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. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2010-0720-07		2010-1101-02EE

For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
	2010 NOV -1 AM 10:58 OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY	AGENCY FILE NUMBER (If any)
Food and Agriculture	PH 10104

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	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
Citrus Nursery Stock + Tristeza Quarantine	2010-0506-02E

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: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7 and 3701.8
	AMEND: 3407
TITLE(S): 3	REPEAL:

3. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ 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.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☒ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify)
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

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 30th day after filing with Secretary of State
- ☐ 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	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Susan McCarthy	(916) 654-1017	(916) 654-1018	smccarthy@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.**

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SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
	10/29/10

TYPED NAME AND TITLE OF SIGNATORY

Nathan Dechoretz, Deputy Secretary for Administration and Finance

3701 Definitions

(a) "Applicant" means any person whose application has been submitted to but not yet accepted by the Department.

(b) "Authorized agent" means any person who has been granted authority by the Department to test plant and/or insect samples for the purposes of these regulations.

(c) "Breach" means any opening of a size ~~equal to or~~ larger than ~~would allow the entrance of a cotton aphid~~ 0.3mm inadvertently made in an insect-resistant structure

(d)"Citrus" means "citrous" and any plants of the genera Citrus, Fortunella, Poncirus, and all hybrids having one or more of such as parents that could host any disease for which testing is required in Section 3701.6.

(e) "Citrus Clonal Protection Program" (CCPP) means the University of California at Riverside, Department of Plant Pathology & Microbiology/California Department of Food and Agriculture/U. S. Department of Agriculture/California Citrus Nursery Board/Citrus Research Board cooperative program.

(f) "Citrus Clonal Protection Program Tag Number" or "CCPP Tag Number" means the unique identifying number assigned by CCPP to a tree.

(g) "Citrus tree" means a rooted citrus plant.

(h) "Department" means the California Department of Food and Agriculture.

(i) "Department tag number" means the unique identifying number assigned by the Department to each registered scion mother or seed tree.

(j) "Foundation stock" means propagative materials collected or taken from trees maintained by the CCPP.

(k) "Infected" means that the presence of a pathogen listed in these regulations was detected using the testing methods specified in Section 3701.6.

(l) "Official sample" means a sample collected by the Department.

(m) "Participant" means any person who agrees to fulfill the responsibilities of the participant described in Section 3701.2, who has submitted an application to the Department and whose application has been accepted by the Department.

(n) "Propagative materials" means seeds, cuttings, buds, budsticks, graft sticks or tissue cultured materials taken from a citrus tree.

(o) "Registered" means the Department has approved a citrus tree or propagative

material that has been propagated, planted, inspected, tested, and documented in accordance with the provisions of these regulations.

(p) "Registered increase tree" means a citrus tree, propagated using propagative materials from CCPP or a registered mother tree, for the purpose of rapidly producing budwood, and that the Department has determined to be in compliance with the inspection, testing and other requirements specified in these regulations.

~~(q) "Registered increase tree lot" means a contiguous group of increase trees propagated using the same propagative sources.~~

(~~r~~q) "Registered scion mother tree" means a citrus tree, used as a source of vegetative propagating material, that the Department has determined to be in compliance with the inspection, testing and other requirements specified in these regulations and to which the Department has attached a tag bearing that tree's departmentally assigned registration number.

(~~s~~r) "Registered seed tree" means a citrus tree, used as a source of seed only, that the Department has determined to be in compliance with the inspection, testing and other requirements specified in these regulations and to which the Department has attached a tag bearing that tree's departmentally assigned registration number.

(~~t~~s) "Scion tree" means a citrus tree that is used as a source of vegetative propagating material.

(~~u~~t) "Tested" means any test procedure using plant material or its extracts to determine the presence or absence of a disease or disease agent in or on the tested plant material. For the purposes of these regulations, testing will be in accordance with the procedures adopted by the Department for diseases and disease agents listed in Section 3701.6.

(~~v~~u) "Topworking" means budding or grafting of another variety on top of existing stock.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940 and 6941, Food and Agricultural Code.

3701.1 General Provisions

(a) Participation in and compliance with the requirements of these regulations is mandatory for any person, with the exception of the Citrus Clonal Protection Program,

who by any method of propagation, produces any citrus nursery stock propagative material.

(b) Citrus propagative material not produced in accordance with the provisions of these regulations may be subject to immediate destruction.

(c) The participant shall annually sign and file a California Nursery Stock Registration and/or Certification Program Agreement, provided by the Department, acknowledging the responsibilities of participation in this program according to Title 3, Division 4, Section 3069, California Code of Regulations.

(d) Approvals, supervision, inspections, ~~tests,~~ determinations, registration ~~and certification~~ shall be conducted by the Department. Tests may be conducted by the Department or its authorized agents.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

Section 3701.2 Program Responsibilities.

(a) Responsibilities of the Participant

(1) Paying all fees as described in Section 3701.8.

(2) Providing the labor to collect samples for testing under the supervision of the Department.

(3) Submission of a completed, signed compliance agreement as required in Section 3701.4.

(4) Applying for the registration or re-registration of plants grown under the provisions of these regulations.

(5) Selecting tree(s) for testing and the proper maintenance of any plants being grown under the provisions of these regulations.

(6) Procuring qualified propagative materials for planting.

(7) Using propagation, farming, and sanitation practices as required in Section 3701.4.

(8) Prompt removal of citrus trees from insect-resistant structures when no longer eligible to be in the program.

(9) Maintain, and upon request, provide within five working days to the Department a record of all scion mother, seed and/or increase trees registered by the participant.

(A) For all registered scion mother, seed and increase trees the records shall include the sources(s) of the vegetative propagative materials used to produce the registered trees and shall be maintained for a minimum of five years from date of propagation.

(B) For all citrus vegetative propagative material produced from registered scion mother or seed trees, the records shall include date harvested, disposition of such material including location in the nursery or name and address of customer as applicable, Department tag number, number and kind of units of propagative material, plant type and variety.

