

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations  
Section 3591.30 Queensland Fruit Fly Eradication Area

INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to amend the host list in Title 3 California Code of Regulations (CCR) Section 3591.30 Queensland Fruit Fly Eradication Area which provides authority to the Department to allow effective eradication and quarantine activities to prevent Queensland Fruit Fly (*Bactrocera tryoni*), from spreading throughout California.

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests as required by Food and Agricultural Code (FAC) Sections 401 and 403.

Purpose and Factual Basis

The specific purpose of amending Section 3591.30 Queensland Fruit Fly Eradication Area is to revise and update the known host list for Queensland Fruit Fly (QFF) to coincide with the official QFF host list promulgated in March 2024 by the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS). By pairing the California host list with the USDA host list, the California Department of Food and Agriculture (Department) will be able to enact any eradication activities needed against QFF using the federal standards.

California's requirements for the *QFF* must parallel the USDA requirements or the entire state will be quarantined if the pest is detected. Therefore, QFF must regulate hosts on the revised USDA host list.

The factual basis for the determination by the Department that the amendment of Section 3591.30 is necessary is as follows:

On August 23, 2023, an adult QFF was taken from a trap in the Thousand Oaks area of Ventura County. The detection of QFF is indicative of an incipient infestation of QFF in this area. Therefore, the Department adopted emergency regulations to address this issue immediately and allow for eradication and interior quarantine of this pest. These emergency regulations were made permanent on February 5, 2024.

QFF is a major agricultural pest within Australia and areas of artificial introduction, and many of its host plants are grown in California. QFF attacks the fruit of various plants that are part of California's economic and agricultural landscape, including citrus, stone fruits, and tomato. The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Adults also damage fruit, feeding primarily upon juices of host plants, nectar, and honeydew from insects. The California Agriculture Statistics Review 2021-2022 lists the value of tomatoes at 1.2 billion dollars and California as the largest citrus-producing state in America. Tomatoes and citrus are hosts to QFF.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to increased pesticide use, decreased production of marketable fruit, and loss of markets if the USDA or other states or countries enact a quarantine against California products which can host and carry the fly. An outbreak of *B. tryoni* in New South Wales during 1940-41 resulted in the rejection of 5–

25% of citrus at harvest (Weems, Jr., Florida Department of Agriculture and Consumer Services, Division of Plant Industry; and T.R. Fasulo (retired), University of Florida).

Project Description

**Section 3591.30**

In Section 3591.30 (b)(1), the host list was previously created using USDA National Exotic Fruit Fly Detection Trapping Guidelines. This document was created in 2015. In March 2024 the USDA released a host list which reflects updated research into the pest and its hosts. Having a host list with the most accurate information allows the Department to carry out eradication activities effectively. All named fruit, vegetables, pericarp of nuts, seeds, or berries are considered host material that could become infested. The following species have been added to the host list:

<i>Scientific Name</i>	Common Name
<i>Butia capitata</i> (Mart.) Becc.	Jelly palm, pindo palm
<i>Butia yatay</i> (Mart.) Becc.	Jelly palm, yatay palm
<i>Canarium insulare</i>	N/A
<i>Carallia brachiata</i> (Lour.) Merr.	Billabong-tree, carallowood, corkybark, freshwater mangrove
<i>Citrullus lanatus</i> (Thunb.) Matsum. & Nakai	Afghan-melon, bastard-melon, desert watermelon, watermelon
<i>Citrus × aurantium</i> L. ( <i>Citrus</i> Sour Orange Group)	Bitter orange, Seville orange, sour orange
<i>Citrus × aurantium</i> L. var. <i>sinensis</i> L. (= <i>C. sinensis</i> )	Blood orange, navel, navel orange, orange, sweet orange, Valencia orange
<i>Citrus japonica</i> (Thunb.) Swingle	Kumquat
<i>Citrus × nobilis</i> Lour. ( <i>Citrus</i> Tangor Group) <sup>1</sup>	King of Siam, king orange, tangor
<i>Citrus</i> spp.	Orangequat, procimequat
<i>Clivia miniata</i> (Lindl.) Regel	Natal-lily, bush-lily
<i>Cryptocarya rigida</i> Meisn.	Brown-beech, forest-maple, pigeonberry-ash, rose-maple, rose-walnut,
<i>Davidsonia pruriens</i> F. Muell	Davidsonia-plum, Davidson's plum
<i>Drypetes deplanchei</i> (Brongn. & Gris) Merr. incl. ( <i>D. australasica</i> )	Yellow tulip-tree

