

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Adopt sections:

Amend sections: 3591.15

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2017-0502-03


OAL Matter Type: Emergency (E)

The Department of Food and Agriculture submitted this emergency action to amend section 3591.15 of title 3 of the California Code of Regulations to add Riverside County as an eradication area for melon fruit fly, *Bactrocera cucurbitae*.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 5/4/2017 and will expire on 11/1/2017. The Certificate of Compliance for this action is due no later than 10/31/2017.

Date: May 4, 2017



Richard L. Smith
Senior Attorney

For: Debra M. Cornez
Director

Original: Karen Ross
Copy: Sara Khalid

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION / REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|------------------|--------------------|--------------------------|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
| | Z- | | 2017-0502 03E |

For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 04 2017

1:30 PM

2017 MAY -2 P 1:37
OFFICE OF
ADMINISTRATIVE LAW

| | |
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| NOTICE | REGULATIONS |
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AGENCY WITH RULEMAKING AUTHORITY
Department of Food and Agriculture

AGENCY FILE NUMBER (if any)

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) Melon Fruit Fly Eradication Area | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|--|--|

| | |
|---|------------------|
| 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 |
| | AMEND 3591.15 |
| TITLE(S) 3 | REPEAL |

| | | | |
|---|---|---|---|
| 3. TYPE OF FILING | | | |
| <input 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 checked="" 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 §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State §100 Changes Without Regulatory Effect Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) _____

| | | | |
|----------------------------------|----------------------------------|-----------------------|--|
| 7. CONTACT PERSON Sara Khalid | TELEPHONE NUMBER 916-403-6625 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) Sara.Khalid@cdfa.ca.gov |
|----------------------------------|----------------------------------|-----------------------|--|

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 | DATE 5/1/17 |
| TYPED NAME AND TITLE OF SIGNATORY Robert Wyrn, Statewide Coordinator, Pierce's Disease Control Program | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 04 2017

Office of Administrative Law

Amend the following section:

Section 3591.15. Melon Fruit Fly Eradication Area.

(a) Proclamation of Eradication Area. That portion of the State of California described as follows, within which the melon fruit fly, *Bactrocera cucurbitae*, is known to exist, is hereby proclaimed to be an eradication area with respect to said pest, and as such it is amendable 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) The counties of Fresno, Kern, and Los Angeles, and Riverside.

(b) Hosts.

(1) Fruit of the following plants:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--------------------|---|
| Apple | <i>Malus sylvestris</i> |
| Apple, Custard | <i>Annona reticulata</i> |
| Avocado | <i>Persea americana</i> |
| Bean, hyacinth | <i>Lablab purpureus</i> subsp. <i>purpureus</i> |
| | [<i>Dolichos lablab</i>] |
| Bean, lima | <i>Phaseolus lunatus</i> [<i>Phaseolus</i> |
| | <i>limensis</i>] |
| Bean, mung | <i>Phaseolus radiatus</i> |
| Bean, string | <i>Phaseolus vulgaris</i> |

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| Cantaloupe | Cucumis melo |
| | Cucumis melo var. cantalupensis |
| Cauliflower | Brassica oleracea var. botrytis |
| Chayote | Sechium edule |
| Colocynth | Citrullus colocynthis |
| Cowpea | Vigna unguiculata |
| Cucumber | Cucumis sativus |
| Cucumber, bur | Sicyos sp. |
| Cucurbit | Cucumis pubescens |
| | Cucumis trigonus |
| Date palm | Phoenix dactylifera |
| Eggplant | Solanum melongena |
| Fig, common | Ficus carica |
| Gourds | Coccinia spp. |
| | Crescentia spp. |
| | Lagenaria spp. |
| | Luffa spp. |

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|--------------------------|---------------------------|
| | Momordica spp. |
| | Trichosanthes spp. |
| Guava | Psidium guajava |
| Guava, cattley | Psidium cattleianum |
| Mango | Mangifera indica |
| Melon | Citrullus_sp. |
| Melon, Chinese | Benincasa hispida |
| Melon, Oriental pickling | Cucumis melo var. conomon |
| Mustard, leaf | Brassica juncea |
| Okra | Hbiscus esculentus |
| Orange, king | Citrus nobilis |
| Orange, mandarin | Citrus reticulata |
| Orange, sweet | Citrus sinensis |
| Papaya, common | Carica papaya |
| Passion fruit | Passiflora edulis |
| Peach | Prunus persica |
| Pear | Pyrus communis |

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| Pepper | Capsicum annum |
| Pepper, chili | Capsicum annum |
| Pepper, tabasco | Capsicum frutescens |
| Pumpkin | Cucurbita pepo |
| Pumpkin, Canada | Cucurbita moschata |
| Scarlet wisteria tree | Sesbania grandiflora |
| Soursop | Annona muricata |
| Squash | Cucurbita maxima |
| Threeleaf cayratia | Cayratia trifolia |
| Tomato | Lycopersicon esculentum (pink to red ripe) |
| Tomato, tree | Cyphomandra betaceae |
| Water lemon | Passiflora laurifolia |
| Watermelon | Citrullus lanatus [Citrullus vulgaris] |

(2) Plants of the following species in the Cucurbitaceae:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--------------------|------------------------|
|--------------------|------------------------|

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|----------------------|-----------------------|
| Cantaloupe | Cucumis melo |
| Chayote | Sechium edule |
| Colcynth | Citrullus colocynthis |
| Cucumber | Cucumis sativus |
| Cucumber, bur | Sicyos_sp. |
| Cucurbit, wild | Cucumis pubescens |
| | Cucumis trigonus |
| Gherkin, West Indian | Cucumis angaria |
| Gourds | Coccinia spp. |
| | Crescentia spp. |
| | Lagenaria spp. |
| | Luffa spp. |
| | Momordica spp. |
| | Trichosanthes spp. |
| Gourd, angled luffa | Luffa acutangula |
| Gourd, balsam-apple | Momordica balsamina |
| Gourd, balsam-pear | Momordica dioica |

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|-------------------------|--|
| Gourd, ivy | <i>Coccinia grandis</i> |
| Gourd, kakari | <i>Momordica cochinchiensis</i> |
| Gourd, pointed | <i>Trichosanthes dioica</i> |
| Gourd, serpent cucumber | <i>Trichosanthes anguina</i> |
| Gourd, snake | <i>Trichosanthes cucumeroides</i> |
| Gourd, sponge | <i>Luffa aegyptiaca</i> |
| Gourd, white-flowered | <i>Lagenaria siceraria</i> |
| Melon, Chinese | <i>Benincasa hispida</i> |
| Melon, long | <i>Cucumis utlissimus</i> |
| Pumpkin | <i>Cucurbita pepo</i> |
| Pumpkin, Canada | <i>Cucurbita moschata</i> |
| Squash | <i>Cucurbita maxima</i> |
| Watermelon | <i>Citrullus lanatus</i> [<i>Citrullus</i> <i>vulgaris</i>] |

(3) Any other plants determined by the department based upon the best available science to produce fruit or plant parts which are attacked by melon fruit fly.

(4) Soil or planting media within the drip area of plants producing, or which have produced, host fruit.

(c) Means and Methods. The following means and methods may be used in the eradication and control of said pest in said 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 action is a practical way of eliminating the infestation.
- (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 of abandoned or unwanted hosts or plants bearing or capable of bearing hosts.
- (5) The importation, rearing, liberation, and fostering of parasites and predators which attack the fly.
- (6) The importation, rearing, or liberation 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.