(C) For all citrus propagative material produced from registered increase trees ~~within 36 months from date of propagation of the increase tree lot~~, the records shall include date harvested, disposition of such material including location in the nursery or name and address of customer as applicable, tag number of registered scion mother or seed tree or CCPP tag number, number and kind of units of propagative material, plant type and variety.

~~(D) For all citrus propagative material produced from registered increase trees after 36 months from date of propagation of the increase tree lot, the records shall include date harvested, disposition of such material including location in the nursery or name and address of customer as applicable, tag number of registered scion mother or seed tree, increase tree lot number, number and kind of units of propagative material identified by tag number and increase lot number, plant type and variety.~~

(10) Taking precautions to guard against the introduction and spread of pests and diseases to plants entered in this program.

(11) Proper use of registration tags provided by the Department, including removal within five working days, of registration tags from citrus trees that have died, become diseased, for which the Department issues a cancellation of registration notice, or

that otherwise are no longer eligible for registration, maintaining control of tags issued to the participant, and ensuring that tags are not applied to plants or propagative materials that are not eligible.

(12) Proper use, maintenance and submission of Department-supplied insect monitoring traps.

(13) Notifying the Department by fax or email within 24 hours of discovery of a breach in an insect resistant structure. The notification shall include at least the following: the size of the breach, time of day breach occurred (if known), estimated length of duration of the breach and the participant's response to the breach.

(14) Notifying the Department at least 24 hours in advance of any pest control treatments in plantings using a pesticide that has reentry or worker safety requirements that would create a health hazard for the Department's employees, or in any manner interfere with the Department's ability to conduct scheduled inspections or other field activities. This subsection only applies when the Department has notified the participant of the date of a planned inspection or other program-related action that would bring the Department's representative(s) into a treated area or into contact with treated plants.

(15) Notifying the Department of any trees for which registration is requested that are known to be infected with the citrus variant of the HSVd, citrus viroid IIa (CVd-IIa, Non-cachexia variant).

(16) Meeting the requirements of Title 3, Division 4, California Code of Regulations, Section 3060.4(a)(1)(D) when selling any propagative material infected with the citrus variant of the HSVd, citrus viroid IIa (CVd-IIa, Non-cachexia variant).

(b) Responsibilities of the Department.

(1) Maintain records of all registered scion mother, ~~and~~ seed ~~trees,~~ and increase trees ~~lots that are to be used as propagative sources after 36 months from date of initial propagation in the increase lot~~.

(2) Specify, in the registration record, those trees that are infected with the citrus variant of the HSVd, citrus viroid IIa (CVd-IIa, Non-cachexia variant).

(3) Process applications from applicant and/or requests for records from applicant within 30 days of receipt.

(4) Approve insect-resistant structures.

(5) Inspect and test participants' citrus trees in accordance with the provisions of these regulations and as required by the Department.

(6) Cancel registration of citrus trees that are found to be infected with diseases listed in Section 370~~0~~1.6, using tests prescribed in Section 370~~0~~1.6, or are highly likely to be infected because the source tree tested positive for disease using tests prescribed in Section 370~~0~~1.6 ~~or the Department determines the tree to be off-type~~, and/or the trees have been produced out of compliance with the provisions of these regulations.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

Section 3701.3 Eligibility Requirements

(a) Registered scion mother trees and registered seed trees.

(1) Citrus trees registered under Title 3, Division 4, Chapter 3, subchapter 2, Article 1 before the effective date of these regulations may maintain their registration until they are due to be retested; and be ~~continuously~~ re-registered as long as they meet the testing requirements of Section 3701.6.

(2) Until July 1, 2011, scion mother trees, not previously registered, may be eligible for registration provided they have tested negative for Tristeza and Huanglongbing in the previous twelve months.

(~~2~~3) Other than as described in 3701.3(a)(1) and (a)(2), scion mother trees and seed trees for which registration is requested shall have been propagated using scion materials obtained from or tested by CCPP in accordance with Table 1, or from registered scion mother trees; ~~sources that were tested by CCPP or whose origin can be traced to CCPP~~; and rootstock shall be from registered seed sources or propagated vegetatively from registered sources.

(~~3~~4) Registered scion mother trees may be topworked and thereafter re-registered, provided that the topworking was performed using only registered materials.

(~~4~~5) Registered scion mother trees infected with the citrus variant of the HSVd, citrus viroid IIa (CVd-IIa, Non-cachexia variant), that otherwise meet the testing requirements of Section 3701.6 may be registered.

(b) Registered increase trees

(1) Propagative materials used in the production of increase trees shall be foundation or registered scion mother or registered seed tree stock.

(2) Registered ~~scion mother or~~ increase trees may be topworked using registered materials to establish a registered increase tree.

(3) Until January 1, 2013, registered field-grown increase trees may be used as a source of propagative materials for a period of 18 months, beginning with the date the ~~first~~ tree ~~in the increase lot is~~ was propagated, with no additional testing.

(4) Registered increase trees, maintained in departmentally approved insect resistant structures that meet the requirements of Section 3701.5, may be used as a source of propagative materials for a period of 36 months~~, beginning with the date the first tree in the increase lot is propagated,~~ from date of propagation with no additional testing. The cutting period may be extended for an additional 24 months provided that the testing requirements of Section 3701.6 are met.

(5) Notwithstanding the above, no plant shall be maintained for a period longer than 36 months within an insect-resistant structure that also contains registered stock, unless that plant has been tested for Tristeza and Huanglongbing within the previous 36 months.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

Section 3701.4 Planting Location and Maintenance Requirements

(a) Registered trees shall be located as follows:

(1) Scion mother trees and rootstock may be field grown until January 1, 2012. To be eligible for registration after January 1, 2012, scion mother trees shall be maintained in departmentally approved insect resistant structures that meet the requirements of Section 3701.5.

(2) To be eligible for use after January 1, 2012, all rootstock shall be maintained in departmentally approved insect resistant structures that meet the requirements of Section 3701.5.

