

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  
Section 3445 Queensland Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to make permanent the emergency adoption of Title 3, California Code of Regulations (CCR) Section 3591.30 Queensland Fruit Fly Eradication Area Title 3 CCR Section 3445 Queensland Fruit Fly Interior Quarantine 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 adopting CCR Section 3445 Queensland Fruit Fly Interior Quarantine and Section 3591.30 Queensland Fruit Fly Eradication Area is to make permanent the eradication area for the Queensland Fruit Fly (QFF) in California in Ventura County and an interior quarantine so an area with an infestation of QFF can be quarantined.

This will allow targeted actions for eradication of QFF when found and reduce the chance of allowing natural and artificial dispersal and the subsequent spread of the pest in California. Any necessary eradication and quarantine actions taken by the Department will be in cooperation with the USDA and the affected county agricultural commissioners.

The factual basis for the determination by the Department that the adoption of Section 3445 and 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. The effect of the regulations provided authority for the State to conduct eradication and quarantine activities against QFF beginning on 9/12/2023 and expiring on 3/11/2024.

QFF is a major agricultural pest within Australia and areas of artificial introduction, and many of its host plants are grown in California. To begin effective eradication activities and to prevent QFF from spreading throughout California, the Department must begin eradication and interior quarantine activities in Ventura County. Therefore, the Department proposes to make permanent the emergency regulations to address this issue and allow for eradication and interior quarantine of this pest through targeting the correct host plants.

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, both which 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 United States Department of Agriculture (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**

Section 3591.30 (a) outlines that areas that QFF is known to exist will be an eradication area, and the area of the state that recently had QFF find is named: Ventura County. This section lets the public know where the eradication area will be and can be updated if additional QFF are found.

In Section 3591.30 (b)(1), the host list has been created using the USDA National Exotic Fruit Fly Detection Trapping Guidelines. 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 are listed:

| 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 |

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| <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                |

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| <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.)<br>Dubard                                 |                      |
| <i>Plinia cauliflora</i> (Mart.) Kausel   | 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.<br><i>nucipersica</i> (Suckow) C.K. Schneid. | nectarine            |
| <i>Prunus simonii</i> Carriere  | apricot plum         |
| <i>Psidium acutangulum</i> DC.  |                      |
| <i>Psidium cattleyanum</i> Sabine   | cattley guava        |

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| <i>Psidium cattleyanum</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>Pyraluma 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 x loganobaccus</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.   | 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 xheilbornii</i> (V.M. Badillo) V.M. Badillo              | babaco              |
| <i>Vitis vinifera</i> L.   | Common grape        |
| <i>Ximenia americana</i> L.  | false sandalwood    |
| <i>Ziziphus jujuba</i> Mill.   | Chinese jujube      |
| <i>Ziziphus mauritiana</i> Lam.  | Chinese-apple       |

Two host plants have been edited since the emergency was adopted, *Solanum lycopersicum* L. var. *lycopersicum* has been shortened to *Solanum lycopersicum* L. and

European grape is now common grape. Correcting these hosts to more common spellings and names will help the public easily understand what potential hosts are for these pests. In Section 3591.30 (b)(2), soil or planting media within the drip area of plants producing, or which have produced, host fruit is also included. If not treated as a host, soil and planting media can host larva and QFF.

In Section 3591.30 (c) the means and methods that can be used to eradicate and control QFF are listed. These include:

- (1) The use of insecticides, chemicals, or other materials as spray, dust, bait or in any other form as often as necessary to effect control or eradication.
- (2) The removal and destruction of hosts if such action is the only practical way of eliminating the infestation.
- (3) The searching for all stages of QFF by visual inspection, the use of traps, or any other means.
- (4) The removal and destruction of abandoned or unwanted hosts in any stage of development.
- (5) The importation, rearing, liberation, and fostering of parasites and predators which attack QFF.
- (6) The importation, rearing, or liberation of sterile forms of QFF.

It is necessary to immediately perform these activities and eradication treatments to prevent spread of the QFF to non-infested areas and to protect California's agricultural industry and urban environment. Treatment activities against the fly will begin upon the notification of affected parties. Though eradication does not include aerial treatments, residents are notified in writing at least 48 hours in advance of any treatment in accordance with the Food and Agricultural Code (FAC) Section 5771 – 5780.

