

NOTICE PUBLICATION/REGULATIONS SUBMISSION**EMERGENCY**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0915-01E
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For use by Office of Administrative Law (OAL) only

2016 SEP 15 A 11: 23
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

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 Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE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) Asian Citrus Psyllid Interior Quarantine	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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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
	AMEND 3435(b)
	REPEAL
TITLE(S) 3	

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 Resubmittal of disapproved or withdrawn nonemergency filing (Gov.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 Resubmittal of disapproved or withdrawn emergency filing (Gov.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)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" 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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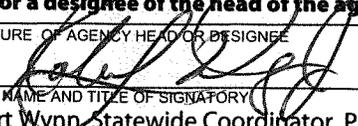
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<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

Sara Khalid	TELEPHONE NUMBER 916-403-6625	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Sara.Khalid@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 	DATE 9/12/16
TYPED NAME AND TITLE OF SIGNATORY Robert Wynn, Statewide Coordinator, Pierce's Disease Control Program	

For use by Office of Administrative Law (OAL) only

Amend the following section:

Section 3435. Asian Citrus Psyllid Quarantine.

....

(b) Area Under Quarantine:

....

(3) In Santa Clara and Alameda Counties, in the San Jose and Milpitas areas:
Beginning at the intersection of El Camino Real and San Tomas Expressway; then, starting northerly along said expressway to its intersection with Interstate 101; then, northwesterly along said interstate to its intersection with Great America Parkway; then, northerly along said parkway to its intersection with America Center Drive; then, northwesterly along America Center Drive to its intersection with an Imaginary Line at 37.419605 latitude and -121.979870 longitude; then, northerly along said line to its intersection with the Union Pacific Railroad and Stevenson Boulevard; then, northeasterly along said boulevard to its intersection with Boyce Road; then, southeasterly along said road to its intersection with Auto Mall Parkway; then, northeasterly along said road to its intersection with Boscell Road; then, southeasterly along said road to its intersection with Bunche Drive; then, northeasterly along said drive to its intersection with Brandin Court; then, northeasterly along said court to its intersection with an Imaginary Line at the terminus of said court; then, northeasterly along said line to its intersection with Hannover Place at 37.504312 latitude and 121.962853 longitude; then, northeasterly along said place to its intersection with S Grimmer Boulevard; then, northwesterly along said boulevard to its intersection with Auto Mall Parkway; then, northeasterly along said boulevard to its intersection with Fremont Boulevard; then, southeasterly along said boulevard to its intersection with Old Warm Springs Boulevard; then, southeasterly along said boulevard to its intersection with Edison Way; then, northeasterly along Edison Way to its intersection with an Imaginary Line at 37.509210 latitude and -121.944687; then, northeasterly along said line to its intersection with Skyway Court at 37.510135 latitude and -121.941542 longitude; then, northeasterly along said court to its intersection with Osgood Road;

