CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations
Section 3591.11 Caribbean Fruit Fly Eradication Area
Section 3422 Caribbean 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 amendment to Title 3, California Code of Regulations (CCR) Section 3591.11 Caribbean Fruit Fly Eradication Area and adopt Title 3 CCR Section 3422 Caribbean Fruit Fly Interior Quarantine which adds Orange County to the list of eradication areas, creates an interior quarantine, and updates the host list for Caribbean fruit fly (CFF) to match the current United States Department of Agriculture (USDA) host list for this agricultural pest.

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 3591.11 Caribbean Fruit Fly Eradication Area and adopting Title 3 CCR Section 3422 Caribbean Fruit Fly Interior Quarantine is to add Orange County to the list of eradication areas, create an interior quarantine, and update the host list for Caribbean fruit fly (CFF) to match the current United States Department of

Agriculture (USDA) list.

This will allow targeted actions for eradication of CFF in Orange County, as necessary, 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 3422 amendment of Section 3591.11 is necessary is as follows:

On August 20, 2024, an adult unmated female CFF was confirmed in the Santa Ana area of Orange County. The detection of CFF is indicative of an incipient infestation of CFF in this area. Therefore, the Department adopted an emergency amendment to address this issue immediately and allow for eradication and interior quarantine of this pest. The effect of the amendment provided authority for the State to conduct eradication and quarantine activities against CFF beginning on 9/18/2024 and expiring on 3/17/2025.

CFF is an insect pest which attacks the fruit of various plants that are part of California's economic and agricultural landscape, including apples, citrus, peaches, and tomatoes. 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. Pupae may be found in fruit, but normally drop out and are found in soil. The economic impact of CFF becoming established in California could be severe. In 2022, exports of two CFF hosts, tomatoes and peaches, were valued at over $682 and $149 million, respectively.

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, states, or countries enact a quarantines against California products which can host and carry the fly.

CFF has the capability of causing significant irreparable harm to California's agricultural industry and some possible adverse environmental impacts since this species could possibly find native hosts. Should the Department fail to make permanent Title 3 CCR Section 3591.11 and adopt Section 3422, CFF could cause direct catastrophic losses to California's affected agricultural industries and significant harm to the State's economy through cost impacts or prohibitions to interstate commerce and exports of host commodities.

Project Description

Section 3591.11

In Title 3 CCR Section 3591.11 (a), Orange County will be added to the list of counties that comprise the CFF eradication area.

In Title 3 CCR Section 3591.11 (b)(1), the host list will be updated using the current USDA list, which involves adding species and correcting spelling of species currently on the list. Having a host list with the most accurate information allows the Department to more effectively carry out eradication activities. Scientific names will now be listed in alphabetical order with common names in the second column. This is the preferred format of the USDA and the majority of the Department's host lists. Common names are always somewhat arbitrary and local. The USDA list often includes all possible regional common names that they could discover.

The following species are being added:

Scientific Name	***Host Name***
Ananas comosus (L.)	Pineapple
Coffea arabica L.	Arabian coffee, arabica coffee, coffee, coffeetree

Eugenia coronata Schumach.	Spanish stopper, boxleaf stopper, red stopper, Surinam cherry
Eugenia involucrata DC.	Cherry-of-the-Rio Grande
Ficus altissima Blume	Counciltree, false banyan, lofty fig
Garcinia intermedia (Pittier) Hammel	Lemon drop mangosteen, monkey fruit
Garcinia xanthochymus Hook. f.	Gambogetree, sour mangosteen
Malpighia emarginata DC.	Acerola, Barbados-cherry, West Indian-cherry
Manilkara roxburghiana (Wight) Dubard	Bulletwood
Myrcianthes fragrans (Sw.) McVaugh	Twinberry
Plinia cauliflora (Mart.) Kausel	Brazilian grapetree, jaboticaba
Pseudanamomis umbellulifera (Kunth) Kausel	Monos plum
Pyrus × *lecontei* Rehder	Le Conte pear
Solanum lycopersicum L. var. *lycopersicum*	Tomato
Swietenia mahagoni (L.) Jacq.l	Cuban mahogany, Spanish mahogany, West Indian mahogany
Terminalia muelleri Benth.	Australian-almond
Ximenia americana L.	False sandalwood, tallownut, tallowwood, yellow-plum

