

California Law, Food and Agriculture Code
Division 4
Plant Quarantine and Pest Control

Part 1 - Generally

Chapter 1 Definitions and General Provisions

Article 1 - Definitions

5001. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

5002. "Appliance" means any box, tray, container, ladder, tent, vehicle, implement, or any other article which is, or may be, used in connection with the growing, harvesting, handling, or transportation of any agricultural commodity.

5003. "Crop seed" means the seed or seedlike fruit of grain, beans, flax, beets, onions, or any other crop, whether or not it is intended for planting purposes.

5004. "Noxious weed" means any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the director, by regulation, designates to be a noxious weed. In determining whether or not a species shall be designated a noxious weed for the purposes of protecting silviculture or important native plant species, the director shall not make that designation if the designation will be detrimental to agriculture.

5005. "Nursery stock" means any plant for planting, propagation, or ornamentation.

5006. "Pest" means any of the following things that is, or is liable to be, dangerous or detrimental to the agricultural industry of the state:

(a) Any infectious, transmissible, or contagious disease of any plant, or any disorder of any plant which manifests symptoms or behavior which the director, after investigation and hearing, finds and determines is characteristic of an infectious, transmissible, or contagious disease.

(b) Any form of animal life.

(c) Any form of vegetable life.

5007. "Plant" includes any part of a plant, tree, plant product, shrub, vine, fruit, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit.

5008. "Shipment" means any article or thing which is, may be, or has been transported from one place to another place.

5009. "Horticultural product" means those products as stated in Group Number 18 of the Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, fruit stock, floral products, nursery stock, ornamental

plants, potted plants, roses, seed, sod, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

5010. Agricultural or farm products include any horticultural product.

5011. Unless otherwise provided in this code, for the purposes of pest management, "crop" means a plant or animal, or a product derived from a plant or animal, that can be grown and harvested for profit or for the subsistence of humans or animals.

5012. Unless otherwise provided in this code, for the purposes of pest management, "forage" means food for domestic or other wild animals that is taken by browsing or grazing, or food that wild or domestic animals take for themselves.

Article 2 - General Provisions

5021. Unless otherwise provided, any treatment which may be required pursuant to this division is at the risk and at the expense of the owner or person in charge or in possession of the property which is treated at the time of treatment.

5022. This division shall not be construed to conflict with any other law which provides for the extermination or control of ground squirrels or other animal pests. If any proceedings are commenced, however, pursuant to this division, this division and no other law applies to such proceedings.

5023. The commissioner, whenever necessary, may enter and make an inspection of any premises, plant, conveyance, or thing in his jurisdiction.

5024. (a) The secretary or the commissioner shall, during the maintenance of any quarantine established by the secretary pursuant to Article 1 (commencing with Section 5301) of Chapter 5, inspect any plant or thing that is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest. The person who conducts the inspection shall not permit any of those plants or things to pass over the quarantine line during the quarantine, except pursuant to a certificate of inspection and release that is signed by that person.

(b) Whenever the commissioner finds that a plant or thing does not, and will not, present a threat to the state, the commissioner may recommend to the secretary the waiver of, and the secretary may waive, the inspection and certification requirements specified in subdivision (a).

5025. The Regents of the University of California may collect and, subject to the provisions of Section 6305, import into this state from foreign countries, parasitic and predaceous insects for use in the control of insect pests of horticultural and agricultural crops and of livestock. The regents may, for this purpose, employ and send abroad experts who shall be allowed, in addition to their compensation, their necessary subsistence, traveling, and other expenses incidental to the performance of their duties.

5025.5. (a) The department, in consultation with the University of California, the United States Department of Agriculture, and members of the scientific community with expertise in exotic pest management, shall conduct a study on the desirability and feasibility of establishing an Exotic Pest Research Containment Facility, which shall, as a primary function, conduct exotic pest research and perform additional activities with respect to the administration, training, service, and diagnostics relating to exotic pests. The research of the facility shall emphasize flexibility and adaptability to accommodate technological advances and research into new exotic pest problem areas. The study shall include, but not be limited to, the following:

(1) The availability of funding for the facility from federal, state, local, and private sources.