then, northwesterly along said road to its intersection with Auto Mall Parkway; then, northeasterly along said parkway to its intersection with Durham Road; then, easterly along said road to Paseo Padre Parkway; then, northerly along said parkway to its intersection with Pine Street; then, northeasterly along said street to its intersection with Anza-Pine Road; then, northeasterly along said road to Panorama Trail; then, southeasterly along said trail to its intersection with an Unnamed Road at 37.526398 latitude and -121.900830 longitude; then, northeasterly along said road to its intersection with Mill Creek Road; then, southeasterly along Mill Creek Road to its intersection with an Imaginary Line at 37.519268 latitude and -121.868891 longitude; then, southeasterly along said line to its intersection with Calaveras Road and Leyden Creek; then, easterly along said creek to its intersection with Camp Ohlone Road; then, southeasterly along said road to its intersection with Geary Road; then, southeasterly along said road to its intersection with Alameda Creek; then, southerly along said creek to its intersection with Alameda Diversion Tunnel; then, southwesterly along said tunnel to its intersection with the Santa Clara County Line at 37.484067 latitude -121.795776 longitude; then, easterly along said line to its intersection with an Imaginary Line at 37.484121 latitude and -121.782138 longitude; then, southerly along said line to its intersection with Arroyo Aguague at 37.382865 latitude and -121.772060 longitude; then, southeasterly along Arroyo Aguague to its intersection with Joseph D. Grant County Park Boundary; then, southwesterly along said boundary to its intersection with an unnamed road at 37.308691 latitude and -121.715077 longitude; then, southwesterly along said road to its intersection with an Unnamed Road at 37.289680 latitude and -121.713879 longitude; then, southerly along an Imaginary Line to its intersection with San Felipe Road at 37.267699 latitude and -121.735598 longitude; then, northwesterly along said road to its intersection with Early Morning Lane; then, southerly along an Imaginary Line to its intersection with Piercy Ranch Road at 37.247417 latitude and -121.750790 longitude; then, southwesterly along said road to its intersection with Promenade Court; easterly along an Imaginary Line to its intersection with Yerba Buena Creek at 37.289514 latitude and -121.712155 longitude; then, southwesterly along said creek to its intersection with Villa Vista Road; then, northwesterly along said road to its intersection with Cribari Hills; then, southwesterly along Cribari Hills to its intersection

~~with Cribari Lane; then, southeasterly along said lane to its intersection with The Villages Parkway; then, easterly along said parkway to its intersection with The Villages Fairway; then, southwesterly along said fairway to its intersection with Village Hermosa Lane; then, southeasterly along said lane to its intersection with Chianti Court; then, westerly along said court to its intersection with an Imaginary Line at the end of said court; then, southerly along said line to its intersection with Meadowlands Lane at 37.283196 latitude and -121.745524 longitude; then, southwesterly along said lane to its intersection with San Felipe Road; then, southeasterly along said road to its intersection with Silver Creek Road; then, westerly along said road to its intersection with Silver Creek; then, southwesterly along an Imaginary Line to its intersection with Piercy Ranch Road and Promenade Court; then, westerly along said court to its intersection with Promenade Lane; then, southwesterly along said lane to its intersection with Basking Ridge Avenue; then, southerly along said avenue to its intersection with Coyote Creek Park Boundary at 37.239853 latitude and -121.762833 longitude; then, southwesterly along said boundary to its intersection with California Highway 85 N; then, westerly along said highway to its intersection with Via del Oro; then, southerly along said road to its intersection with San Ignacio Avenue; then, southwesterly along said avenue to its intersection with Santa Teresa Boulevard; northwesterly along said highway to its intersection with Cottle Road; then, southerly along said road to its intersection with Santa Teresa Boulevard; then, northwesterly along said road boulevard to its intersection with Lean Avenue; then, southerly along said avenue to its intersection with Canoas Creek; then, westerly along said creek to its intersection with Snell Avenue; then, southerly along said avenue to its intersection with an Unnamed Road; then, southwesterly along said road to its intersection with Graystone Lane at 37.224365 latitude and -121.836883 longitude; then, southerly along said lane to its intersection with Camden Avenue; then, northwesterly along said avenue to its intersection with Almaden Expressway; then, northwesterly along said expressway to its intersection with Cloverhill Drive; then, southwesterly along an Imaginary Line to its intersection with Almaden Road and Bose Lane; then, southerly along said lane to its intersection with Camden Avenue; then, westerly along said avenue to its intersection with Firefly Drive; then, northerly along said drive to its intersection with Butterfly Drive; then, westerly~~