The amendment is correcting the names of the following host species:

Scientific Name	***Host Name***
Annona glabra L.	Alligator-apple, corkwood, cow-apple, mangrove anona, monkey apple, pond-apple
Annona squamosa L.	Custard-apple, sugar-apple, sweetsop
Atalantia citroides Pierre ex Guillaumin	Cochin China, Atalantia
Averrhoa carambola L.	Carambola, five-corner, starfruit
Blighia sapida K. D. Koenig	Akee, akee-apple
Canella winterana (L.) Gaertn.	Wild cinnamon
Capsicum frutescens L.	Bird pepper, hot pepper, red chili, spur pepper, Tabasco pepper
Carica papaya L.	Papaya, pawpaw
Carissa macrocarpa (Eckl.) A. DC.	Natal-plum
Casimiroa edulis La Llave & Lex.	Mexican-apple, white sapote
Chrysobalanus icaco L.	Coco-plum
Chrysophyllum oliviforme L.	Damson-plum, stainleaf, wild star-

	apple
Citrus ×*aurantiifolia* (Christm.) Swingle	Egyptian lime, Indian lime, Key lime, lime, Mexican lime, sour lime, West Indian lime
Citrus ×*aurantium* L.	Bitter orange, clementine, Seville orange, sour orange, tangelo
Citrus ×*aurantium* L. var. *sinensis* L.	Blood orange, navel, navel orange, orange, sweet orange, Valencia orange
Citrus ×*floridana* (J. W. Ingram & H. E. Moore) Mabb.	Limequat
Citrus japonica Thunb.	Changshou kumquat, golden-bean kumquat, Hong Kong kumquat, marumi kumquat, meiwa kumquat, nagami kumquat, oval cumquat, oval kumquat, round cumquat, round kumquat
Citrus ×*limon* (L.) Osbeck	Balotin bergamot, Canton lemon, chine lemon, Chinese dwarf lemon, cravo lemon, dwarf lemon, hime lemon, jaune orange, lemandarin, lemon, lumia of the Mediterranean, mandarin lime, marmalade lime, Meyer lemon, Otaheite orange, Rangpur lime, red lemon, sweet lemon, sweet lime
Citrus maxima (Burm.) Merr.	Pomello
Citrus ×*microcarpa* Bunge	Calamandarin, calamondin, China-orange, golden-lime, musk-lime, Panama-orange, Philippine-lime
Citrus ×*nobilis* Lour.	King of Siam, king orange, tangor
Citrus nobilis × *Fortunella* sp.	N/A
Citrus ×*paradisi* Macfad.	grapefruit
Citrus reticulata Blanco	Cleopatra mandarin, dancy tangerine, honey mandarin, Italian tangerine, jimikan mandarin, King of Siam, king orange, Mediterranean mandarin, Satsuma mandarin, Satsuma orange, sour mandarin, spice mandarin, sunki mandarin, tachibana orange, tangerine, tangor, temple orange, Tim kat mandarin, willow-leaf mandarin

Clausena lansium (Lour.) Skeels	Chinese clausena, wampi
Coccoloba uvifera (L.) L.	Jamaican kino, platterleaf, sea-grape, shore sea-grape
Diospyros blancoi A. DC.	Mabola-tree, velvet persimmon, velvet-apple
Diospyros kaki Thunb.	Chinese persimmon, Japanese persimmon, kaki persimmon, Oriental persimmon
Dovyalis caffra (Hook. f. & Harv.) Warb.	Kei-apple
Dovyalis hebecarpa (Gardner) Warb.	Ceylon-gooseberry
Drypetes lateriflora (Sw.) Krug & Urb.	Milk bark tree, Guiana plum
Eriobotrya japonica (Thunb.) Lindl.	Japanese-medlar, loquat
Eugenia brasiliensis Lam.	Brazil-cherry
Eugenia ligustrina (Sw.) Willd.	Birchberry, privet stopper
Eugenia luschnathiana (O. Berg) Klotzsch ex B. D. Jacks.	Pitomba
Eugenia uniflora L.	Brazil-cherry, Surinam-cherry
Ficus carica L.	Common fig, fig
Flacourtia indica (Burm. f.) Merr.	Batoko-plum, governor's-plum, Indian-plum, Madagascar-plum
Garcinia aristata (Griseb.) Borhidi	Cuban mangosteen
Garcinia livingstonei T. Anderson	African mangosteen
Litchi chinensis Sonn.	Lychee
Malpighia glabra L.	Escobillo
Malus sylvestris (L.) Mill.	Crab apple, European crab apple
Mangifera indica L.	Common mango, Indian mango, mango
Manilkara jaimiqui (C. Wright) Dubard subsp. *emarginata* (L.) Cronquist	Wild dilly, wild sapodilla
Manilkara zapota (L.) P. Royen	Chicle, chico sapote, naseberry, sapodilla, sapote
Momordica charantia L.	Balsam-apple, balsam-pear, bitter gourd, bitter-cucumber, bitter-melon, carilla gourd
Muntingia calabura L.	Calabur-tree, capulin, Jamaica-cherry, Panama-berry, strawberry-tree
Murraya paniculata (L.) Jack	Barktree, Burmese-boxwood, China-box, Chinese-box, Chinese-boxwood, Chinese-myrtle, cosmetic-bark-tree, Hawaiian-mock orange, jasmine-