(2) Whether to locate the facility within or outside of California.

(3) Protocol for access to and operation of the facility.

(b) The department shall report its findings and recommendations to the Legislature, not later than January 1, 1992.

5026. (a) The director may overrule a local agency's ordinance or regulation where that ordinance or regulation would prevent or inhibit an eradication effort. The director may act under this section only when the Governor has declared a state of emergency relating to the eradication effort and the effect of the local ordinance or regulation will be to threaten agriculture on a statewide basis, to materially interfere with the ability of the director or the commissioner to eradicate a pest, or where the pest is of such a nature that it could rapidly spread to other areas beyond the boundaries of the local agency.

(b) "Local agency" means any public agency, other than a state agency, board, or commission and includes, but is not limited to, cities (chartered or otherwise), counties, and special districts.

5027. Unless otherwise expressly provided, a violation of any provision of this division is a misdemeanor.

5028. (a) Any person who intentionally violates any state or federal quarantine law or regulation is liable civilly as provided in Sections 5310 and 5311, and subdivision (c) of this section, and is subject to criminal or civil penalties, or both, pursuant to the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7) of the Business and Professions Code.

(b) Either of the following factual findings shall constitute prima facie evidence that a violation of any state or federal quarantine law or regulation pursuant to subdivision (a) is an intentional violation:

(1) A violation of Section 6401 and possession of a shipment, plant, or thing that is regulated by a state or federal quarantine law or regulation and that has not been inspected and released by a federal, state, or county quarantine official in either of the following circumstances:

(A) The plant or thing is found concealed from view.

(B) The person in possession has been found repeatedly in possession of those plants or things.

(2) A combination of findings showing that a person is in possession of a shipment, plant, or thing that is regulated by a state or federal quarantine law or regulation and that was fraudulently or secretly brought into the state and the person in possession is engaged in a

business or other commercial activity where a reasonable expectation exists that the person was aware of the state or federal quarantine laws or regulations.

(c) Any person who negligently or intentionally violates any state or federal law or regulation, including any quarantine regulation, by importing any plant, or other article, that, by virtue of being pest or disease infested, causes an infestation of a plant, pest, or disease, or causes an existing infestation to spread beyond any quarantine boundaries, is liable civilly in a sum not to exceed twenty-five thousand dollars (\$25,000) for each act that constitutes a violation of the law or regulation.

(d) The Attorney General, upon request of the secretary, shall petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (c). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.

(e) The remedy under this section is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.

(f) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, or research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section 224.

5029. (a) The department, in consultation with the State Department of Health Services, shall design and implement a program to provide information to persons who reside in areas scheduled to be treated with pesticides on an emergency basis in order to eradicate plant pests.

(b) The purpose of this program is to provide information about the health effects of the pesticides used in eradication projects. The program shall be designed to provide the greatest amount of information practicable to affected citizens. The department shall conduct outreach efforts to inform the public about the existence of this program.

Article 3 Proof of Ownership

5030. Upon probable cause to believe a person buying, selling, or transporting a shipment of plant material intended to be marketed for commercial purposes is in violation of this division, proof of ownership of the plant material shall be made available for inspection upon request of the director, the commissioner, or any peace officer. If the director or the commissioner has probable cause to believe that a person is in unlawful possession of any shipment of plant material, he or she may request a peace officer to stop the vehicle for inspection. The record of proof of ownership shall contain the following information:

(a) The name, address, telephone number, and signature of the seller or the seller's authorized representative.

(b) The name, address, and telephone number of the buyer, or consignee if the commodity has not been sold.

(c) The common or generic name and quantity of the commodity.

(d) The name of the country, state, or territory where the commodity was grown.

5031. It is unlawful for any person to knowingly falsify, misrepresent, or cause to be falsified or misrepresented, any information in a record intended to show proof of ownership.

5032. The director or commissioner may compile information and make any necessary investigations relative to suspected violations of this division. The director or commissioner may call and conduct a hearing in furtherance of the investigation.

