

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3589, Subsection (a)

Japanese Beetle Eradication Area

INITIAL STATEMENT OF REASONS/
POLICY STATEMENT OVERVIEW

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

This regulation is intended to address the obligation of the Department of Food and Agriculture to protect the agricultural industry from the movement and spread of injurious plant pests within California.

Specific Purpose and Factual Basis

The specific purpose of Section 3589 is to provide authority to the State to eradicate infestations of *Popillia japonica* from within the declared eradication area by the established means and methods.

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

On July 12, 2011, two adult Japanese beetle, a male and a female, were unexpectedly trapped in the Fair Oaks area of Sacramento County. Japanese beetle is one of the most destructive insect pests in the United States. The adult beetle is a gregarious and general feeder that causes serious damage to fruits, truck and garden crops, ornamental herbaceous garden plants, ornamental shrubs, trees and vines, and many other urban plants. This unexpected occurrence of Japanese beetle in the Fair Oaks area is indicative of an incipient infestation existing in the Fair Oaks area of Sacramento County.

Intensive trapping is triggered when one or more beetles are found in a trap. The objective is to determine the extent and epicenter of an infestation. The trap density is increased to 50 traps per-square-mile within one-square-mile core surrounding each adult find. The trapping density is five traps/mile in a two-mile buffer area surrounding the core. Traps near the core are monitored daily for a week and weekly thereafter. Due to the location of the infestation and its close proximity to Placer County, some of the required delimitation trapping will occur in Placer County. Therefore it is also necessary to Placer County to the regulation.

Both as adults and as grubs (the larval stage), Japanese beetles are destructive plant pests. Adults feed on the foliage and fruits of several hundred species of fruit trees, ornamental trees, shrubs, vines, and field and vegetable crops. Among the plants most commonly damaged are rose, grape, crabapple, turf grass and beans. Adults leave behind skeletonized leaves and large, irregular holes in leaves. The grubs develop in the soil, feeding on the roots of various plants and grasses and often destroying turf in lawns, parks, golf courses, and pastures. Today, the Japanese beetle is the most widespread turf-grass pest in the United States. Efforts to control the larval and adult stages are estimated to cost more than \$460 million a year. Losses attributable to the larval stage alone have been estimated at \$234 million per year—\$78 million for control costs and an additional \$156 million for replacement of damaged turf. Additionally, as a general feeder, the Japanese beetle likely poses a serious threat to the general environment and some of California's threatened and endangered species.

Several states within the United States maintain quarantines in an effort to prevent the introduction or spread of this serious pest through the movement of nursery stock or other carriers. The National Plant Board is comprised of representatives of all state agriculture agencies and has a Japanese Beetle Harmonization Plan. The plan was created to assure that the pest risks associated with movement of plant material were acceptably managed and to facilitate the orderly marketing of nursery stock and other regulated commodities between states. Adopted by the National Plant Board on August 19, 1998, it was most recently revised on April 12, 2011.

The United States Department of Agriculture still considers this pest serious enough to maintain a Japanese Beetle Program to prevent the dissemination of adult beetles through the movement of airplanes and air cargo from infested states during the Japanese beetle flight season. The State of California has a Japanese Beetle Exterior Quarantine, Section 3280, Title 3, California Code of Regulations to help mitigate the introduction of this beetle into California. The last time the Department adopted a Japanese Beetle Interior Quarantine (Section 3420) was in 1983 and regulated the Orangevale area of Sacramento County. This regulation was subsequently repealed after the beetle was successfully eradicated.

The effect of the amendment of this regulation was to implement the State's authority to perform specific survey, control and eradication activities against Japanese beetle in Placer and Sacramento counties. Any eradication or control actions undertaken by the Department will be in cooperation and coordination with federal, city, county, and other state agencies as deemed necessary by the Department to ensure no long-term significant public health or environmental impacts. To prevent the spread of the Japanese beetle to non-infested areas in order to protect California's agricultural industry and environment, it was necessary to begin eradication activities against the Japanese beetle immediately. Therefore, it was necessary to amend this regulation as an emergency action.

California Environmental Quality Act

"Specific actions necessary to prevent or mitigate an emergency" are exempt from the California Environmental Quality Act [CEQA]. Public Resources Code Section 21080(b)(4). "Emergency means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services." Public Resources Code Section 21060.3.

Statutory Exemption

Title 14, California Code of Regulations Section 15269, subdivision (c) "Specific actions necessary to prevent or mitigate an emergency."

Categorical Exemption

Title 14, California Code of Regulations, Section 15308. "Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment."

For the reasons set forth in this document, this constitutes a specific act necessary to prevent or mitigate an emergency and is also an action required for the preservation of the environment.

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

The Department of Food and Agriculture has determined that Section 3589(a) does not impose a mandate on local agencies or school districts and no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no savings or increased costs to any state agency, 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, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the amendment of 3589(a).

The cost impact of the changes in the regulations on private persons and businesses are expected to be insignificant.

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. The Department's

determination that the action will not have a significant statewide adverse economic impact on business was based on the following:

The emergency amendment of Section 3589(a) provides authority for the Department to conduct eradication activities against Japanese beetle within Placer and Sacramento counties and there are no known private sector cost impacts.

Assessment

The Department has made an assessment that the repeal of the regulation would not 1) create or eliminate jobs within California; 2) create new business or eliminate existing businesses with California; or 3) affect the expansion of businesses currently doing business with California.

Alternatives Considered

The Department of Food and Agriculture 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 and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department relied upon the following studies, reports, and documents in the proposed adoption and subsequent amendment of Section 3434:

California Pest and Damage Record #s 1429235 and 1496270.

“Action Plan for Japanese Beetle, *Popillia japonica* (Newman),” May 2000, California Department of Food and Agriculture, Plant Health and Pest Prevention Services (nine pages).

“Japanese Beetle Program Manual for Airports,” December 2004, United States Department of Agriculture, Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Plant Protection and Quarantine.

“U.S. Domestic Japanese Beetle Harmonization Plan,” revised on April 12, 2011.