	orange, mock orange, orange-jasmine, satinwood
Myrciaria glomerata O. Berg	Red cabeludinha, red-haired jaboticaba
Persea americana Mill.	Avocado
Phoenix dactylifera L.	Date, date palm
Pimenta dioica (L.) Merr.	Allspice, clover-pepper, Jamaica-pepper, pimento
Pouteria campechiana (Kunth) Baehni	Canistel, eggfruit-tree, yellow sapote
Prunus persica (L.) Batsch var. *persica*	Peach, common peach
Prunus persica (L.) Batsch var. *nucipersica* (Suckow) C. K. Schneid.	Nectarine
Psidium cattleyanum Sabine	Cherry guava, strawberry guava
Psidium cattleyanum Sabine var. cattleyanum	Cattley guava, purple guava, purple strawberry guava, red strawberry guava, Strawberry guava
Psidium friedrichsthalianum (O. Berg) Nied.	Costa Rican guava
Psidium guajava L.	Common guava, guava, lemon guava, yellow guava
Punica granatum L.	Pomegranate
Pyrus communis L.	Pear
Pyrus pyrifolia (Burm. f.) Nakai	Asian pear
Rubus hybrid	Marionberry, Olallieberry, youngberry
Rubus idaeus L.	Raspberry, red raspberry
Severinia buxifolia (Poir.) Ten.	Chinese box-orange
Spondias dulcis Sol. ex Parkinson	Ambarella, golden-apple, June-plum, Otaheite-apple, Polynesian-plum, yellow-plum
Spondias mombin L.	Hog-plum, Jamaica-plum, mombin, yellow mombin
Spondias purpurea L.	Hog-plum, purple mombin, red mombin, Spanish-plum
Synsepalum dulcificum (Schumach.) Daniell	Miracle-fruit, miraculous-berry
Syzygium cumini (L.) Skeels	Java-plum, Malabar-plum, Portuguese-plum, rose-apple
Syzygium jambos (L.) Alston	Malabar-plum, rose-apple, yambo
Syzygium malaccense (L.) Merr. & L. M. Perry	Malay-apple, mountain-apple, Otaheite-apple, pink satin-ash, rose-apple
Syzygium samarangense (Blume) Merr. & L. M. Perry	Java-apple, Semarang rose-apple, wax jambu

Terminalia catappa L.	Country-almond, Indian-almond, Malabar-almond, sea-almond, tropical-almond
Trevesia palmata (Roxb. ex Lindl.) Vis.	Snowflakeplant, snowflaketree
Triphasia trifolia (Burm. f.) P. Wilson	Limeberry, trifoliate limeberry, triphasia

The following species are being removed:

Scientific Name	**Host Name**
Actinidia chinensis	Kiwi
Annona cherimola × *A. squamosa*	Atemoya
Bischofia javanica	Autumn Maple Tree
Casearia hirsuta	Wild Coffee
Chrysophyllum cainito	Star Apple
Dimocarpus longan	Longan, except commercial fruit
Diospyros virginiana	Persimmon
Eugenia aggregata	Cherry of the Rio Grande
Eugenia pyriformis Cambess. var. uvalha	Jamboisier Rouge
Malus pumila	Paradise Apple
Prunus domestica	Plum
Pyrus pyrifolia × *Pyrus communis*	Kieffer Pear
Rheedia aristata	

The Department has corrected some plant common names to reflect those commonly used within the state. This removes potential sources of confusion by the public. Based on consulting the primary state botanist, some superfluous common names and others that are confusing have been removed, as they are not used in California nor used in the sense listed.

