

In Title 3, Division 4, Chapter 3, adopt Section 3162 to read:

**Section 3162. Pest Ratings and Mitigating Actions.**

(a) Definitions.

- (1) "Commissioner" – a California County Agricultural Commissioner and staff.
- (2) "Endangered Area"- an area where ecological factors favor the establishment of a pest whose presence in the area will result in economically important loss or environmental damage.
- (3) "General Distribution" – the pest occupies the majority of its known host range or suitable climatic range.
- (4) "Limited Distribution" - the pest occurs in the state, but with a limited distribution in its known host/climatic range to a small geographic area or a few small geographic areas which are widely separated within the state (widely but not generally distributed).
- (5) "Known Not to Occur" – surveys have been conducted for the pest and it has not been found to be established in California.
- (6) "Not Known to Occur" – there are no official records of the pest being established in California.
- (7) "Official control" - by State regulation or statute, the conduct by the Department/Commissioner of quarantine, eradication, control or suppression activities including various treatments, quarantine and other measures with the goal of preventing the entry of a pest, eliminating an isolated infestation or prevention of further spread to or within the endangered area(s).
- (8) "Pest Rating" - characterizing the statewide importance of the pest to harm agricultural and environmental interests or social adversities such as interference with home/urban gardening, human health, worker safety, food safety, jobs or cultural practices in California and determining what pest mitigation measures are appropriate if the pest is encountered in California through the completion of a "California Pest Rating Proposal."
- (9) "Pest Mitigation Measures" - the conduct by the Department/Commissioner of quarantine, eradication, control or suppression activities including various treatments

and other measures with the goal of preventing the entry of a pest, eliminating an isolated infestation or prevention of further spread within the endangered area.

(10) "Quarantine" - mitigating the pest risk and these actions include, but are not limited to: confinement or restriction of entry, movement, shipment, or transportation of plants, plant products, conveyances, appliances, anything, known or suspected to be infected or infested with pests.

(b) California Pest Rating Proposal Form. This form shall be completed to determine a pest rating and all applicable sections with known information shall be completed:

**California Pest Rating Proposal**

**Scientific Name (Common Name)**

**Current Rating: Q, A, B, C, D**

**Proposed Rating: Q, A, B, C, D**

**Initiating Event:** Identify the organism considered for the pest rating and the event(s) that triggered this pest rating proposal.

**History & Status:**

**Background:** Describe what is known about the biology of the pest, its host range, and potential pathways and spread.

**Worldwide Distribution:** Identify the native range of the pest. Also identify other countries and states that it has invaded.

**Official Control:** Is the pest under official control in any countries or states?

**California Distribution:** Identify where the pest has been found in the environment of California.

**California Interceptions:** Identify where the pest has been found in regulatory situations in California (e.g., at the airports, border stations, nurseries, ports, seed receivers, etc.).

This risk **Common Name** would pose to California is evaluated below.

**Consequences of Introduction:**

1) Climate/Host Interaction: Evaluate if the pest would have suitable hosts and climate to establish in California. Score:

- **Low (1)** Not likely to establish in California; or likely to establish in very limited areas.

- **Medium (2)** may be able to establish in a larger but limited part of California.

- **High (3)** likely to establish a widespread distribution in California.
- 2) Known Pest Host Range: Evaluate the host range of the pest. Score:
- **Low (1)** has a very limited host range.
  - **Medium (2)** has a moderate host range.
  - **High (3)** has a wide host range.
- 3) Pest Dispersal Potential: Evaluate the natural and artificial dispersal potential of the pest. Score:
- **Low (1)** does not have high reproductive or dispersal potential.
  - **Medium (2)** has either high reproductive or dispersal potential.
  - **High (3)** has both high reproduction and dispersal potential.
- 4) Economic Impact: Evaluate the likely economic impacts of the pest to California using the criteria below. Score:
- A. The pest could lower crop yield.
  - B. The pest could lower crop value (includes increasing crop production costs).
  - C. The pest could trigger the loss of markets (includes quarantines).
  - D. The pest could negatively change normal cultural practices.
  - E. The pest can vector, or is vectored, by another pestiferous organism.
  - F. The organism is injurious or poisonous to agriculturally important animals.
  - G. The organism can interfere with the delivery or supply of water for agricultural uses.
- **Low (1)** causes 0 or 1 of these impacts.
  - **Medium (2)** causes 2 of these impacts.
  - **High (3)** causes 3 or more of these impacts.
- 5) Environmental Impact: Evaluate the environmental impact of the pest on California using the criteria below.
- A. The pest could have a significant environmental impact such as lowering biodiversity, disrupting natural communities, or changing ecosystem processes.
  - B. The pest could directly affect threatened or endangered species.
  - C. The pest could impact threatened or endangered species by disrupting critical habitats.