### **Section 3445**

Title 3 CCR Section 3445(a) identifies that the pest subject to the quarantine is Queensland

fruit fly, (*Bactrocera tryoni*), which is necessary for the quarantine requirements to be properly applied.

Title 3 CCR Section 3445(b) establishes that an area shall be designated as a quarantine area when an infestation is present, the local California county agricultural commissioner (CAC) has been notified and requests the quarantine, the area description is posted to the Department's website and that any interested party may receive notification, including through a list serve option. To establish a quarantine there is a need to communicate with the local affected CAC(s) and other interested parties and provide a boundary description. This subsection meets those needs.

Title 3 CCR Section 3445(b)(1) establishes when an infestation or satellite infestation is present, including whether the area is undergoing sterile insect release to eradicate an infestation. There is a need for the CAC(s) and other interested parties to understand what constitutes an incipient infestation and what may trigger an expansion. Title 3 CCR Section 3445(b)(1)(A) establishes when an infestation is present. Title 3 CCR Section 3445(b)(1)(B) establishes when a satellite infestation is present and may expand the quarantine area. These subsections reflect the current national standard established by the USDA which is internationally accepted by our trading partners.

Title 3 CCR Section 3445(b)(2) establishes a minimum radius of 4.5 miles surrounding qualifying detection sites as the epicenter used under Title 3 CCR Section 3445(b)(1)(A) for qualifying detections, the number of pest detections needed to trigger a quarantine area designation, that known mapping features be used when possible and that imaginary lines may be used with or without latitude and longitude points. There is a need for the CAC(s) and other interested parties to understand how the size and boundary line of a quarantine area is determined. This subsection reflects the current national standard established by the USDA and it is also an internationally accepted standard.

Title 3 CCR Section 3445(b)(3) establishes that any interested party may appeal the



quarantine area designation and the process to do so. There is a need to have continued opportunity for both local and public input on the Department's regulatory measures. This subsection provides that opportunity and the contact information to do so.

“ ‘Emergency’ means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare” per GC Section 11342.545. If a state agency makes a finding that the adoption of a regulation is necessary to address an emergency, the regulation may be adopted as an emergency regulation per GC Section 11346.1(b)(1). It is necessary to continue to recognize the emergency nature in this proposed quarantine regulation. Therefore, it is necessary that any appeal of an area designation be held to a high standard, and this is achieved through requiring the appeal to contain clear and convincing evidence. The Office of Administrative Law has up to 10 days to render its decision regarding a proposed emergency action. This subsection provides the same timeframe.

Title 3 CCR Section 3445(b)(4) establishes the duration of the quarantine. There is a need for the CAC(s) and other interested parties to understand the justification for the length of the quarantine. Three life cycles without detections of a fruit fly life stage is the current national standard for a quarantine's length established by the USDA; it is also an internationally accepted standard.

Title 3 CCR Section 3445(b)(5) establishes the life cycle of QFF. It is necessary to understand the biology of the fly in order to determine when life cycles have been completed. This subsection establishes the scientifically known life cycle of QFF that is currently recognized by the USDA and is also internationally accepted.

Title 3 CCR Section 3445(c) establishes the articles and commodities covered by the regulation. Title 3 CCR Section 3445(c)(1) establishes that soil within the dripline of plants producing, or which have produced host fruit, vegetables, or berries is regulated. QFF attacks the host fruit, vegetables, or berries by laying eggs; these mature into larvae, and

the larvae tunnel out of the host and drop into the soil to pupate, then emerge from the soil as adults. Moving soil contaminated with larvae or pupae to an uninfested area could lead to a new infestation. Title 3 CCR Section 3445(c)(2) establishes that other products, articles or means of conveyance may be regulated when it is determined by the Secretary or CAC that they may pose a danger of spreading live life stages of QFF; they may be regulated when the relevant parties have been so notified. The methods of notification are listed in the regulatory text. QFF is an exotic pest and has not been tested against all possible hosts. California could support a new host that QFF attacks that is not a currently recognized host, as happened when QFF was introduced into New Caledonia. A trailer could have contained host fruit and the QFF larvae could have dropped out and pupated on the trailer floor. In both these cases there would be a threat of moving live life stages of QFF. There are many other possible permutations of different scenarios that necessitate a potential broad restriction. All of the above subsections are necessary to prevent the movement of live QFF life stages from a quarantined area. Human assisted movement is the primary way new infestations are begun over long distances.