along said drive to its intersection with Silberman Drive; then, northerly along said drive to its intersection with Redmond Avenue; then, westerly along said avenue to its intersection with Coleman Road; then, southwesterly along said road to its intersection with Camden Avenue; then, northerly along said avenue to its intersection with Almond Blossom Lane; then, westerly along said lane to its intersection with Harwood Road; then, northerly along said road to its intersection with Blossom Hill Road; then, westerly along said road to its intersection with Leigh Avenue; then, northerly along said avenue to its intersection with Anne Way; then, westerly along said way to its intersection with Kensington Way; then, northerly along said way to its intersection with Hershner Drive; then, easterly along said drive to its intersection with Kentfield Drive; then, northerly along said drive to its intersection with Los Gatos Almaden Road; then, westerly along said road to its intersection with Union Avenue; then, northerly along said road to its intersection with Rosswood Drive; then, southwesterly along said drive to its intersection with Esther Drive; then, northerly along said drive to its intersection with Samaritan Drive; then, westerly along said drive to its intersection with Los Gatos Boulevard; then, northeasterly along said boulevard to its intersection with California Highway 85 N; then, northwesterly along said highway to its intersection with Winchester Boulevard; then, northeasterly along said boulevard to its intersection with W Hacienda Avenue; then, westerly along said avenue to its intersection with Virginia Avenue; then, northerly along said avenue to its intersection with W Campbell Avenue; then, easterly along said avenue to its intersection with San Tomas Expressway; then, northerly along said expressway to its intersection with Williams Road; then, westerly along said boulevard to its intersection with Boynton Avenue; then, northerly along said avenue to its intersection with Moorpark Avenue; then, westerly along said avenue to its intersection with Saratoga Avenue; then, northeasterly along said avenue to its intersection with Stevens Creek Boulevard; then, westerly along said boulevard to its intersection with Kiely Boulevard; then, northerly along said boulevard to its intersection with Barcells Avenue; then, northeasterly along said avenue to its intersection with Layton Street; then, northwesterly along said street to its intersection with Las Palmas Drive; then, northerly along said drive to its intersection with El Camino Real; then, easterly along said camino to the point of the beginning.

....

Note: Authority cited: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

Reference: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

FINDING OF EMERGENCY

The Secretary of the California Department of Food and Agriculture (Department) determined that an emergency exists; an infestation of the Asian citrus psyllid (ACP), *Diaphorina citri* was detected in the San Jose area of Santa Clara County. Two adult psyllids were identified on August 25, 2016 from a trap in the San Jose area. The Department is proposing an emergency amendment of the regulation to expand the quarantine in the San Jose area of Santa Clara County.

Emergency Defined

“Emergency’ means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare,” Government Code 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. Government Code Section 11346.1(b)(1).

In this document the Department is providing the necessary specific facts demonstrating the existence of an emergency and the need for immediate action to prevent serious harm to the general welfare of the citizens of California, pursuant to Government Code Section 11346.1(b)(2).

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency.

Government Code Section 11346.1(a)(3) provides that if the emergency situation clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest, an agency is not required to provide notice pursuant to Government Code Section 11346.1(a)(2). The Secretary believes that this emergency clearly poses such an immediate, serious harm that delaying action to give the notice pursuant to

Government Code Section 11346.1(a)(2) would be inconsistent with the public interest, within the meaning of Government Code Section 11349.6(b).

The purpose of this quarantine regulation is to prevent the artificial spread of ACP to uninfested areas. Preventing the artificial spread of ACP, especially the long distance artificial spread is a key component in order to control the ACP/HLB complex. The Florida Department of Agriculture and Consumer Services chose not to attempt to control the artificial spread of ACP. Consequently, when HLB was introduced it swept through the state wherever ACP was present, which was essentially the entire state. In California, we have only confirmed HLB in the Hacienda Heights and San Gabriel areas of Los Angeles County. The confirmed infested trees were removed. However, the HLB disease has a latency period of up to two years prior to being able to detect it through existing laboratory testing procedures. Although the Department has and continues to conduct extensive surveys for HLB without any further detections, the disease may still be present in California. If the disease is present and the vector (ACP) has been successfully eradicated in that area, the infested host will not be able to further spread the disease.

However, ACP has the capability of being able to transmit the disease prior to it being able to be detected by existing laboratory techniques. Therefore, controlling ACP is critical in controlling HLB; even in the apparent absence of the disease's presence. The movement of one ACP infested host plant by an individual or through the movement of infested commercial nursery stock or by a landscaper will result in a new infestation. Each day that this quarantine amendment is not in place increases the odds that artificial spread of ACP will occur unabated and if HLB is in the new area at sub detectable levels, the ACP/HLB complex would be able to begin its devastating destruction in that area.