<i>Endiandra</i> spp.	Walnut-laurel
<i>Fagraea berteriana</i> var. <i>sair</i> (Gilg & Benedict) Fosberg	Pua keni keni, perfume flower tree
<i>Ficus coronata</i> Spin	Creek fig, creek sandpaper fig, sandpaper fig
<i>Ficus macrophylla</i> Pers.	Australian banyan, black fig, Moreton Bay fig
<i>Gossypium hirsutum</i> L.	American cotton, American upland cotton, cotton, upland cotton
<i>Juglans regia</i> L.	English walnut, Madeira walnut, Persian walnut, walnut
<i>Morus nigra</i> L.	Black mulberry
<i>Opuntia</i> spp.	prickly-pear
<i>Passiflora foetida</i> L.	Love-in-a-mist passionflower, mossy passionflower, running pop, stinking granadilla, stinking passionflower, stinking passionfruit, wild passionfruit
<i>Passiflora subpeltata</i> Ortega	Granadina, white passionflower, white passionfruit, wild passionfruit, wild passionvine
<i>Prunus cerasifera</i> Ehrh.	Cherry plum, myrobalan plum
<i>Prunus</i> × <i>dasycarpa</i> Ehrh.	Purple apricot
<i>Prunus domestica</i> (L.) sub spp. <i>domestica</i>	European plum, garden plum, plum, prune plum,
<i>Prunus</i> × <i>persicoides</i> (Ser.) M. Vilm. & Bois	Almond-peach
<i>Prunus salicina</i> Lindl.	Japanese plum, Chinese plum
<i>Pyrus pyrifolia</i> (Burm. f.) Nakai	Asian pear, Chinese pear, Chinese sand pear, Japanese pear, nashi, nashi pear, Oriental pear, sand pear
<i>Rosa</i> spp.	Rose
<i>Solanum lycopersicum</i> L. var. <i>lycopersicum</i>	Tomato
<i>Solanum seaforthianum</i> Andrews	Black nightshade, Brazilian nightshade, climbing nightshade, Italian-jasmine, potato-creeper, St. Vincent-lilac
<i>Syzygium paniculatum</i> Gaertn.	Magenta lilly-pilly
<i>Syzygium smithii</i> (Poir.) Nied.	Lilly-pilly, monkey-apple
<i>Terminalia muelleri</i> Benth.	Australian-almond
<i>Uvaria (Rauwenhoffia) leichhardtii</i> Diels	Zig-zag vine
<i>Vaccinium</i> spp.	Blueberry

The following species are not present on the host list released in March 2024 and have been removed:

Scientific Name	Common Name
<i>Actinidia deliciosa</i> (A. Chev.) C.F. Liang & A.R. Ferguson	Kiwifruit
<i>Annona cherimola</i> Mill.	Cherimoya
<i>Annona</i> sp.	
<i>Asimina triloba</i> (L.) Dunal	Pawpaw
<i>Barringtonia asiatica</i> (L.) Kurz	Fish killer tree
<i>Calophyllum inophyllum</i> L.	Alexandrian laurel
<i>Citrus medica</i> L.	Citron
<i>Citrus sinensis</i> (L.) Osbeck	Orange
<i>Coffea</i> sp.	Coffee
<i>Dimocarpus longan</i> Lour.	Longan
<i>Diospyros bicolor</i> (=D. <i>mespiliformis</i> )	Jackalberry
<i>Diospyros digyna</i> Jacq.	black sapote
<i>Diospyros</i> sp.	Persimmon
<i>Durio zibethinus</i> L.	Durian
<i>Eugenia brasiliensis</i> Lam	Brazil-cherry
<i>Ficus</i> sp.	Fig
<i>Fortunella japonica</i> (Thunb.) Swingle	round kumquat
<i>Garcinia mangostana</i> L.	Mangosteen
<i>Hylocereus undatus</i> (Haw.) Britton & Rose	dragon fruit
<i>Manilkara zapota</i> (L.) P. Royen	Sapodilla
<i>Mimusops elengi</i> L.	Medlar
<i>Opuntia ficus-indica</i> (L.) Mill.	mission prickly-pear
<i>Phyllanthus acidus</i> (L.) Skeels	gooseberry tree
<i>Physalis peruviana</i> L.	cape gooseberry
<i>Plinia cauliflora</i> (Mart.) Kausel	Brazilian grapetree
<i>Prunus americana</i> Marshall	American plum
<i>Prunus domestica</i> (L.) subsp. <i>domestica</i>	European plum, garden plum, plum, prune plum,
<i>Psidium friedrichsthalianum</i> (O. Berg) Nied.	Costa Rican guava
<i>Pyriluma sphaerocarpum</i> (Baill.) Aubrev	
<i>Pyrus pyrifolia</i> (Burm. F.) Nakai var. <i>culta</i> (Makino) Nakai	Asian pear
<i>Rubus idaeus</i> L.	Raspberry
<i>Rubus xloganobaccus</i> L.H. Bailey	Loganberry
<i>Sandoricum koetjape</i> (Burm.f.) Merr.	Santol
<i>Solanum muricatum</i> Aiton	Pepino
<i>Spondias mombin</i> L.	hog plum
<i>Synsepalum dulcificum</i> (Schumach.) Daniell	miracle fruit
<i>Syzygium samarangense</i> (Blume) Merr. & L.M. Perry	Java-apple
<i>Vaccinium corymbosum</i> L.	blueberry

<i>Vasconcellea x heilbornii</i> (V.M. Badillo) V.M. Badillo	Babaco
<i>Ziziphus jujuba</i> Mill.	Chinese jujube

### Current Laws & Regulations

Existing law, FAC Section 401.5, states that the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in their opinion necessary to circumscribe and exterminate or prevent the spread of any pest that is described in FAC Section 5321.

Existing law, FAC Section 5761, provides that the Secretary may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC Section 5762, provides that the Secretary may proclaim any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public

nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC Section 5763, provides that the Secretary, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

The existing laws obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest, which is a mandated statutory goal.

#### Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Department is the only agency that can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### Anticipated Benefits from This Regulatory Action

The amendment of the host list to mirror the USDA host list for QFF supports the Department's ability to eradicate a serious insect pest; this is a mandated, statutory goal.

This regulation is necessary to prevent the spread of QFF to un-infested areas of the State. The regulation benefits industries (nursery, fruit for domestic use and exports, packing facilities), the environment (urban landscapes), and the overall California economy by preventing the spread of QFF.

The amendment of this regulation benefits the citrus, stone fruits, and tomato (nursery, fruit for domestic use and exports, packing facilities) industries and the environment (urban landscapes) by providing the Department an accurate host list to prevent the artificial spread of the QFF over short and long distances.

The California, national and international consumers of California citrus, stone fruits, and tomatoes benefit by having high quality produce available at lower cost. It is assumed that any increases in production costs will ultimately be passed on the consumer.

The amendment of this regulation benefits homeowners who grow their own host fruits for consumption and host material which is planted as ornamentals in various rural and urban landscapes.

The amendment of this regulation may benefit homeowners who grow host material for consumption and/or ornamentals in various rural and urban landscapes. By working with an up-to-date host list the Department is more likely to prevent infestation with QFF and thereby preventing damage to hosts., The regulation eliminates future needs for hosts to be treated in order to mitigate infestations of QFF.

#### California Environmental Quality Act

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et. seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et. seq.).

#### Mandate on Local Agencies or School Districts

The Department has determined that this regulation does not impose a mandate on local agencies or school districts.

#### Economic Impact Analysis (Government Code 11346.3(b))

The eradication and prevention of the spread of QFF in California through the amendment and implementation of this regulation economically benefits:

- the general public
- homeowners and community gardens
- the agricultural industry
- the State's general fund

*The Creation or Elimination of Jobs within the State*

The amendment is designed to minimize the spread of QFF in California through regulation of host material. Detection activities are currently being performed by existing state staff throughout the state by trapping and identifying all pests. No additional staff positions will be created or eliminated by this amendment. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

*The Creation or Elimination of Businesses in California*

The amendment is designed to minimize the spread of QFF in California through regulation of host material. Detection activities are currently being performed by existing state staff throughout the state by trapping and identifying all pests. No new businesses will be required, and current activities do not eliminate existing business. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or elimination of new businesses in California.