Title 3 CCR Section 3445(d) establishes the quarantine restrictions for the articles and commodities covered in regulation. Title 3 CCR Section subsection 3445(d)(1) establishes that, at the wholesale level, articles and commodities covered in subsection (c) are prohibited movement within or from the area under quarantine and the exceptions. This is necessary to prevent the further spread of the QFF. Title 3 CCR Section subsection 3445(d)(1)(A) establishes that the article or commodity covered can move if treated in a manner to eliminate QFF, it is transported in a manner to preclude exposure to QFF, and it is accompanied by a written certificate issued by an authorized State or county agricultural official affirming compliance with this subsection. Title 3 CCR Section 3445(d)(1)(B) establishes that a regulated article or commodity can move if it is moving for treatment for QFF or processing in a manner to eliminate to QFF and, it is accompanied by a written certificate issued by an authorized State or county agricultural official affirming such movement has been authorized under this subsection. At the wholesale level, businesses dealing with a large volume of host material need to know how to obtain host commodities

from others within the regulated area. Additionally, some wholesalers may have growers under contract within the regulated area and need to know how to move the product for treatment or processing. These two subsections are necessary and provide the clarity for how this is accomplished.

Title 3 CCR Section subsection 3445(d)(2) establishes that 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 certain restrictions. It is necessary to establish separate restrictions for the wholesale movement of host commodities produced outside the quarantine area. It is a standard industry practice to use shipping documents for deliveries and this subsection authorizes utilization of that practice. Host material produced outside the quarantine area does not pose a potential pest risk until it moves within the quarantine area. Therefore, it is necessary to mitigate the potential pest risk to prevent the artificial movement of QFF life stages. Title 3 CCR Section subsection 3445(d)(2)(A) establishes compliance with the regulation when the article or commodity is moving directly through the quarantine area without delay by a direct route and it is safeguarded. Title 3 CCR Section subsection 3445(d)(2)(B) establishes compliance with the regulation when 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 the QFF. The danger from adult female QFF laying eggs only exists after the morning warms and ends after sunset when the flies are at rest. Title 3 CCR Section 3445(d)(2)(C) establishes compliance with the regulation when the article or commodity is destined for a commercial processing facility. Commercial processing eliminates any QFF pest risk, and no additional safeguarding is needed.

Title 3 CCR Section 3445(d)(3) establishes that, at the retail level for commercial articles and commodities covered, all that is needed by the person in possession is a sales receipt

or comparable document to be in compliance with the regulation. This is a standard industry practice and ensures the host material originated from a certified source without being overly burdensome on interested parties.

Title 3 CCR Section 3445(d)(4) establishes that articles and commodities covered which have been noncommercially produced within the area under quarantine, including “backyard” production, are prohibited movement from the premises were grown except under written authorization of the Department or CAC. Sharing home-produced fruits and vegetables can be both a family and cultural tradition. In general, within the quarantine area, noncommercial host commodities pose the highest risk of being infested with QFF. There are regulatory options for this plant material to be certified if the person in possession chooses to pursue them. This subsection meets the need to prohibit the movement of the highest risk articles and commodities covered unless such movement is officially authorized.

Title 3 CCR Section 3445(d)(5) establishes that 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. During past quarantine projects, investigations determined there were instances of people moving backyard fruit produced within the quarantine area for distribution to neighbors inside and outside the quarantine area but when initially questioned stated the fruit was moved into the quarantine area from a source outside the area. This subsection provides for the sharing of berries, fruits and vegetables which do not pose a pest risk.