5033. The person in custody of any records containing information required pursuant to Section 5030 shall exhibit those records upon a demand therefor by the director or commissioner, as their designees, or by a peace officer. The records may include, but are not limited to, certificates of inspection or treatment, bills of sale or consignment, truck invoices, or bills of lading.

5034. At the time of the hearing, the director or commissioner may take any of the following actions:

(a) Administer oaths and take testimony.

(b) Issue subpoenas that compel the attendance of any witness before the director or commissioner, together with the production of all relevant documents.

(c) Compel disclosure by witnesses of all facts that are known to them relative to the matter under investigation.

5035. Any party that disobeys any order or subpoena of the director is subject to Section 11188 of the Government Code.

Chapter 2 County Administration

5101. Each commissioner is an enforcing officer of all laws and regulations which relate to the prevention of the introduction into, or the spread within, the state of pests. He is, as to such activities, under the supervision of the director.

5102. Each commissioner and each qualified representative of the commissioner is a state plant quarantine officer for the following purposes:

(a) Certifying to the pest condition or pest treatment of shipments, if certification as a condition of movement or entry is officially required.

(b) Enforcing laws and regulations which relate to plant quarantine.

5103. Any interested person that is aggrieved by any action or order of a commissioner may appeal in writing to the director within five days after notice of action or order if no other time limit is prescribed within which to appeal from such action or order. No appeal may be taken from any authorized summary action of the commissioner.

5104. The director shall hear any appeal from an action or order of a commissioner within 10 days after the receipt of the appeal upon notice to all interested parties. His decision shall be final.

5105. Pending decision after appeal, action by the commissioner on the case under appeal shall be suspended by the director. The refusal of any commissioner to carry out the orders and directions of the director which are issued in connection with any appeal is neglect of duty.

Chapter 3 Certification of Plant Shipments

5201. As used in this chapter, "certificate" means the certification by a commissioner, deputy commissioner, or inspector of the pest condition or treatment of any shipment of plants.

5202. The board of supervisors of any county may establish a schedule of fees for any or all classes of certificates to be paid by shippers that request such certificates.

5203. No fee shall be charged for certification required by any law, regulation, or requirement of the United States or of this state or by any ordinance, regulation, or requirement of any county of this state.

5204. The schedule of fees for the certificates shall be based upon the approximate cost of the inspection.

5205. A commissioner shall make such inspections as may be necessary to determine the facts which are required by the state or country of intended destination and shall issue a certificate that states the facts which are determined upon receipt of the scheduled fee for a certificate or, if no scheduled fee has been established, upon request of the shipper.

5206. The board of supervisors of any county may designate any place within the county as a fumigation or treatment station for the purpose of enabling the commissioner to inspect plant shipments for certificates, if fumigation or other treatment is required by the state or country of destination as a condition of shipment to such state or country.

5207. If the board of supervisors designates a place as a fumigation or treatment station, the commissioner shall inspect plant shipments at the stations, for shipment to other states or countries which require fumigation or treatment as a condition of shipment.

5208. It is unlawful for any person to alter, deface, or wrongfully use a certificate issued pursuant to any provision of this division.

5209. (a) Except as provided in subdivision (b), any violation of this chapter is an infraction punishable by a fine of seventy-five dollars (\$75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of this chapter.

(b) (1) Any use by any person of a false or invalid certificate for the purpose of certification pursuant to this chapter is a misdemeanor.

(2) For the purpose of this section, "false certificate" means a document, as defined in Section 5201, that has not been issued by a commissioner, deputy commissioner, or inspector.

(3) For the purposes of this section, "invalid certificate" means a document, as defined in Section 5201, that is based upon false

information supplied to the commissioner, deputy commissioner, or inspector which is essential to the issuance of the certificate.

Chapter 4 Newly Discovered Pests

5251. Upon the discovery of any pest, the director shall immediately report the discovery to the commissioner of the county in which the pest is found.

5252. The director shall furnish to the commissioner a statement as to the best known means or methods for eradicating or controlling the discovered pest and advise him of the procedure or treatment to prevent the further spread of the pest.