~~(2) Seed trees may be field grown until January 1, 2013. To be eligible for registration after January 1, 2013, seed trees shall be maintained in departmentally approved insect resistant structures that meet the requirements of Section 3701.5.~~

(3) Increase trees may be field grown until January 1, 2013. To be eligible for registration after January 1, 2013, increase trees shall be maintained in departmentally approved insect resistant structures that meet the requirements of Section 3701.5.

(b) Notwithstanding the above, any plant meeting the eligibility requirements of this program may be moved from one approved structure into another approved structure provided the plants are in the process of being actively relocated. Any plant moved during daylight hours shall be covered in a manner to protect against insect vectors. If a screen covering is used, no openings shall be larger than 0.3mm.

(~~b~~c) Maintenance Requirements

(1) All plants entered in this program shall be kept in good growing condition and pests shall be kept under effective control.

(2) ~~To be eligible for planting~~ Only those plants meeting the eligibility requirements of these regulations, or nursery stock derived therefrom, may be planted or maintained inside a departmentally approved insect resistant structure~~, scion mother and increase trees must meet either the registration requirements of these regulations or Section 3701.6(d)(1)(B)(1); and seed trees must meet the testing requirements for registered scion mother trees~~. After January 1, 2013, only nursery stock that has been propagated and maintained within a departmentally approved insect resistant structure at all times is eligible to be maintained in a structure that also contains registered scion mother, seed or increase trees.

(3) Each participant maintaining an insect resistant structure shall sign a compliance agreement with the Department that includes a plan developed by the participant and approved by the Department for meeting the following performance standard:

(A) Ensure proper utilization of ~~double door entries, including positive air flow~~ entryways.

(B) Establish procedures that are sufficient to prevent entry or spread of

diseases and/or vectors of concern ~~while introducing/removing material into/from insect resistant structure~~.

(C) Maintain structural inspection schedule that is sufficient to ensure the integrity of the structure is maintained.

(D) ~~Implement plan for~~ Participant's response to structural breach.

(E) Ensure nursery personnel are trained in pest identification and plant inspection techniques.

(F) Ensure proper use of Department supplied traps.

(G) ~~Implement~~ Participant's plan for major structure maintenance or replacement.

(H) Provide Department access to insect-resistant structure anytime during regular business hours~~, upon receiving prior notice~~.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

3701.5 Insect-Resistant Structures Performance Standard.

(a) Each insect resistant structure shall be approved by the Department prior to planting or moving stock into it. Structures under construction or completed prior to the adoption of these regulations may be grandfathered in provided they meet the performance standards outlined below.

(b) All propagation structures shall be enclosed with a covering to exclude vectors of citrus diseases. All structures shall meet the following performance standards at all times.

(1) Insect resistant structures shall have ~~double~~ entryways that ~~incorporate the use of positive air flow to the outside environment~~ prevent the entrance of insects.

(~~3~~2) Insect exclusion screen or non-permeable covering shall cover the entire structure with no ~~gaps~~ openings larger than ~~as described in subsection 4 below.~~

~~(4) Screen size shall be sufficient to exclude the cotton aphid.~~ 0.3mm in size

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

3701.6 Inspection and Testing Procedures

(a) Except as otherwise provided, inspection and testing activities described in this section shall be made by the Department, or its authorized agents which, for the purposes of testing, include the Citrus Clonal Protection Program, the Central California Tristeza Eradication Agency and the Citrus Research Board. Official samples submitted to a ~~United States Department of Agriculture~~ facility that is accredited by the United States Department of Agriculture to perform specific test(s) shall be eligible to fulfill those specific testing requirements of this program. All inspection and testing procedures shall be conducted at times determined suitable by the Department.

(b) Upon submittal of laboratory protocols, and Department review and acceptance thereof, agents may be granted authorization for performing any of the specific laboratory tests required by these regulations. Any change(s) in protocol(s) must be submitted to the Department for review and acceptance prior to their use in this program.

(c) The diseases and associated disease agents of concern to this program and approved test methods are listed below in Table I. Additional inspections and tests other than provided in this section may be required by the Department.

Table I: Diseases, Disease Agents of Concern and Approved Test Methods/Indicators

Diseases of Concern	**Disease Agent(s)**	**Test/Indicator Plant**
	Viruses	
Infectious Variegation, Leaf rugose, Crinkly leaf	*Citrus variegation ilarvirus* *Citrus leaf rugose ilarvirus* *Citrus crinkly leaf ilarvirus*	Sour orange Etrog Citron
Leaf blotch Dweet mottle	*Citrus leaf blotch virus* (CLBV) aka *Dweet mottle virus* (DMV)	Dweet tangor
Leprosis	*Citrus leprosis rhabdovirus*	Sweet orange
Psorosis A & B (Ring spot)	*Citrus psorosis ophiovirus* (CPsV)	Sweet orange Dweet tangor
Satsuma Dwarf	*Satsuma dwarf virus* (SDV) group	Satsuma mandarin, Dweet tangor, White sesame (*Sesamum indicum*), ELISA