*The Expansion of Businesses in California*

The amendment is designed to minimize the spread of QFF in California through regulation of host material. Detection activities are currently being performed by existing CDFA staff throughout the state by trapping and identifying all pests. No new businesses will be required, and current activities do not expand existing businesses. Therefore, the

Department has determined that this regulatory proposal will not have a significant impact on the expansion of businesses currently doing business in California.

*Significance Adverse Impact on Business*

The amendment is designed to minimize the spread of QFF in California through regulation of host material. Detection activities are currently being performed by existing CDF staff throughout the state by trapping and identifying all pests. No businesses are currently adversely affected by these activities. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on businesses currently doing business in California.

*Worker Safety*

This regulation is not expected to have an effect on worker safety.

*Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities*

The Department has determined that Sections 3591.30 does not impose a mandate on local agencies or school districts. All eradication activities shall be conducted by the Department and quarantines by county agricultural commissioners. Therefore, no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts, will result from the amendment of Section 3591.30.

There are no reimbursable costs or savings under Part 7 (commencing with section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts anticipated from the amendment of this amendment.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states.

#### *Potential Impact to Homeowners and Community Gardens*

Modifying the host list would result in no impacts to the general public because there are already many common host species on the list. By having a host list that is maintained with the most current information the Department has a higher likelihood of keeping the pest from spreading in California.

#### *Potential Impacts to General Fund and Welfare*

The proposed regulations do not have immediate or definitive impact to the general fund or general welfare. They will make it more likely that QFF would be detected before an infestation can happen, and if there is an infestation the Department can react quickly and effectively. Speed of response is key to eradicating an incipient pest infestation. Programmatic delays potentially can lead to pest quarantines, as well as increased production costs and potential job loss. The agricultural industry is one of the economic engines in the state. Negative impacts to agriculture impact the state's economic recovery and the general welfare of the state. Additionally, any further job losses in this area would likely be felt by low-skilled workers whose employment options are already limited. The loss of any additional agricultural jobs would likely result in an increase in the State's public assistance obligations which would also negatively impact the state's economic recovery.

#### Assessment

The amendment of Section 3591.30 is designed to prevent or minimize the spread of QFF. The Department has made an assessment that the amendment to this regulation would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and is (6) not

expected to benefit workers' safety.

Health and welfare: The proposed action will benefit the health and welfare of California residents by making it more likely that QFF would be detected before an infestation can happen, and, if there is an infestation, the Department can react quickly and effectively. Speed of response is key to eradicating an incipient pest infestation. Programmatic delays potentially can lead to pest quarantines, as well as increased production costs and potential job loss.

The state's environment: The proposed action will benefit the state's environment by increasing the chance that QFF would be detected before an infestation can happen. If the Department neglects to regulate the types of hosts, this pest could spread into the local environment via the surrounding non-agricultural ecosystems. This could adversely impact private and commercial landscape plantings, local, regional, state and national parks, other recreational sites, open habitats, and wild lands. Affected plants could become less vigorous and may produce fewer seeds. Plants/trees with low propagule output can result in major changes to plant community structure.

#### Alternatives Considered

The Department must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Department considered taking no action. If no action is taken, the Department would not have eradication authority in Ventura County and have no interior quarantine for QFF. Without eradication authority to treat QFF infestations, USDA APHIS could potentially designate the entire state as infested with QFF, rather than just infested counties. If USDA APHIS were to consider the entire state infested, there would likely be additional detrimental quarantine requirements directed against California host commodities by the USDA APHIS and our international trade partners. Therefore, this alternative was rejected.

Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3591.30:

California Department of Food and Agriculture, California Agriculture Statistics Review 2021-2022, page 57,

California Department of Food and Agriculture, Queensland Fruit Fly Incident Update Ventura County Meeting, August 25, 2023

H.V. Weems, Jr., Florida Department of Agriculture and Consumer Services, Division of Plant Industry; and T.R. Fasulo (retired), University of Florida. Originally published as "DPI Entomology Circular 34." January 2002. Latest revision: July 2014. Reviewed: December 2017.

United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS). Queensland fruit fly, *Bactrocera tryoni*, Regulated Host List 2024, March 2024