Providing five days advance notice of an emergency rulemaking to interested parties delays being able to get this quarantine regulation in place by an additional eight to ten days. This delay increases the chances of the Department's inability to prevent long distance artificial spread of ACP, including to other areas of the Central Valley's major citrus production area.

California Environmental Quality Act

A Statewide Plant Pest Prevention and Management Program Environmental Impact Report (EIR) was prepared by the Department as the lead agency under the California Environmental Quality Act. The EIR addresses the potential impacts and mitigations when implementing the Statewide Plant Pest Prevention and Management Program activities related to ACP.

The PEIR may be accessed at the following website:

<http://www.cdffa.ca.gov/plant/peir/>.

Background

By itself, ACP causes feeding damage to citrus trees. However, when it becomes infected with Huanglongbing (HLB or citrus greening), it becomes a carrier for the disease and can transmit the HLB-associated bacteria from the fourth nymphal instar through the adult stage with a latency period as short as one day or as long as 25 days. HLB was first identified in China in 1919 and is considered to be the most devastating of all citrus diseases. Once infected, there is no cure for HLB infected citrus trees, which decline and die within a few years. Additionally, the fruit produced by infected trees is not suitable for either the fresh market or juice processing due to the significant increase in acidity and bitter taste.

Both ACP and HLB are federal action quarantine pests subject to interstate and international quarantine restrictions by the United States Department of Agriculture (USDA). Both ACP and HLB now occur in Mexico and HLB has continued to spread to the north and now occurs south of the State of Sonora. In mid-January of 2012, HLB was confirmed in the Rio Grande Valley of Texas. Additionally, in July of 2009 ACP nymphs were intercepted in a plant shipment from India sent to the Fresno area which tested positive for HLB. On March 30, 2012, the USDA confirmed the presence of HLB in the Hacienda Heights area of Los Angeles County and the only known infected tree was removed. However, the Department established a HLB Interior Quarantine of approximately 93 square miles surrounding the find site. Additionally, on July 9, 2015, the USDA confirmed the presence of HLB in the San Gabriel area of Los Angeles County.

The Department expanded the HLB Interior Quarantine by approximately 87 square miles surrounding the find site to a total quarantine area of 180 square miles, which it still maintains.

It is imperative that the Department prevent the artificial spread of ACP wherever possible to ensure the devastating damage caused by HLB is limited to the smallest area possible. An economic analysis study by the University of Florida IFAS Extension concluded that after its introduction there, HLB had a total negative impact of \$3.64 billion and eliminated seven percent of the total Florida workforce.

California is the number one economic citrus state in the nation. The California Agricultural Statistics Review for 2014-15 puts the value of citrus (Grapefruit, Oranges, and Navels) at \$1,922,166.00 (California Agricultural Statistics Review, 2014-15; pg 59). A 2002 report by the Arizona State University School of Business indicates that there is at least \$825.6 million of direct economic output and another \$1.6 billion when all upstream suppliers and downstream retailers are included. This represents over 25,000 direct and indirect employees. To protect this source of economic activity, California must do everything possible to exclude both HLB-associated pathogens and ACP from the state.

The Department uses Geographic Information Systems (GIS) mapping programs to plot locations of all the detections of ACP. As a result, based upon the criteria contained in the USDA regulatory protocol, the Department determined that there are new infestations of ACP requiring the expansion of the quarantine area.

On August 25, 2016 (PDR #'s SA0P06568345, SA0P06568346) two adult ACP were identified from the San Jose area of Santa Clara County. This detection meets the state and federal regulatory protocols for expanding the quarantine in the San Jose area of Santa Clara County. The Department uses a minimum of a five mile radius surrounding each find site as the quarantine buffer. On March 10, 2016, the Agricultural Commissioner of Santa Clara County requested that the quarantine be expanded in the San Jose area.