Tatter leaf-Citrange stunt	*Apple stem grooving capillovirus* (ASGV) aka Citrus tatter leaf virus (CTLV)	Rusk citrange/RL Citrus excelsa
Tristeza (Quick decline, Stem pitting, Seedling yellows)	*Citrus tristeza closterovirus* (CTV)	Mexican lime, ELISA, Immunoimpression Direct tissue-blot immunoassay
Yellow mosaic	*Citrus yellow mosaic badnavirus*	Sweet orange, pummelo, ELISA
Viroids		
Various citrus growth abnormalities and symptomatologies related to citrus viroids including exocortis and cachexia	*Citrus exocortis viroid* (CEVd), *Hop stunt viroid* (HSVd), Citrus variants of HSVd, *Citrus viroid-IIa* (CVd-IIa): Non-cachexia, CVd-IIIb & -IIc: Cachexia, *Citrus bent leaf viroid* (CBLVD) aka *CVd-I*, *Citrus dwarfing viroid* (CDVd) aka CVd-III, *Citrus bark cracking viroid (*CBCVd) aka CVd-IV, *Citrus viroid V* (CVd-V), *Citrus viroid VI* (CVd-VI) aka CVD-OS	Etrog citron Arizona 861-S1/RL and sPAGE,Imprint Hybridization
Procaryotes		
Citrus variegated chlorosis	*Xylella fastidiosa*	PCR and sequencing
Huanglongbing (Citrus greening)	*Candidatus* Liberobacter sp.	Sweet orange PCR Source plant observation
Stubborn	*Spiroplasma citri*	Culture Sweet orange
Witches' broom	*Candidatus* Phytoplasma aurantifolia	Mexican lime, PCR
Unknown		
Australian Dieback	Uncharacterized, probable phytoplasma	Sweet orange, grapefruit
Concave gum	Unknown	Dweet tangor Sweet orange
Chlorotic dwarf	Unknown	Sour orange, rough lemon
Cristacortis Impietratura	Unknown	Dweet tangor Sweet orange
Vein enation	Unknown, probably Luteovirus	Mexican lime Sour orange

Impietratura	Unknown	Dweet tangor, Sweet orange

(d) Testing. Tests shall be conducted as described in Table 1 unless the Department approves or requires changes.

(1) Scion mother trees shall be tested as follows:

(A) Field-grown registered scion mother trees shall be tested by the Department annually for ~~t~~Tristeza and Huanglongbing, at least once every three years for viroids and at least once every six years for psorosis.

(B) Registered scion mother trees, maintained in a departmentally approved insect resistant structure meeting the requirements of Section 3701.5, whose scion parent material was sourced directly from CCPP and not subsequently field planted shall be tested as follows:

~~i~~1. Prior to their first use as a propagative source but no later than three years from date of propagation, the trees shall be tested for ~~t~~Tristeza and Huanglongbing. Thereafter, the trees shall be tested ~~annually~~ for Tristeza and Huanglongbing each year in which they are to be used as propagative sources. However, any tree not tested for Tristeza and Huanglongbing at least once every three years is no longer eligible to be in the program.

~~ii~~2. Until January 1, 2013, the trees shall be tested for viroids no later than three years from date of propagation. Subsequent to that date, the trees shall be tested for viroids prior to their first use as a propagative source, and at least once every three years thereafter, with the following exception,

3. After January 1, 2016 scion-mother trees maintained in insect-resistant structures within which no trees have tested positive for viroids shall be tested at least once every six years for viroids. However, should any tree within the structure subsequently test positive for viroids, all scion-mother trees within the structure shall be tested at least once every

three years for viroids until all trees within the structure have been tested twice for viroids.

4. At least once every six years for psorosis.

~~(iii) Thereafter, the trees shall be tested annually for tristeza and Huanglongbing, at least once every three years for viroids and, at least once every six years for psorosis.~~

(C) Registered scion mother trees, previously field grown but currently maintained in a departmentally approved insect resistant structure meeting the requirements of Section 3701.5, or whose scion parent material was field grown prior to placement in the insect resistant structure shall be tested ~~annually~~ for ~~t~~Tristeza and Huanglongbing each year in which they are to be used as propagative sources, at least once every three years for viroids and at least once every six years for psorosis. However, any tree not tested for Tristeza and Huanglongbing at least once every three years is no longer eligible to be in the program. After January 1, 2016 scion-mother trees maintained in insect-resistant structures within which no trees have tested positive for viroids shall be tested at least once every six years for viroids. However, should any tree within the structure subsequently test positive for viroids, all scion-mother trees within the structure shall be tested at least once every three years for viroids until all trees within the structure have been tested twice for viroids.

(D) In addition to the above, s~~S~~cion trees found to be infected with the citrus variant of the HSVd, citrus viroid IIa (CVd-IIa, Non-cachexia variant) shall be tested to assure the sequence similarity of the detected CVd-IIa with the Department approved growth modifying Tsn-RNA IIa.

(2) Seed trees shall be tested as follows:

(A) ~~Field-grown r~~Registered seed trees shall be tested at least every six years for psorosis A & B and citrus leaf blotch virus~~.~~, and, beginning January 1, 2013, annually for Huanglongbing.

~~(B) Registered seed trees maintained in a separate departmentally approved insect resistant structure meeting the requirements of Section 3701.5 from scion source trees shall be tested at least every six years for psorosis A & B~~

~~and citrus leaf blotch virus, and, beginning January 1, 2013, annually for Huanglongbing.~~

(~~C~~B) Registered seed trees maintained in a departmentally approved insect resistant structure meeting the requirements of Section 3701.5 that also contains scion source trees shall be tested ~~annually~~ every three years for ~~t~~Tristeza, at least once every three years for viroids, at least once every six years for psorosis A & B and citrus leaf blotch virus, and, beginning January 1, 2013, annually for Huanglongbing.

(3) Increase tree(s) may be used as propagative sources for a maximum of five years from date of propagation, provided that ~~are to be used as a propagative source after 36 months from date of initial propagation in the increase lot shall have been tested within the previous 12 months~~ they are tested for ~~t~~Tristeza and Huanglongbing between 24 and 36 months from date of propagation and annually thereafter. ~~Increase tree lots testing negative for these diseases shall be assigned a lot number by the Department. Increase tree lots shall be sampled based on the following schedule:~~

~~Number of trees in lot~~	~~Number of plants to sample~~
~~1 – 100~~	~~95~~
~~101 – 200~~	~~155~~
~~201 – 300~~	~~189~~
~~301 – 400~~	~~211~~
~~401 – 500~~	~~225~~
~~501 – 600~~	~~235~~
~~601 – 700~~	~~243~~
~~701 – 800~~	~~249~~
~~801 – 900~~	~~254~~
~~901 – 1000~~	~~258~~
~~1001 – 2000~~	~~277~~
~~2001 – 3000~~	~~284~~

(e) The Department may approve or require the substitution or addition of other tests, under generally accepted standards of scientific analysis, which are of equal or better reliability in detecting the diseases and disease agents of concern in this section.