5253. The commissioner shall disseminate all or any portion of the statement in whatever manner he may deem is best suited to inform persons that own or have charge or possession of any premises or appliances within the county where there is a probability of the presence of the pest.

5254. In any county where there is no commissioner, or if the director finds that the commissioner has failed or neglected to use all reasonable means to effect the control or eradication of any discovered pest, the director may undertake the control or eradication of the pest. He may exercise any power or authority which is conferred on the commissioner by this division.

5255. In any proceeding which is commenced pursuant to Section 5254, any duty, jurisdiction, or authority which is conferred on the commissioner by this division is conferred or imposed upon and transferred to the director.

Chapter 5 Quarantine Regulations and Inspection Stations **Article 1 General Provisions**

5301. The director may establish, maintain, and enforce such quarantine regulations as he deems necessary to protect the agricultural industry of this state from pests. The regulations may establish a quarantine at the boundaries of this state or elsewhere within the state.

5302. The director may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest, from passing over any quarantine line which is established and proclaimed pursuant to this division.

5303. All quarantine regulations which involve another state, territory, district, or foreign country shall be made by the director. The regulations shall be approved and proclaimed by the Governor, or by the director as the Governor's designee.

5304. The proclamation shall be signed in duplicate. The original shall be filed in the office of the Secretary of State and a copy in the office of the department before the regulation takes effect.

5305. A quarantine shall not be established by one county, city, district, or other public agency, against another county, city, district, or public agency, on account of the existence of any pest, without the written consent of the director.

5306. (a) It is unlawful for any person to refuse to comply with any quarantine regulation which is established by the director pursuant to this division.

(b) It is unlawful for any person to possess, propagate, plant, process, sell, or take any other action with regard to a plant or thing subject to a quarantine which has been imported or moved in violation of the quarantine.

(c) Notwithstanding Section 5309, any violation of this section is a misdemeanor.

5307. It is unlawful for any person, who is employed by any agency or institution that is supported or financed from public funds, willfully or knowingly to neglect or refuse to make a report to the commissioner of the county or to the director, or such person's immediate superior for the purpose of having such report transmitted to the commissioner of the county or to the director, of the presence in this state of any pest, as defined in Section 5006, which is new to, or not widely distributed in, the area or locality in which the pest exists, if the presence of such pest has been determined as a result of investigation, research, survey, or inspection which is made in behalf of the employing agency or institution.

5308. If there are any authorities or officers of the United States that are authorized to act with respect to any quarantine regulations that are established pursuant to this division, the director shall notify the authorities or officers and seek their cooperation as far as possible.

5309. Any violation of this chapter by any person, or an agent of any person, is an infraction, punishable by a fine of not more than one thousand dollars (\$1,000) for the first offense. For a second or subsequent offense within three years of a prior conviction of a violation of this chapter, the violation is punishable as a misdemeanor.

5310. (a) In addition to any other penalties prescribed in this division, any person who violates this division or any regulation adopted pursuant to this division is liable civilly in an amount not exceeding ten thousand dollars (\$10,000) for each violation.

(b) Upon a complaint by the director, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating this division or any regulation adopted pursuant to this division.

(c) Upon the failure of any person to comply with this division, the Attorney General, upon request of the director, or the county counsel upon request of the commissioner, as the case may be, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person from continuing any activities in violation of this division.

The court shall issue an order directing the person to appear before the court at a time and place certain and show cause why the injunction should not be issued. The court may grant the prohibitory or mandatory

relief that may be warranted. The court may also issue the temporary relief that may be necessary to preserve the status of the parties until a hearing can be held.

(d) Any funds recovered by the department pursuant to this section shall be deposited in the Department of Food and Agriculture Fund to cover costs related to the enforcement of this division when appropriated by the Legislature therefor.

5311. (a) In lieu of any civil action pursuant to Section 5310, except as provided in Article 5 (commencing with Section 5781) of Chapter 8, the secretary or the commissioner may levy a civil penalty against a person violating this division or any regulation adopted pursuant to this division in an amount not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf.