- D. The pest could trigger additional official or private treatment programs.
- E. The pest significantly impacts cultural practices, home/urban gardening or ornamental plantings.

Score the pest for Environmental Impact. Score:

- **Low (1)** causes none of the above to occur.
- **Medium (2)** causes one of the above to occur.
- **High (3)** causes two or more of the above to occur.

**Consequences of Introduction to California for Common Name:**

Add up the total score and include it here. **(Score)**

-**Low** = 5-8 points

-**Medium** = 9-12 points

-**High** = 13-15 points

- 6) Post Entry Distribution and Survey Information: Evaluate the known distribution in California. Only official records identified by a taxonomic expert and supported by voucher specimens deposited in natural history collections should be considered. Pest incursions that have been eradicated, are under eradication, or have been delimited with no further detections should not be included. **(Score)**

-**Not established (0)** Pest never detected in California, or known only from incursions.

-**Low (-1)** Pest has a localized distribution in California, or is established in one suitable climate/host area (region).

-**Medium (-2)** Pest is widespread in California but not fully established in the endangered area, or pest established in two contiguous suitable climate/host areas.

-**High (-3)** Pest has fully established in the endangered area, or pest is reported in more than two contiguous or non-contiguous suitable climate/host areas.

- 7) The final score is the consequences of introduction score minus the post entry distribution and survey information score: **(Score)**

**Uncertainty:** It is important to separate out uncertainty from risk. Use this section to evaluate any uncertainty associated with the introduction of the pest to California.

Include anything that may cause it to be a greater or lesser pest here than in other places.

**Conclusion and Rating Justification:** Draw conclusions of the risk associated with this pest to California using all of the evidence presented above. Propose a pest rating.

**References:** List references used here. Include links to online information wherever possible.

**Responsible Party:** Name, address, telephone number and email address of the rater.

(c) Pest Rating Process.

(1) Any interested party/organization may complete the California Pest Rating Proposal Form to either propose a change or propose a new pest rating and submit it to the Department. The form and instructions for submitting the form are available at the following Website:

(2) Within 30 days of completion California Pest Rating Proposal Forms shall be posted for a 45 day public comment period on the Department's Website at: [http://cdfa.ca.gov/plant/regs\\_pestrating.html](http://cdfa.ca.gov/plant/regs_pestrating.html)

(3) The Department shall respond to any posted comments within 30 working days and shall make the final determination of the pest rating for the organism under consideration.

(4) All Department pest ratings shall be posted at the following Website: [http://cdfa.ca.gov/plant/regs\\_pestrating.html](http://cdfa.ca.gov/plant/regs_pestrating.html)

(d) The Department shall complete a review of all "Q" temporary pest ratings and propose a permanent pest rating within one year of the assignment of the temporary pest rating and review all other pest ratings every two years to determine if the existing pest rating is still valid.

(e) The "A"-rating is for pests of the agricultural industry or environment which score high and are not known to occur or under official control in the State of California.

Authorized mitigating regulatory actions:

(1) Plants, plant products, conveyances, appliances, etc., which do not meet California regulations for movement into or within the State or are moving into California in violation of Title 7, Code of Federal Regulations Chapter III, Part 301, Domestic Quarantine Notices or Part 318, State of Hawaii and Territories Quarantine Notices

or Part 319, Foreign Quarantine Notices or Part 330, Federal Plant Pest Regulations; General; Plant Pests; Soil, Stone, and Quarry Products; Garbage or Part 360, Noxious Weed Regulations or Part 361, Importation of Seed and Screenings Under the Federal Seed Act [Title 3, California Code of Regulations, Section 3161] or are found to be infested or infected with, or exposed to an “A”-rated pest shall be subject to being refused entry, returned to the owner, quarantined, treated, held, or destroyed as specified by the Department, or destroyed or treated by an authorized representative of the Department.

- (2) The destruction, quarantine, treatment, or return of a shipment shall be under the direction of the Department or Commissioner and at the expense of the owner. If the Department or Commissioner incurs any costs, payment to the Department or Commissioner for such expense shall be required before shipping can resume.
- (3) A Notice of Rejection, a form prescribed by the Department, shall be completed for all shipments being refused entry, returned to the owner, quarantined, treated, or destroyed as specified by the Department, or destroyed or treated by an authorized representative of the Department or Commissioner. The following data which pertains to the rejection may be collected and used as appropriate to complete the form:
  - A. Time In
  - B. Date In
  - C. I.D. Number
  - D. Time Out
  - E. Date Out
  - F. PDR Number
  - G. Bill Number
  - H. Material Received By (e.g. bus, car, mail, truck, etc.)
  - I. Check boxes for whether the entire or portion of the shipment was rejected
  - J. Check boxes for whether the shipment was commercial or E-commerce
  - K. Material rejected, type (e.g. plants, fruit, etc.), common and scientific names, variety, quantity, container size, origin county and state and country, explanatory remarks and check the appropriate boxes if the material rejected contains soil, roots or is a drug.

