> L. var. <del><i>lycopersicum</i></del>	tomato
<i>Solanum mauritianum</i> Scop.	bugtree
<i>Solanum melongena</i> L.	eggplant
<i>Solanum muricatum</i> Aiton	pepino
<i>Spondias dulcis</i> Sol. Ex Parkinson	Juneplum
<i>Spondias mombin</i> L.	hog plum
<i>Synsepalum dulcificum</i> (Schumach.) Daniell	miracle fruit
<i>Syzygium cumini</i> (L.) Skeels	jambolan
<i>Syzygium jambos</i> (L.) Alston	Rose-apple
<i>Syzygium malaccense</i> (L.) Merr. & L.M. Perry	Malay-apple
<i>Syzygium samarangense</i> (Blume) Merr. & L.M. Perry	Java-apple
<i>Terminalia catappa</i> L.	tropical almond
<i>Thevetia peruviana</i> (Pers.) K. Schum	yellow oleander
<i>Vaccinium corymbosum</i> L.	blueberry
<i>Vasconcellea x heilbornii</i> (V.M. Badillo) V.M. Badillo	babaco
<i>Vitis vinifera</i> L.	<u>European-Common grape</u>
<i>Ximenia americana</i> L.	false sandalwood
<i>Ziziphus jujuba</i> Mill.	Chinese jujube
<i>Ziziphus mauritiana</i> Lam.	Chinese-apple

(2) Soil or planting media within the drip area of plants producing, or which have produced, host fruit.

(c) Means and Methods. The following means and methods may be used in the eradication and control of said pest in said area:

- (1) The use of insecticides, chemicals, or other materials as spray, dust, bait, or in any other manner as often as necessary to effect eradication.
- (2) The removal and destruction of all plant parts known or suspected to harbor any stage of said pest.
- (3) The search of all stages of Queensland fruit fly by visual inspection, the use of traps, or any other means.

- (4) The removal and destruction of abandoned or unwanted plants bearing or capable of bearing hosts.
- (5) The importation, rearing, liberation, and fostering of parasites and predators which attack Queensland fruit fly.
- (6) The importation, rearing, or liberation of sterile forms of Queensland fruit fly.

**Credits**

NOTE: Authority cited: Sections 407 and 5322, Food and Agricultural Code. Reference: Sections 5761, 5762, 5763 and 5764, Food and Agricultural Code.