The USDA cannot regulate less than an entire state unless the state has a quarantine regulation which is substantially the same as what the existing federal rule requires for interstate movement. The Department needs to have the immediate authority to prevent host material from being shipped intrastate outside the proposed quarantine area. This in turn will enable the USDA to amend their federal regulation or order. If the Department fails to implement a quarantine on an emergency basis, the USDA may consider quarantining all of California in order to immediately prevent the affected host material from shipping interstate. The proposed emergency amendment of this regulation would limit the artificial spread of ACP while keeping more onerous federal requirements at the minimum level necessary.

Therefore, it is necessary to amend this regulation by expanding the San Jose area of Santa Clara County as an emergency action.

Project Description

This proposed emergency action will expand the quarantine for ACP of approximately three square miles in the San Jose area of Santa Clara County. The proposed boundary lines were drawn jointly by the USDA, the CDFA, and the affected county agricultural commissioner. The criterion for determining quarantine boundaries around an epicenter was based upon the information obtained from the USDA and CDFA. Any quarantine actions undertaken by the Department will be in cooperation and coordination with the USDA and the affected county agricultural commissioners.

The entire counties of Imperial, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara, Riverside, Tulare and Ventura and portions of Fresno, Kern, Madera, Merced, Monterey, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Alameda, Stanislaus, and Kings are already under quarantine for ACP.

The Department also relied upon the following information:

“Pest and Damage Record #'s SA0P06568345, SA0P06568346”, California Department of Food and Agriculture, Plant Health and Pest Prevention Services.

Letter dated March 10, 2016 from Joseph Deviney, Santa Clara County Agricultural Commissioner, to Secretary Karen Ross.

Economic Impacts of Citrus Greening (HLB) in Florida, 2006/07-2010/11, University of Florida IFAS Extension.

Federal Register, Vol. 76, No. 81, dated April 27, 2011, Docket No. APHIS-2010-0048, Citrus Canker, Citrus Greening and Asian Citrus Pysllid; Interstate Movement of Regulated Nursery Stock.

"New Pest Response Guidelines, Citrus Greening Disease," dated June 2, 2008, United States Department of Agriculture, Animal and Plant Health Inspection Service.

Authority and Reference Citations:

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

Reference: Sections 407 and 5322, Food and Agricultural Code.

Informative Digest

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322).

Anticipated Benefits from This Regulatory Action

Existing law, FAC section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

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 which she is directed or authorized to administer or enforce.

Existing law, FAC section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

The existing law 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. The amendment of this regulation benefits the citrus industries (nursery, fruit for domestic use and exports, citrus packing facilities) and the environment (urban landscapes) by having a quarantine program to prevent the artificial spread of ACP over long distances. Most all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine boundary area.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

FAC Section 401.5 states, "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." The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State. HLB is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Services Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this

regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar affect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

The California, national and international consumers of California citrus benefit by having high quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material which is planted as ornamentals in various rural and urban landscapes by preventing damage to these hosts and the need for them to be treated to mitigate infestations of ACP.

The Department is the only agency which 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.

Section 3435. Asian Citrus Psyllid Interior Quarantine.

This proposed emergency action will expand the quarantine for ACP of approximately three square miles in the San Jose area of Santa Clara County. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation would be approximately 55,823 square miles.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3435 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the affected county agricultural commissioners requested that these changes to the regulation be made.

Cost Estimate

The Department has also determined that the regulation will involve no additional costs or savings to any state agency because initial funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no cost to any local agency or school district requiring reimbursement pursuant to Government Code 17500 et seq. and no costs or savings in federal funding to the State.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Department of Food and Agriculture	CONTACT PERSON Sara Khalid	EMAIL ADDRESS Sara.Khalid@cdfa.ca.gov	TELEPHONE NUMBER 916-403-6625
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Section 3435 Asian Citrus Psyllid Interior Quarantine			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees
- b. Impacts small businesses
- c. Impacts jobs or occupations
- d. Impacts California competitiveness
- e. Imposes reporting requirements
- f. Imposes prescriptive instead of performance
- g. Impacts individuals
- h. None of the above (Explain below):

