

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3591.2, Subsection (a)

Oriental Fruit Fly 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 3591.2 is to provide authority to the State to eradicate infestations of *Bactrocera dorsalis*, Oriental fruit fly, 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:

Oriental fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including nuts, dates, and berries), many kinds of vegetables, and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Oriental fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms which cause tissue breakdown. Damaged fruit is generally unfit for human consumption. The fly can be artificially spread by movement of hosts which are infested with the fly.

Several adult Oriental fruit flies have recently been trapped in the County of San Joaquin. On September 8, 2011 (California Pest and Damage Record (PDR #1644415), two adult wild Oriental fruit flies were unexpectedly trapped in the Stockton area. On September 10, 2011, an additional female Oriental fruit fly was trapped at the same location (PDR #390P06038520). On

September 11, 2011, another male and female were found in a trap less than one half mile from the original detection (PDR's 390P06038521 and 390P06038522) and on September 13, 2011, another male fly was trapped (PDR 390P06038525) in the Stockton area of San Joaquin County. This unexpected occurrence of Oriental fruit fly in the Stockton area meets the national and international standards that mandate immediate intensive delimitation and treatment activities in the Stockton area of San Joaquin County.

The Oriental fruit fly is a methyl eugenol attracted fruit fly. This amendment will provide authority for the State to perform specific detection, control and eradication activities against the Oriental fruit fly in San Joaquin County. This authority includes, "The searching for all stages of the fly by visual inspection, the use of traps, or any other means." It is immediately necessary to perform these activities and eradication treatments within the Stockton area of San Joaquin County to prevent spread of the fly to noninfested areas to protect California's agricultural industry and urban environment treatment activities against the fly have begun. The United States Department of Agriculture's Animal and Plant Health Inspection Service also accepts this standard as the trigger for an eradication response. The Food and Agriculture Organization of the United Nations has a similar international standard established. After the eradication trigger is met, treatments are to begin within 24-72 hours. Therefore, it was necessary to amend Section 3591. 2(a) on an emergency basis. Eradication authority is necessary for the entire San Joaquin County to prevent the expansion of the quarantine area and further costs to the area's agricultural industry.

San Joaquin County's 2010 gross host crop value includes, but is not limited to: \$54.5 million-apples, \$2.8 million-apricots, \$250 million-grapes, \$14 million-peaches, \$207 million-walnuts, \$3.8 million-cucumbers, \$12 million-peppers and \$116 million- tomatoes. The Oriental fruit fly has the capability of causing significant irreparable harm to California's agricultural industry and some possible adverse environmental impacts. Once a single Oriental fruit fly has been generally detected, specific intensive delimitation activities must be implemented immediately in order to avoid the affected area from being subject to quarantine regulation. Should the Department not take these actions; the Oriental fruit fly 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.

The amendment of this eradication regulation proclaimed San Joaquin County as an eradication area. The entire county of San Joaquin was proposed as an eradication area because it is the political division which provides the most workable eradication area boundary for exterminating an established Oriental fruit fly infestation. Fruit which may have already been moved from the infested area to another portion of the county and flies which may have already spread naturally from the infested area may have already resulted in small infestations outside the known infested area. To enable rapid treatment of these small infestations without frequent amendment of the regulation, the entire county was established as an eradication area.

This regulation provides authority for the State to perform control and eradication activities against Oriental fruit fly in San Joaquin County. To prevent spread of the fly to noninfested areas to protect California's agricultural industry, it was necessary to immediately begin treatment activities against the Oriental fruit fly. Therefore, it was necessary to amend this regulation as an emergency action.

California Environmental Quality Act

A Final Programmatic Environmental Impact Report (PEIR), "The Exotic Fruit Fly Eradication Program Utilizing Male Annihilation and Allied Methods," was prepared by the Department as the lead agency under the California Environmental Quality Act (CEQA). The PEIR was assigned State Clearinghouse Number 90021212. The PEIR addresses the potential environmental impacts that would result from implementation of alternatives for the eradication of the Oriental fruit fly. The PEIR is available upon request from the Department.

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

The Department of Food and Agriculture has determined that Section 3591.2(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 3591.2(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 3591.2(a) provides authority for the Department to conduct eradication activities against Oriental fruit fly within San Joaquin County 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 3591.2:

PDR #1644415, dated September 8, 2011.

PDR #390P06038520, dated September 10, 2011.

PDR # 390P06038521, dated September 11, 2011.

PDR #390P06038522, dated September 11, 2011.

PDR #390P06038525, dated September 13, 2011.

“Action Plan for Methyl Eugenol Attracted Fruit flies, including the Oriental Fruit Fly, *Bactrocera dorsalis* (Hendel),” April 2000, California Department of Food and Agriculture, Plant Health and Pest Prevention Services.

“Action Plan, Oriental Fruit Fly, Bactrocera dorsalis ,” October 1989, United State Department of Agriculture, Animal and Plant Health Inspection Service, Cooperating State Departments of Agriculture.