Scientific Name	Common Name	Change from Emergency
Citrus ×paradisi Macfad.	grapefruit	Grapefruit was previously listed as "*Citrus x aurantium* L. var. *racemosa* (Risso) ined."

Citrus maxima (Burm.) Merr.	pomelo	Pomelo was previously listed as "*Citrus x aurantium* L. var. *racemosa* (Risso) ined."
Casimiroa edulis La Llave & Lex.	~~Mexican-apple, white~~ White sapote	Common names that are not used in California have been removed.
Carica papaya L.	Papaya~~, pawpaw~~	Common names that are not used in California have been removed.
Annona glabra L.	~~Alligator-apple, corkwood, cow-apple, mangrove anona, monkey apple,~~ pond-apple	Common names that are not used in California have been removed.

Section 3422

Title 3 CCR Section 3422(a) identifies that the pest subject to the quarantine is Caribbean fruit fly (*Anastrepha suspensa*), which is necessary for the quarantine requirements to be properly applied.

Title 3 CCR Section 3422 (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 of the infestation 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 3422(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

3422(b)(1)(A) establishes when an infestation is present. Title 3 CCR Section 3422(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 3422(b)(2) establishes a minimum radius of 4.5 miles surrounding qualifying detection sites as the epicenter used under Title 3 CCR Section 3422(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 California Agricultural Commissioners 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 recognized standard accepted by our trading partners.

Title 3 CCR Section 3422(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 3422(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 3422(b)(5) establishes the life cycle of CFF. It is necessary to understand the biology of the fly in order to determine when life cycles have been completed. Without this information it would not be possible to determine when the threat from the pest is over and the infestation risk has ended. This subsection establishes the scientifically known life cycle of Caribbean fruit fly that is currently recognized by the USDA and is also internationally accepted. As the life cycle is in not consistent between fruit fly species it is necessary to show how it is being determined for CFF for both the public and the Department.

Title 3 CCR Section 3422 (c) establishes the articles and commodities covered by the regulation. Title 3 CCR Section 3422(c)(1) establishes that all fruit, vegetables, pericarp of nuts, seeds, or berries listed in Title 3 California Code of Regulations Section 3591.11(b)(1) Caribbean Fruit Fly Eradication Area are covered. To avoid listing the host species multiple times, which introduces a higher chance of error as they would need to be updated in tandem when changes are made, all the species are listing in one location. Title 3 CCR Section 3422 (c)(2) establishes that soil within the dripline of plants producing, or which have produced, host fruit, vegetables, or berries is regulated. Caribbean fruit fly attacks the host fruit, vegetables, or berries by laying eggs, which mature into larvae, and the larvae tunnel out of the host and drop into the soil to pupate and 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 3422(c)(3) 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 CFF fly. They may be regulated when the

relevant parties have been so notified. The methods of notification are listed in the regulatory text. CFF is an exotic pest and has not been tested against all possible hosts. California could support a new host that Caribbean fruit fly attacks that is not a currently recognized host. A trailer could have contained host fruit and the CFF 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 CFF. There are many other possible permutations of different scenarios that necessitate a potential broad restriction. None of the restrictions will be arbitrary; all will be based on substantial evidence and are adopted to prevent infestation of California by CFF. All of the above subsections are necessary to prevent the movement of live CFF life stages from a quarantined area. Human assisted movement is the primary way new infestations are begun over long distances.

Title 3 CCR Section 3422(d) establishes the quarantine restrictions for the articles and commodities covered in regulation. Title 3 CCR Section subsection 3422(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 CFF after an incipient infestation is detected.