SK

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:

(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

SR

ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____

4. Will this regulation directly impact housing costs? YES NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? YES NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

SK

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? YES NO

*If YES, complete E2, and E3
If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

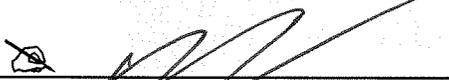
2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

9/12/16

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

9/12/16

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

	STATE OF CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE PLANT HEALTH AND PEST PREVENTION SERVICES			PDR NUMBER SA0P06568345		Date collected 8/5/2016	
	PEST AND DAMAGE RECORD			Lab <input checked="" type="checkbox"/> ENTO <input type="checkbox"/> PLANT PATH <input type="checkbox"/> NEMA <input type="checkbox"/> SEED <input type="checkbox"/> BOTANY <input type="checkbox"/> VERT		Time Collected	
				NOR Number:		RUSH	
				Number of samples:			
Location: SA	Owner/receiver			Collector Monic Castaneda			
Activity: 12	Owner			Affil. F S C E U O Describe Other			
Situation: 64	Address/physical description 657 Easton Dr			<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Section:	City San Jose	State CA	Zip code 95133	Quarantine shipper/broker			
Township:	County Santa Clara			Name			
Range:	Phone	Fax	Latitude 37.375069	Address			
Base and meridian:	E-mail		Longitude -121.85212	City		Zip code	
	Cross street Baton Rouge Drive			State/Country		Phone	
				Fax		Latitude	
				E-mail		Longitude	
Quarantine destination							
Quarantine origin (where host grown)				Carrier (ground/air/maritime)			
City	County	State/Country	Zip	Business name		Flight number	
Shipment size / units /			Program ACP - Asian Citrus Psyllid	License plate	License state	Tail/ship number	
Submitter remarks CDFA ID sorter: Hanh Nguyen 8-24-16				General or Plant Pathology			
Suspect Asian Citrus Psyllid				Number of involved:			
Send report to: Name: PDEP Sacramento HQ				of plants affected:			
Phone:				Plant distribution:			
Fax:				Plant parts affected			
Email:				<input type="checkbox"/> Bark <input type="checkbox"/> Bulbs or Corms <input type="checkbox"/> Leaves, upper surface			
				<input type="checkbox"/> Blossoms <input type="checkbox"/> Fruit or nuts <input type="checkbox"/> Petiole <input type="checkbox"/> Stem			
				<input type="checkbox"/> Branches, large <input type="checkbox"/> Growing tips <input type="checkbox"/> Rootlets <input type="checkbox"/> Trunk			
				<input type="checkbox"/> Branches, terminal <input type="checkbox"/> Roots, large <input type="checkbox"/> Seeds <input type="checkbox"/> Tubers			
				<input type="checkbox"/> Buds <input type="checkbox"/> Leaves, lower surface			
				Plant symptoms			
				<input type="checkbox"/> Canker <input type="checkbox"/> Gumming <input type="checkbox"/> Malformation <input type="checkbox"/> Slow Decline			
				<input type="checkbox"/> Die back <input type="checkbox"/> Internal discoloration <input type="checkbox"/> Marginal burn <input type="checkbox"/> Stunting			
				<input type="checkbox"/> Fruit rot <input type="checkbox"/> Leaf fall <input type="checkbox"/> Root rot <input type="checkbox"/> Sudden collapse			
				<input type="checkbox"/> Fruit spot <input type="checkbox"/> Leaf mottling <input type="checkbox"/> Rough bark <input type="checkbox"/> Wilting			
				<input type="checkbox"/> Galls <input type="checkbox"/> Leaf spot <input type="checkbox"/> Shot hole <input type="checkbox"/> Yellowing			