(f) The Department shall publish a notice of approval of any test method which is substituted for or in addition to those listed in this section on the Department's web site.

(g) Inspection. The Department may perform unannounced inspections of structures and/or plants entered in the program at any time during normal business hours. In addition, each participant nursery shall be subject to an annual inspection of the following:

(1) All required records pertaining to trees entered in the program.

(2) All insect-resistant structures maintained as part of the program.

(3) The participant's compliance agreement for insect-resistant structures.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941, 6943 and 6945, Food and Agricultural Code.

3701.7 Refusal, Suspension or Cancellation of Registration

(a) Registration may be suspended for any registered tree(s) if any of the conditions listed below apply.

(1) Preliminary tests or visual inspections indicate that the citrus tree(s), or any citrus tree(s) within the same structure, are infected with the applicable disease or disease agent of concern listed in Section 3701.6; or

(2) The requirements of these regulations have not been met; or

(3) The pest cleanliness requirements for nursery stock in Title 3, Division 4, Section 3060.2 of California Code of Regulations have not been met; or

(4) The source that the citrus trees were propagated from is diseased and the citrus trees and their progeny are also suspected of being diseased.

(5) Participant's failure to meet the requirements in the compliance agreement.

(6) Breach of an insect-resistant structure.

(b) Registration may be canceled or refused for any registered tree(s) if any of the conditions listed below apply.

(1) The citrus tree(s), or any citrus tree(s) within the same structure, are infected with an applicable disease or disease agent of concern listed in Section 3701.6 and detected using a test listed in that section.

(2) The requirements of these regulations have not been met; or

(3) The pest cleanliness requirements for nursery stock in Title 3, Division 4, Section 3060.2 of California Code of Regulations have not bee met; or

(4) The source that the citrus trees were propagated from is diseased and their progeny are also determined to be diseased.

(5) Participant's failure to meet the requirements in the compliance agreement.

(6) Breach of an insect-resistant structure.

(c) Disposition of suspended and canceled trees.

(1) Suspended trees may be retained in the planting.

(2) Suspended trees shall be clearly identified and written records maintained.

(3) Propagative materials from suspended trees may, at the discretion of the Department, retain their registered status while testing to determine their disease status is in progress.

(4) Propagative materials from canceled trees shall not be used.

(5) Trees maintained in insect resistant structures, for which registration has been cancelled but which have not tested positive for the diseases listed in Section 3701.6(d), shall be removed by the participant within one month of being notified of the cancellation by the Department.

(6) Trees maintained in insect resistant structures which have tested positive for any of the diseases listed in Section 3701.6(d) shall be removed by the participant within 48 hours of being notified by the Department, unless granted an extension by the Department.

(d) Reinstatement of suspended trees.

(1) Registration of suspended trees and/or propagative materials may be reinstated if the Department determines that the suspension is no longer necessary. The Department may use testing and/or inspections to make this determination.

(2) Registered trees may have their registration reinstated if they test negative for disease(s) shown to be infecting the source(s) from which they were propagated.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6941 and 6945, Food and Agricultural Code.

3701.8 Application and Fees

(a) Application to register citrus trees may be made after the trees have been planted. Upon submitting an application the applicant shall consent to the taking of samples or plants from any planting by the Department for inspection or testing purposes. Application(s) shall be submitted as follows:

(1) For scion mother or seed tree(s), the participant shall submit an application for the initial registration and each year thereafter to request continued registration.

(2) For increase tree(s) ~~lot(s)~~ that are to be used as a source of propagative materials beyond 36 months from date of propagation, the participant shall submit an application for each year the period is extended.

(3) The applicant shall submit an application on a form provided by the Department and provide the following information:

(A) Applicant's name and mailing address;

(B) Applicant's telephone and fax numbers, email address;

(C) Applicant's California Nursery Stock License Number;

(D) County where applicant is located;

(E) Type of planting:

~~(i)~~1. Field, including number of trees

~~(ii)~~2. Insect resistant structure, including Department-assigned insect-resistant structure number, location, square footage, and number of scion, seed, increase and/or nursery trees per structure.

(F) Number of scion, seed, increase and/or nursery trees for which testing is requested.

(~~F~~G) Location of planting, including county

(~~G~~H) Signature and title of applicant; and

(~~H~~I) Date application signed.

(b) Fees. Fees are to be used to reimburse the Department for the costs of administering the program, including defraying expenses incurred in the approval, inspection, testing~~, approval~~, and registration procedures herein provided and are not to obtain any right or privilege. ~~Fees, in whole or in part, may be waived if the cost of the services rendered is covered by assessment.~~

(1) Application fees shall be paid by the participant in advance of any work conducted.

(2) The Department may charge additional fees because of conditions or total acreage entered or number of tests performed when established minimum fees will not cover the cost of services.

(3) Fees paid for services that are not rendered shall be refunded to the participant. The amounts refunded may be prorated based on the direct costs incurred by the Department in the administration of the requirements of these regulations.

(4) Provided that the participant provides the labor to collect the samples, ~~T~~the fee schedule shall be:

(A) For scion mother and seed tree registration, the annual application fee shall be $200 plus, for each tree to be tested:

~~(i)~~1. $35 per tree for first 100 scion mother or seed trees, or

~~(ii)~~2. $3,500 plus $30 per tree beginning with the 101st scion mother or seed tree for 101-300 trees, or

~~(iii)~~3. $9,500 plus $25 per tree beginning with the 301st scion mother or seed tree for more than 300 trees,

(B) For registered increase trees ~~lots~~ to be used as propagative sources past 36 months from date of propagation, and for nursery stock maintained within an insect resistant structure longer than 36 months from date of propagation, ~~an~~ the annual ~~application~~ testing fee ~~of $50~~shall be $4 per increase or nursery tree ~~lot~~.

