

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Adopt sections: 3591.29

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2022-0810-03

OAL Matter Type: Regular (S)

This action establishes the entire counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura as a black fig fly (*Silba adipata* McAlpine) eradication area.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2023.

Date: September 20, 2022



**Anna Thomas
Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Karen Ross, Secretary
Copy: Karen Olmstead**

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2022-0523-03	REGULATORY ACTION NUMBER 2022-0810-03	EMERGENCY NUMBER S
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California
SEP 20 2022
 1:51 PM

OFFICE OF ADMIN. LAW
 2022 AUG 10 PM 4:29

AGENCY WITH RULEMAKING AUTHORITY California Department of Food and Agriculture	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Black Fly Fly Eradication Area	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2021-0909-01E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3591.29
	AMEND
	REPEAL 3

3. TYPE OF FILING	<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
	<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11343.4) *per agency request 8/20/22*

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
	<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Karen Olmstead	TELEPHONE NUMBER 916-403-6879	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) karen.olmstead@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Kevin Masuhara	DATE
TYPED NAME AND TITLE OF SIGNATORY Kevin Masuhara, Deputy Secretary, California Dept. Food & Agriculture	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 20 2022

Office of Administrative Law

§ 3591.29. Black Fig Fly Eradication Area.

(a) Proclamation of Eradication Area. That portion of the State of California described as follows, within which black fig fly, (*Silba adipata* McAlpine) is known to exist, is hereby proclaimed to be an eradication area with respect to said pest, and as such, is amenable to the provisions of Article 4 (Sections 5761, 5762, 5763 and 5764) of Chapter 8, Part 1, Division 4, of the Food and Agricultural Code of California.

(1) Eradication Area. The entire counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.

(b) Hosts.

(1) Fruit of the following plants:

<u>Scientific Name</u>	<u>Common Name</u>
<u><i>Ficus carica</i></u>	<u>Fig</u>

(2) Any other plants determined by the director to produce fruit that is attacked by black fig fly.

(3) Soil or planting media within the drip area of plants producing, or that have produced, host fruit. The drip area is defined as the area of soil or potting mix that is likely to be dripped upon by the foliar canopy in top irrigated or rainfed plants.

(c) Means and method. The following means and methods may be used in the eradication and control of the black fig fly in the eradication area:

(1) The use of insecticides, chemicals, or other materials as spray (including soil spray treatments), dust, bait, or in any other manner, as often as necessary, to effect control or eradication.

(2) The removal and destruction of hosts, including plants of hosts, if such is a practical way of control or eradication.

(3) The searching for all stages of the fly by visual inspection, the use of traps, or any other means.

(4) The removal and destruction or other mitigation of abandoned or unwanted hosts or plants bearing or capable of bearing host-fruit.

(5) The importation, rearing, release, and fostering of parasites and predators that attack the fly.

(6) The importation, rearing, and release of sterile forms of the fly.

Note: Authority cited: Sections 407 and 5322, Food and Agricultural Code.

Reference: Sections 5761, 5762, 5763 and 5764, Food and Agricultural Code.