Sample

Sample Tag	Location Description		Latitude	Remarks
	Quantity and unit	Lot Number	Longitude	
Total pest count or number per (sweep, leaf, acre, trap, root, <i>Entomology:</i>				

stem etc) Count: 3 per trap	Conditions <input checked="" type="checkbox"/> Dead <input type="checkbox"/> Alive <input type="checkbox"/> Unknown Stages <input type="checkbox"/> Egg <input type="checkbox"/> Larva <input type="checkbox"/> Nymph <input type="checkbox"/> Pupa <input checked="" type="checkbox"/> Adult
<i>Nematology</i>	<i>Botany/Vertebrate:</i> Acreage net: Acreage gross:

Host

Host Tag	Common Name CITRUS	Scientific Name Citrus sp	Type tree	Nema Field Block Type
	Variety	Container Size	Quantity and Units	Nema Field Block
	Remarks			

Identifications

Lab Entomology	Scientist Shaun Winterton	Rating A	Common Name Asian citrus psyllid
Date 8/25/2016	Order Homoptera	Family Psyllidae	
Genus Diaphorina	Species citri		
Sub-Species	Higher Category (phylum) Arthropoda, (class) Insecta		

General Identification Notes

Entomology

Mature:	Dead:	Egg:	Adult:
Immature:	Alive:	Larva:	Male:
Mated:	Unknown:	Nymph:	Female:
		Pupa:	

Egg Viability:

Egg Viability Notes:

Instar Notes:

	STATE OF CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE PLANT HEALTH AND PEST PREVENTION SERVICES		PDR NUMBER SA0P06568346		Date collected 8/6/2016
	PEST AND DAMAGE RECORD		Lab <input checked="" type="checkbox"/> ENTO <input type="checkbox"/> PLANT PATH <input type="checkbox"/> NEMA <input type="checkbox"/> SEED <input type="checkbox"/> BOTANY <input type="checkbox"/> VERT		Time Collected
			NOR Number:		RUSH
			Number of samples:		
Location: SA	Owner/receiver Owner		Collector Boonsom Ruenhunsu		
Activity: 12	Address/physical description 1586 Nickel Ave		Affil. F S C E U O Describe Other <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
Situation: 63	City San Jose	State CA	Zip code 95121	Quarantine shipper/broker	
Section:	County Santa Clara		Name		
Township:	Phone		Address		
Range:	Fax	Latitude 37.313023		City	
Base and meridian:	E-mail		State/Country		
	Cross street Flagstad Court		Phone		Fax
	Longitude -121.822636		E-mail		Longitude
Quarantine destination					
Quarantine origin (where host grown)			Carrier (ground/air/maritime)		
City	County	State/Country	Zip	Business name	Flight number
Shipment size / units /		Program ACP - Asian Citrus Psyllid	License plate	License state	Tail/ship number
Submitter remarks CDFA ID sorter: Alberto Becerra 8-24-16			General or Plant Pathology		
Suspect Asian Citrus Psyllid			Number of involved: of plants affected:		
Send report to: Name: PDEP Sacramento HQ Phone: Fax: Email:			Plant distribution: Plant parts affected		
			<input type="checkbox"/> Bark <input type="checkbox"/> Bulbs or Corms <input type="checkbox"/> Leaves, upper surface <input type="checkbox"/> Blossoms <input type="checkbox"/> Fruit or nuts <input type="checkbox"/> Petiole <input type="checkbox"/> Stem <input type="checkbox"/> Branches, large <input type="checkbox"/> Growing tips <input type="checkbox"/> Rootlets <input type="checkbox"/> Trunk <input type="checkbox"/> Branches, terminal <input type="checkbox"/> Roots, large <input type="checkbox"/> Seeds <input type="checkbox"/> Tubers <input type="checkbox"/> Buds <input type="checkbox"/> Leaves, lower surface		
Entomology			Plant symptoms		
Trap number EC328-16-ACP1	Grid number EC328	Last service date 7/26/2016	Latitude 37.31276	<input type="checkbox"/> Canker <input type="checkbox"/> Gumming <input type="checkbox"/> Malformation <input type="checkbox"/> Slow Decline <input type="checkbox"/> Die back <input type="checkbox"/> Internal discoloration <input type="checkbox"/> Marginal burn <input type="checkbox"/> Stunting <input type="checkbox"/> Fruit rot <input type="checkbox"/> Leaf fall <input type="checkbox"/> Root rot <input type="checkbox"/> Sudden collapse <input type="checkbox"/> Fruit spot <input type="checkbox"/> Leaf mottling <input type="checkbox"/> Rough bark <input type="checkbox"/> Wilting <input type="checkbox"/> Galls <input type="checkbox"/> Leaf spot <input type="checkbox"/> Shot hole <input type="checkbox"/> Yellowing	
Trap type Yellow panel trap		Trap density 100 per square mile	Longitude 121.822535		
Survey method Trap					