Title 3 CCR Section 3445(d)(6) establishes that 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 in a manner that precludes exposure to QFF. No commodity covered shall be held for sale or sold from a truck, trailer, or other mobile vehicle. There are many open-air businesses which may display host berries, fruits, and vegetables for sale. Adult female QFF are mobile by nature and can “sting” and

lay eggs in exposed host commodities. Therefore, to prevent host commodities from becoming infested while on display, the commodities need to be safeguarded. This performance standard can be successfully accomplished including the use of “air curtains” in entry ways, keeping the host commodities cold so the female QFF will not attempt to sting it, covering the host commodities with plastic tarps or fine mesh screens, or placing transparent solid lids over the display containers, etc. In past quarantine projects, the Department has experienced significant issues with mobile vendors of host berries, fruits, and vegetables. These vendors tend to move frequently into and out of the quarantine area and within the quarantine area with the host commodities fully exposed. Encountering a mobile vendor with exposed host commodities leads to the host commodities being confiscated; this creates tension between the vendors and the regulatory staff. To prevent the unnecessary confiscation of host commodities and increase public safety for the regulatory officials, it is necessary to ban the sale of host commodities from mobile vendors within the quarantine area. Quarantine regulatory officials map the quarantine area in the different languages used in the area and distribute the maps directly to the mobile vendors as community outreach.

### Current Laws & Regulations

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 5301, provides that the Secretary may establish, maintain, and enforce such quarantine regulations as they deem necessary to protect the agricultural industry of this state from pests. The regulations may establish a quarantine at the boundaries of this state or elsewhere within the state.

Existing law, FAC Section 5302, provides that the Secretary may make and enforce such regulations as they deem necessary to prevent any plant or thing which is, or is liable to be,

infested or infected by, or which might act as a carrier of, any pest, from passing over any quarantine line which is established and proclaimed pursuant to this division.

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.

Existing law, FAC Section 5764, provides that if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment.

Expenditures, if any, allocated for the replacement nursery stock shall not exceed an amount which is budgeted for the purpose or approved by the Director of Finance.

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

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 adoption of this regulation provides the necessary regulatory authority 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 adoption of this regulation benefits the citrus, stone fruits, and tomato (nursery, fruit for domestic use and exports, packing facilities) and the environment (urban landscapes) by providing the Department an eradication and quarantine program 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 tomato 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 adoption 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 adoption of this regulation may benefit homeowners who grow host material for consumption and/or ornamentals in various rural and urban landscapes. By providing a basis to prevent infestation with QFF and thereby preventing damage to hosts, the regulation eliminates any future need for hosts to be treated 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 adoption 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 Department has been conducting eradication and quarantine actions throughout the State for over 30 years without causing significant creation or elimination of jobs. 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 Department has been conducting eradication and quarantine actions throughout the State for over 30 years without causing significant creation of new businesses. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses in the State of California.

*The Expansion of Businesses in California*

The Department has been conducting eradication and quarantine actions throughout the State for over 30 years without causing significant impact on 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 the State of 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 3445 and 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 adoption of Sections 3445 and 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 adoption 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*

The implementation of this regulation will aid in preventing increased costs to the consumers of host materials and increased pesticide usage by homeowners and others. If an infestation of QFF is not eradicated or prevented from spreading due to a delay in eradication and quarantine efforts, then homeowners and community gardeners would be negatively impacted.

*Potential Impacts to General Fund and Welfare*

The proposed regulations do not have immediate or definitive impact to the general fund or general welfare. Rather, it would facilitate a fast and effective response if QFF is detected in the new designated eradication and quarantine area. 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.

The Department is the only agency which can implement eradication and quarantine areas. 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.

### Assessment

The regulations are designed to prevent or minimize the spread of QFF by adopting Section 3445 and Section 3591.30. The Department has made an assessment that the adoption 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 (6) is not expected to benefit workers' safety.

The health and welfare of California residents: The proposed action will benefit the health and welfare of California residents by preventing increased costs to the consumers of host materials and increased pesticide usage.

The state's environment: The proposed action will benefit the environment (urban landscapes) by providing the Department an eradication program to prevent the artificial spread of the QFF over short and long distances.

### 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 the Animal and Plant Health Inspection Service (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 adoption of Sections 3445 and 3591.30:

National Exotic Fruit Fly Detection Trapping Guidelines, United States Department of Agriculture, Queensland fruit fly (*Bactrocera tryoni*) pages A-46 thru A-51, June 2015

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

Governor's Office of Emergency Services, State of California Emergency Plan, October 1, 2017, pages 132-133

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.