Title 3 CCR Section subsection 3422(d)(1)(A) establishes that the article or commodity covered can move if treated in a manner to eliminate CFF, it is transported in a manner to preclude exposure to CFF, and it is accompanied by a written certificate issued by an authorized State or county agricultural official affirming compliance with this subsection. There are multiple ways to treat articles and commodities for this pest and to limit any potential host's exposure through packaging or treating with substances that prevent infestation. The most effective method will depend onthe identity of the article or commodity in question and how it is being transported. With Title 3 CCR Section3442 (d)(1)(B) the Department establishes that a regulated article or commodity can move if it is moving for treatment for CFF or processing in a manner to eliminate CFF and it is also accompanied by a written certificate issued by an authorized State or county agricultural official affirming such movement has been authorized under this subsection. There are multiple ways to treat

articles and commodities for this pest and to limit any potential host's exposure through packaging or treating with substances that prevent infestation. What is most effective will depend on what the articles and commodities is and how it is being transported. 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 to provide for how this is accomplished.

Title 3 CCR Section subsection 3422(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 CFF life stages. Title 3 CCR Section 3422(d)(2)(A) describes means of compliance with the regulation when the article or commodity is moving directly through the quarantine area without delay by a direct route and is safeguarded. Title 3 CCR Section 3422(d)(2)(B) describes means of 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 CFF. The danger from adult female CFF laying eggs only exists from the morning to sunset, when the flies are at rest. Title 3 CCR Section 3422(d)(2)(C) establishes compliance with the regulation when the article or commodity is destined for a commercial processing facility, and no additional safeguarding is needed.

Title 3 CCR Section 3422(d)(3) establishes that, at the retail level for commercial articles and commodities covered, the person in possession must produce 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 3422(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 where 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 CFF. 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 3422(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 3422(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 CFF. 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 CFF 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 CFF 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.

All of the above subsections are necessary to ensure:

- the targeted pest is known to the public
- the processes for establishing and removing potential quarantine boundaries are easily understood, transparent, can be accomplished within a biologically timely manner, and provide an opportunity to appeal the action with cause
- the articles and commodities covered are known
- the quarantine restrictions are known

In the case of a quarantine being triggered, implementing said quarantine with localized

eradication activities minimizes or eliminates the impact of this insect pest on the surrounding environment, if the quarantine effectively regulates the actual hosts of the insect. Flora and fauna within non-agricultural ecosystems, including natural environments, will continue their existence without the quarantine as they have before this non-native pest was first detected in this county if the pest is eradicated before it spreads to native species. If the Department neglects to regulate the movement of host fruit, CFF 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. An established CFF population would likely result in increased insecticide usage in the areas affected, with potential negative impacts on non-target insects, along with the species that rely on them. Therefore, modifying the host list to reflect the current best evidence will have no environmental impact or (in the case of a quarantine being triggered) a potential positive environmental impact.

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 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.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 and 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 regulatory action will allow the Department to create an interior quarantine, add Orange County to the CFF eradication area, and update the CFF host list to be in harmony with the most current USDA list. Making these changes will help prevent the spread of CFF, which will benefit:

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

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 CFF in California through the adoption, 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 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 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 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 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 3422 and 3591.11 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 Sections 3422 and 3591.11.

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 CFF 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 amendment does not have immediate or definitive impact to the general fund or general welfare. Rather, it would facilitate a fast and effective response if CFF 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.

<u>Assessment</u>

The amendment is designed to prevent or minimize the spread of CFF by adopting Section 3422 and amending Section 3591.11. 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 CFF 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 CFF 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 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 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 Orange County, have an inaccurate host list, and have no interior quarantine for CFF. Without eradication authority to treat CFF infestations in Ventura County, San Diego, and Orange County, the Animal and Plant Health Inspection

Service (USDA APHIS) could potentially designate the entire state as infested with CFF, 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 and amendment of Sections 3422 and 3591.11:

Caribbean Fruit Fly, Anastrepha suspensa, Regulated Host List, United States Department of Agriculture. May 2024

Email from Dayna Napololllo on Wednesday, August 21, 2024 “Caribbean Fruit Fly (CFF), Orange County”

CalOES, 2017. State of California Emergency Plan. Governor’s Office of Emergency Services. October 1, 2017.

Action Plan for Caribbean Fruit Fly, California Department of Food and Agriculture, Revised April 2000

California Agricultural Statistics Review 2022-2023, California Department of Food and Agriculture, 2024, page 10

Wu, G., Terol, J., Ibanez, V. *et al*. Genomics of the origin and evolution of *Citrus*. *Nature* **554**, 311–316 (2018). https://doi.org/10.1038/nature25447