- L. Reason for Rejection
  - M. Shipper's Complete Name, Address, City, State, Zip Code, Country, E-Mail Address, Latitude and Longitude, Phone and Fax Numbers
  - N. Receiver's Complete Name, Address, City, State, Zip Code, County, Country, E-Mail Address, Latitude and Longitude, Phone and Fax Numbers
  - O. Driver's Complete Name, Date of Birth, Driver's License Number and Issuing State
  - P. Carrier's Name, Address, City, State, Zip Code, Phone and Fax numbers and E-mail Address
  - Q. Carrier's Vehicle Unit Number, Trailer License and State
  - R. Issuing Agricultural Officer's Name, Address, City, State, Phone and Fax Numbers, and Commissioner's name if issued by a county office.
  - S. Name of involved State Program, and number of any related documentation (Pest and Damage Record, Quarantine Warning/Hold Notice or Gypsy Moth Warning/Hold Notice)
  - T. Explanatory Remarks
  - U. Check boxes for copies sent to: Shipper, Receiver, Carrier, Commissioner at Origin, Commissioner at Destination or Other; including if by E-mail
  - V. Check boxes to the Shipper that the material will be disposed of unless, at their option, expense and risk, they agree to: Return to Shipper or Ship Out of State or Authorize Treatment or Obtain the Necessary Certificate or Permit or Other with a Description
  - W. A Box for the Driver to Sign and Date
  - X. Disposition including Option Chosen, Date, County Location, Name of Agricultural Officer and any Explanatory Remarks.
  - Y. Check boxes for "Violator had a compliance agreement?" or "Permit?," "Violator was aware of regulation?" (yes/no), "Violator comments" (how informed and when), "Carrier was aware of regulation?" (yes/no), "Carrier comments" (how informed and when), "Violator or carrier's statement of the violation" and "Agricultural Officer's statement of the violation"
- (4) A Hold Notice, a form prescribed by the Department, shall be completed for all

shipments being held and shall have the following information completed:

- A. The Name of the Establishment
  - B. Telephone Number
  - C. Address, City and Zip Code
  - D. Description and Number of Items Held on Premises
  - E. Reason for the Hold
  - F. Printed Name and Title of Person contacted
  - G. Signature of the Person Contacted and Date
  - H. Signature of the Agricultural Officer and Date
  - I. Address, City, Zip Code, Telephone and Fax Number of the issuing Agricultural Office
  - J. A date by which the responsible person can submit documentation of compliance
  - K. A date the Hold Notice is released
- (f) The “B”-rating is for pests of the agricultural industry or environment which score medium to high and which are of limited distribution in the State of California.  
Authorized mitigating regulatory actions: Plants and plant products found infested or infected with or exposed to a “B”-rated pest may be subject to immediate quarantine actions listed under subsections 3162(e).
- (g) The “C”-rating is for pests of the agricultural industry or environment which score medium to low and are of common occurrence and generally distributed in California.  
Authorized mitigating regulatory actions: Plants and plant products found infested or infected with or exposed to a “C”-rated pest are not subject to any State enforced regulatory actions listed under subsections 3162(e).
- (h) The “D”-rating is for an organism which scores low and known to be of little or no economic importance to the agricultural industry or environmental detriment, to have an extremely low likelihood of invasiveness, or is known to be a parasite or predator or pathogen of a pest or an otherwise beneficial organism.  
Authorized mitigating regulatory actions: None.
- (i) The “Q”-rating is for pests of the agricultural industry or environment which score high and which are not known to occur or where their California distribution is unknown and which are otherwise suspected of being economically harmful to the agricultural industry

or the environment and which may not be completely identified or for which there is inadequate available scientific information.

Authorized mitigating regulatory actions: The Department, at its discretion, may only conduct surveys, retard or prevent the spread of plants and plant products found infested or infected with or exposed to a “Q”-rated pest or take immediate actions listed under subsection 3162(e) prior to the Department determining the appropriate permanent pest rating.

- (j) The plant pest ratings shall be used in the enforcement of the nursery stock standards of cleanliness under Title 3, California Code of Regulations, section 3060.2.

Authority: Sections 407, 5261 and 5262, Food and Agricultural Code

Reference: Sections 407, 5261 and 5262, Food and Agricultural Code

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