(C) For insect-resistant structures, an annual program fee of $300 for all structures at one location, plus $.01/square foot.

(D) In addition to the above fees, an additional fee will be assessed equal to the amount charged by the laboratory selected by the Department to do the analyses.

Note: Authority: Sections 407 and 6946, Food and Agricultural Code.

Reference: Sections 407, 6940, 6944 and 6945, Food and Agricultural Code.

Section 3407. Citrus Tristeza Virus Interior Quarantine.

A quarantine is established against the following pest, its hosts and possible carriers:

(a) Pest. All strains of the citrus tristeza virus.

(b) Quarantine Area. That portion of the State which is known to be generally infected with citrus tristeza virus and where no significant efforts to control or suppress the disease are conducted. The quarantine area is the counties of Orange and Ventura, and portions of Los Angeles, Riverside, San Bernardino, San Diego and Santa Barbara counties as follows: (continued)

(c) Suppressive Area. The suppressive area is that portion of the State in which the citrus tristeza virus has been detected, in which a pest control district has been established, and where an active control or suppression program is being conducted. The suppressive area is the county of Kern and portions of Fresno, Tulare, and Riverside Counties as follows: (continued)

(d) Regulated Area. The regulated area is that portion of the State in which the citrus tristeza virus may occur but which is not generally infected and where efforts to control or suppress the disease may be conducted. The regulated area is all areas of California not described as a quarantine or suppressive area.

(e) Articles and Commodities Covered.

(1) All plants~~, except propagative parts,~~ ~~and propagative parts (except seed)~~ and propagative parts (except seed) including any subspecies, variety, or ornamental form, of the genera Citrus (true citrus), Fortunella (kumquat), Poncirus (trifoliate orange).

(2) All plants and propagative parts (except seed), including any subspecies variety or ornamental form of the genera Aeglopsis (dwarf powder-flask fruit), and Afraegle (African powder-flask fruit), Atalantia, Citropsis, Clausena, Clymenia, Eremocitrus, Hesperethusa, Merrillia, Microcitrus, Pleiospermium, Severinia, Swinglea, and of any hybrid having at least one ancestor of Citrus, Fortunella, or Poncirus, are declared to be hosts or possible carriers of the pest.

(f) Restrictions.

(1) Moving permits for articles and commodities covered in (e)(1).

(A) The agricultural commissioner at origin may issue permits authorizing the movement of propagative parts from field-grown source trees until January 1, 2012 and from field-grown nursery increase blocks until January 1, 2013.

(B) Propagative parts from registered source or registered increase trees that are maintained in departmentally approved insect-resistant structures and that meet the record-keeping requirements in Section 3701.2 (a)(9), Title 3, California Code of Regulations may be moved within the state without a moving permit.

(C) The agricultural commissioner at origin may issue moving permits for movement throughout the state for trees produced from buds, cuttings, or scions taken from registered source or registered increase trees as described in subsection (B), provided the following requirements are met:

1. The trees were propagated and continuously maintained within a departmentally approved insect-resistant structure.

2. The agricultural commissioner shall cause a record to be kept of each source tree listed in subsection (e)(1); the kind and amount of buds, cuttings, or scions taken from each source tree; and the kind, number, and location in the insect-resistant structure of the progeny trees produced therefrom for five years after production.

(~~1~~2) Conditions of Movement. Unless accompanied by a moving permit or under a cutting permit as hereinafter provided, articles and commodities covered shall not be transported or moved, except as provided in subsection (f)(1)(B) and (C):

(A) From the quarantine area except to another portion of the quarantine area or except when authorized under permit as provided in paragraphs (~~7~~8) and (~~8~~9).

(B) From the regulated area except to another portion of the regulated area or to the quarantine area or under permit to the suppressive area as provided in paragraph (~~3~~4).

(C) From the suppressive area except to the quarantine area, to another portion of the suppressive area under permit as provided in paragraphs (~~3~~4) and (~~5~~6), or under permit to the regulated area as provided in paragraph (~~3~~4).

(~~2~~3) Propagation of Articles and Commodities Covered in this Section. All buds, cuttings, and scions used in the propagation of trees described in subsection (e)(2) shall be taken from source trees which have been tested to the satisfaction of the department and found free from tristeza. No buds, cuttings, or scions from untested or tristeza infected source trees may be used for propagation of articles and commodities covered in this section. Records shall be maintained of each source tree, the quantity of propagative material taken from each source tree, and the progeny trees in the nursery produced therefrom for five years after production. The records shall be made available for review by the county agricultural commissioner during normal business hours.

(~~3~~4) Moving Permits for Movement into, within, or from the Suppressive Area. Except as provided in subsection (f)(1)(B) and (C) , ~~T~~the agricultural commissioner at origin may issue moving permits authorizing movement of articles and commodities covered into, within, or from the suppressive area provided that the articles and commodities have been tested for tristeza to the satisfaction of the department and no evidence of tristeza was found, or all buds, cuttings, scions or top-worked trees used in the production of the trees, or being moved as such are from source trees or trees in a nursery increase block which have been so tested.

(~~4~~5) Record of Tested Source Trees and Trees Produced From Nursery Increase Blocks. In order that trees produced from buds, cuttings, or scions taken from tristeza tested source trees or nursery increase blocks may later be moved under a moving permit in accordance with paragraph (~~3~~4), the agricultural commissioner shall cause a record to be kept of each source tree listed in subsection (e)(2); the kind and amount of buds, cuttings, or scions taken from each source tree; and the kind, number, and location in the nursery of the progeny trees produced therefrom for five years after production.

(~~5~~6) Cutting Permit Required for Taking or Moving Budwood Within the Suppressive Area. No buds, cuttings, or scions of host trees described in subsection (e)(2) shall be cut or otherwise taken from such trees within the suppressive area or moved within or from any such area for propagation, unless a cutting permit has been secured from the agricultural commissioner prior to cutting or taking or moving same. Cutting permits may be issued within the suppressive area provided the source tree has been tested for tristeza to the satisfaction of the department and no evidence of tristeza was

found. Such a cutting permit shall set forth the amount and kind of buds, cuttings, and scions in the shipment accompanied thereby and the name and address of the consignee.