Sample

Sample Tag	Location Description		Latitude	Remarks
	Quantity and unit	Lot Number	Longitude	
Total pest count or number per (sweep, leaf, acre, trap, root, <i>Entomology:</i>				

stem etc) Count: 2 per trap	Conditions <input checked="" type="checkbox"/> Dead <input type="checkbox"/> Alive <input type="checkbox"/> Unknown Stages <input type="checkbox"/> Egg <input type="checkbox"/> Larva <input type="checkbox"/> Nymph <input type="checkbox"/> Pupa <input checked="" type="checkbox"/> Adult
<i>Nematology</i>	<i>Botany/Vertebrate:</i> Acreage net: Acreage gross:

Host

Host Tag	Common Name lemon	Scientific Name Citrus limon	Type tree	Nema Field Block Type
	Variety	Container Size	Quantity and Units	Nema Field Block
	Remarks			

Identifications

Lab Entomology	Scientist Shaun Winterton	Rating A	Common Name Asian citrus psyllid
Date 8/25/2016	Order Homoptera	Family Psyllidae	
Genus Diaphorina		Species citri	
Sub-Species		Higher Category (phylum) Arthropoda, (class) Insecta	
General Identification Notes			
<i>Entomology</i>			
Mature:	Dead:	Egg:	Adult:
Immature:	Alive:	Larva:	Male:
Mated:	Unknown:	Nymph:	Female:
		Pupa:	
Egg Viability:			
Egg Viability Notes:			
Instar Notes:			

County of Santa Clara

Department of Agriculture and Environmental Management
Agriculture Division



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Fax (408) 286-2460

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Fax (408) 683-4247

<http://www.sccagriculture.org>

March 10, 2016

Karen Ross, Secretary
Attn: Duane Schnabel, Branch Chief
Pest Exclusion Branch, Division of Plant Health & Pest Prevention Services
CDFA 1220 N Street
Sacramento, CA 95814-5607

Dear Secretary Ross,

On February 22, 2016 and March 1, 2016, a series of Asian Citrus Psyllid (*Diaphorina citri*) adults were discovered on Asian Citrus Psyllid traps and during a visual survey in the City of Milpitas. The psyllids were found along Seacliff Drive, La Palma Place, and the area around Park Victoria and Traughber Street. Asian Citrus Psyllid is a serious agricultural pest and is a known vector for the citrus greening disease also known as Huanglongbing disease of citrus. This disease is caused by the bacteria pathogen *Candidatus Liberibacter* spp. which attacks host plants. The disease infects plants from the Rutaceae plant family. Some of the more common hosts are citrus, fresh curry leaf and mock orange.

Since the County Agricultural Commissioner is a state plant quarantine officer pursuant to California Food and Agricultural Code Sections 5101 and 5102, I am requesting that an Asian Citrus Psyllid Interior Quarantine be established around these find sites in Milpitas. I also authorize any incremental expansions of the boundary of this quarantine area resulting from finds contained within the established quarantine area.

Timely establishment by the State of a quarantined area, as an emergency action to prevent the artificial spread of Asian Citrus Psyllid, is critical due to the significant potential consequences to the County, state and national agricultural industries and environments.

If you have any questions or need additional information please contact me at (408) 642-0440.

Sincerely,

Joseph Deviney
Agricultural Commissioner/Weights and Measures Sealer