(~~6~~7) The issuance of cutting permits for host trees listed in subsection (e)(2) and moving permits, except as provided in subsection (f)(1)(B) and (C), under the terms of this regulation also applies to nursery increase blocks. Nursery increase block means a planting of citrus nursery stock propagated using budwood and/or scionwood from trees which have been tested for tristeza to the satisfaction of the department. Top-worked trees may qualify as nursery increase blocks provided that they are tested to the satisfaction of the department and found free of tristeza. The county agricultural commissioner at origin may approve such nursery or top-worked trees, which do not exceed 18 months from time of budding, to be used as a supplementary source of buds, cuttings or scions. The agricultural commissioner shall cause a record to be kept as provided in paragraph (4~~5~~).

(~~7~~8) Permits Involving Movement into or through the Regulated Area for Fumigation. Except as provided in subsection (f)(1)(B) and (C) , ~~T~~the agricultural commissioner may issue permits authorizing the movement of articles and commodities covered from the quarantine area into or through the regulated area for fumigation and prompt return to the quarantine area. The articles and commodities shall be treated for tristeza vector elimination immediately prior to such movement in a manner approved by the department and shall be moved in wrapped bales, bundles, or closed containers in a closed conveyance. Such permits shall be valid for only the time specified in the permit and shall not authorize the articles and commodities to remain outside the quarantine area longer than 48 hours.

(~~8~~9) Movement in Transit through the Quarantine Area. Articles and commodities covered originating outside of the quarantine area may be moved through such area without delay or diversion in wrapped bales, bundles, or closed containers, or in a closed conveyance into which no other articles and commodities covered are placed while within the quarantine area.

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

FINDING OF EMERGENCY

Readoption

The Secretary of the Department of Food and Agriculture has determined that an emergency exists due to the presence of the Asian Citrus Psyllid (ACP), *Diaphorina citri*, in California, and the presence of both ACP and Huanglongbing (HLB) in Mexico.

Emergency Rulemaking Procedures

"'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).

The information contained within this finding of emergency also meets the requirements of Government Code Sections 11346.1 and 11346.5. The Department met the requirements of Section 11346.5 in its emergency filing, OAL No. 2010-0506-02E which is incorporated by reference. Section 11346.1(h) provides that the Office of Administrative Law may approve up to two readoptions, each for a period not to exceed 90 days if the adopting agency has made substantial progress towards completing the rulemaking process.

"Specific actions necessary to prevent or mitigate an emergency" are exempt from the California Environmental Quality Act (CEQA). Public Resources Code Section 21080(b)(4). "'Emergency'

means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services." Public Resources Code Section 21060.3.

Evidence of Emergency

Senate Bill 140 (SB 140), chaptered November 2, 2009, requires that the California Department of Food and Agriculture (Department) establish a Citrus Nursery Stock Pest Cleanliness Program (CNSPCP) to protect citrus nursery source propagative trees from harmful diseases, pests, and other risks and threats. The bill also requires that anyone propagating citrus by any means must comply with all of the eligibility requirements and testing protocols issued by the secretary. Further the bill authorizes the department to adopt and enforce regulations to carry out the program and to issue orders establishing rates or prices to cover the department's costs for administration, testing, inspection and other services under the program. The bill declares that it is to take effect immediately as an urgency statute.

The ACP poses a clear and imminent danger to California's citrus industry. Should the Department not continue this emergency action by completing the regular noticed rulemaking action within 180 days of the effective date, the emergency regulations would be repealed by operation of law. This could allow the ACP to cause catastrophic losses to California's citrus industry.

The Department adopted Sections 3701, et. seq., as an emergency action effective May 17, 2010, to establish a mandatory Citrus Nursery Stock Pest Cleanliness Program; and concurrently amended Section 3407, Citrus Tristeza Virus Interior Quarantine, to revise the requirements for moving permits for certain kinds of citrus propagative parts and trees. The Department also repealed Sections 3000 et. seq., as part of the same emergency action.

Necessity for Readoption

The Department has made substantial progress and proceeded with diligence to complete the rulemaking process for these regulations. However, it will not be possible to complete the rulemaking process within 180 days of the effective date of the emergency for the following reasons. Following the emergency adoption, the regulations were noticed July 30, 2010, beginning the 45-day public comment period which ended September 13, 2010. Following the close of the public comment period, the Department held two public hearings: September 15, 2010 in Tulare and September 17, 2010 in Coachella. Because of comments received regarding Sections 3071, et. seq., and Section 3407 during the 45-day comment period and the two public hearings, the Department has determined that further consultation with the affected industry is necessary. Accordingly, the Department will meet with industry in early December. Following that meeting, Sections 3071, et. seq., and Section 3407 will be noticed for another 45-day comment period after which the Department will complete the rulemaking process. In order to meet the 180-day deadline to complete the rule-making process, the Certificate of Compliance for this emergency action would be due to OAL no later than November 13, 2010. Since it will not be possible to meet that deadline, the Department is filing this request for emergency readoption of Sections 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7 and 3701.8 and Section 3407.The Department will complete the rulemaking process for the repeal of Sections 3000, 3001. 3002, 3003 and 3004 by filing a Certificate of Compliance with OAL no later than November 13, 2010.

The specific facts and information relied upon which originally established this emergency action have not changed and the emergency still exists. Therefore, the Department is proposing to incorporate by reference and readopt OAL File No. 2010-0506-02E to avoid severe economic losses to agriculture and losses in the State's revenue.

The Secretary amended these regulations pursuant to the authority in Food and Agricultural Code (FAC) Section 407, "the director may adopt such regulations as are reasonably necessary to carry

out the provisions of this code which he is directed or authorized to administer or enforce," , FAC Section 6946, "the secretary may adopt regulations and issue orders as authorized by this article, and FAC Section 5322, "the director may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in his or her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC Section 5321."

Additionally, 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" and Section 403 states, "the department shall prevent the spread of injurious insect pests."

Under Section 14.5 of the State of California Emergency Plan, dated July 1, 2009, the Department is responsible for coordinating integrated federal, state and local preparedness for response to, recovery from and mitigation of plant diseases and pests and overseeing the control and eradication of outbreaks of harmful or economically significant plant pests and diseases. The Department is also charged with leading the administration of programs to detect, control and eradicate pests affecting plants.

Adding to the urgency of establishing the CNSPCP is the presence of the ACP in California, the presence of both ACP and HLB in Mexico, and the fact that in July of 2009 ACP larvae on an intercepted plant shipment tested positive for HLB.

The first find of ACP in California was in San Diego County on August 27, 2008. That and subsequent finds have led to the establishment of quarantines in Imperial, Los Angeles, Orange, Riverside and San Diego counties. Currently, 15,937 square miles of the State are under quarantine for this pest. By itself, ACP causes only minor cosmetic damage to citrus trees. However, when it becomes infected with HLB, 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, first identified in China in 1919, 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.

As late as 2007, HLB was known to exist only in Asia, Africa, Brazil (first identified in 2004, now affects 218 municipalities), the Indian subcontinent, the Saudi Arabian Peninsula and in the US, Florida, where it was first identified in 2005. Since then HLB has been found throughout the state of Florida and has also been identified in Louisiana (2008), South Carolina (2009), and the territory of Puerto Rico. Of most concern to the California citrus industry is the presence of both the ACP and HLB in Mexico. HLB was first identified in Mexico on June 26, 2009 on the

Yucatan Peninsula. In December 2009, HLB was found in the states of Jalisco and Nayarit, just 1000 miles south of California.

The probability is high that a private citizen, tourist or immigrant will introduce the HLB-associated bacterium into California through the inadvertent movement of plant material including fruit from their homeland or areas visited to their backyard in a residential area. One possible explanation for the Florida situation is that numerous backyard citrus trees had been infected with HLB but in the absence of a vector, it went unnoticed. Once the ACP became established, it moved the HLB-associated bacteria from backyards into commercial groves. The movement of both HLB-associated bacteria and the ACP appear to have been accelerated through the movement of citrus plants through retail nurseries and garden centers. HLB has a latency period of several years in infected trees, meaning the disease could be present and be spread for years before it is first detected.

California is the number one economic citrus state in the nation, with the USDA putting the value of California citrus at $1,131,851,000 (Federal Register Vol. 71, No.83; published May 1,

2006; pg 25490). 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 revenue, California must do everything possible to protect the citrus industry from both HLB-associated pathogens and ACP.

Project Description

The adoption of Section 3701 et. seq. established that participation in the Citrus Nursery Stock Pest Cleanliness Program is mandatory for any person (with the exception of the Citrus Clonal Protection Program) who by any method of propagation, produces any citrus nursery stock; the diseases for which testing is required and the test methods to be used, a list of laboratories approved for performing the tests, frequency of such testing, requirements and time frames for growing registered mother and increase trees in protective structures, a performance standard for such structures, a fee schedule for participants, record-keeping requirements for the Department and participants, elements of a required application form and compliance agreement between nurseries and the Department, provisions for suspending or cancelling the registration status of citrus trees and provisions for mandatory destruction of trees and/or propagative materials for which registration has been cancelled.

Concurrent with the adoption of Section 3701 et. seq., the Department amended Section 3407, Citrus Tristeza Virus Interior Quarantine as an emergency action to exempt certain propagative materials from the requirements for a moving permit.

The Department relied upon, and is incorporating by reference, the following documents for this proposed rulemaking action:

OAL File No. 2010-0506-02E

Authority and Reference Citations

Authority: Sections 407, 5301, 5302, 5322 and 6946, Food and Agricultural Code.

Reference: Sections 407, 5301, 5302, 5322, 6940, 6941, 6942, 6943, 6944, and 6945, Food and Agricultural Code.

Informative Digest

FAC Sections 6940-6946 provides that the Department is obligated to develop and establish a mandatory Citrus Nursery Stock Pest Cleanliness Program to protect citrus nursery source propagative trees from harmful diseases, pests, and other risks and threats and that the program shall be administered by the Secretary.

Section 3701 et. seq. Citrus Nursery Stock Pest Cleanliness Program

The emergency regulation effective May 17, 2010 established that participation in the Citrus Nursery Stock Pest Cleanliness Program is mandatory for any person (with the exception of the Citrus Clonal Protection Program) who by any method of propagation, produces any citrus nursery stock; the diseases for which testing is required and the test methods to be used, a list of laboratories approved for performing the tests, frequency of such testing, requirements and time frames for growing registered mother and increase trees in protective structures, a performance standard for such structures, a fee schedule for participants, record-keeping requirements for the Department and participants, elements of a required application form and compliance agreement between nurseries and the Department, provisions for suspending or cancelling the registration status of citrus trees and provisions for mandatory destruction of trees and/or propagative materials for which registration has been cancelled.

FAC Sections 5301, 5302 and 5322 provide for a mandatory citrus tristeza virus interior quarantine. The quarantine requires moving permit requirements that will no longer be necessary for certain types of propagative materials once the proposed regulations are in effect.

Section 3407, Citrus Tristeza Virus Interior Quarantine

Concurrent with the previous emergency action, the Department amended Section 3407, Citrus Tristeza Virus Interior Quarantine to exempt certain propagative materials from the requirements for a moving permit.

There are no comparable federal regulations or statutes.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3437 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 Fresno, Mendocino, Napa, Solano and Sonoma County Agricultural Commissioners requested that these changes to the regulation be made.

Cost Estimate

The Department has also determined that the regulations 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 reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code and no costs or savings in federal funding to the State.