(c) A review of the decision of the secretary to impose a penalty may be sought by the person against whom the penalty was levied within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) The person against whom a civil penalty is levied by a commissioner may appeal to the secretary within 10 days of the date of receiving notification of the penalty, as follows:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the secretary.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days prior to the date set therefor. This time requirement may be altered by an agreement between the secretary and the person appealing the penalty.

(5) The secretary shall decide the appeal on any oral or written arguments, briefs, and evidence that he or she has received.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments.

(7) On an appeal pursuant to this section, the secretary may sustain, modify by reducing the amount of the penalty levied, or reverse the decision. A copy of the secretary's decision shall be delivered or mailed to the appellant and the commissioner who levied the penalty, if this is the case.

(8) Review of the decision of the secretary may be sought by the appellant pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) Any funds recovered by the commissioner pursuant to this section shall be deposited in the county general fund in the county in which the action is brought and shall be allocated to the commissioner to cover costs related to the enforcement of this division. Any funds recovered by the secretary pursuant to this section shall be deposited in the Department of Food and Agriculture Fund to cover costs related to the enforcement of this division.

Article 2 Quarantine and Other Regulations for Pests Within the State

5321. If the director receives information of the existence of any pest which is not generally distributed within this state, he shall thoroughly investigate the existence and probability of its spread, and the feasibility of its control or eradication.

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 Section 5321.

5323. This division and the regulations which are established pursuant to this division are of a statewide interest and concern and are intended to occupy the field. No local jurisdiction shall adopt ordinances, laws, or regulations which prevent, hinder, or delay the effect or application of this division or regulations established pursuant to this division. Regulations established pursuant to this division are not valid unless they are clearly consistent with a strict interpretation of this division and are necessary to effectuate the purpose of this division. The adoption of the regulations does not create any presumption of their necessity or validity.

Article 3 Plant Quarantine Inspection Stations

5341. To prevent the introduction into, or the spread within this state, of pests, the director shall maintain at such places within this state as he deems necessary plant quarantine inspection stations for the purpose of inspecting all conveyances which might carry plants or other things which are, or are liable to be, infested or infected with any pest.

5341.5. (a) Every operator of a motor vehicle entering the state with a shipment of any agricultural commodity shall cause the vehicle and the shipment to be inspected, and shall obtain a certificate of inspection, at the plant quarantine inspection station nearest the point of entry into the state.

(b) Failure to obtain the required certificate of inspection shall subject the operator of the vehicle and the registered owner of the vehicle, if a different person or legal entity, to separate civil penalties of not more than one thousand dollars (\$1,000) for each violation. In determining the severity of the penalty to be imposed, the court shall consider any prior violations of the same nature within the preceding 24 months, the commodity being transported, and any evidence, including deviation from normal and usual routes, that the operator of the vehicle intentionally avoided inspection.

(c) Inspection shall not be required when the operator of the vehicle would be required to travel a distance of 15 miles or more from normal and usual routes for the particular trip to obtain the required inspection and certification, or when weather conditions or road closures on normal and usual routes prevent travel to the nearest plant quarantine inspection station.

(d) Violation of this section is a separate offense from violation of any other provision of this code and proceedings under this section shall not be deemed to prevent separate proceedings for any other offense.

(e) Proceedings under this section may be brought by the director or, with the director's concurrence, by the district attorney of the county in which the violation occurred. The civil penalty shall be awarded to the agency which brings the enforcement action for use by that agency in enforcing the provisions of this code.

(f) The director may, by regulation or executive order, as the director deems advisable, permit exceptions for certain commodities, areas, and times consistent with the purposes of this division, patterns of local traffic near border areas, and availability of inspection stations.

(g) Persons holding a valid permit to transport cattle pursuant to Section 21067 are exempt from this section.

5342. Plant quarantine officers at plant quarantine inspection stations may ascertain the origin, quantity, and kinds of meat and meat products, poultry and poultry products, eggs, and livestock transported into or out of this state through the stations. The operator of any vehicle which is transporting any such commodity into or out of the state through any plant quarantine inspection station shall stop and give this information upon request to a plant quarantine officer at the plant quarantine inspection station. Such request may be by a sign which is openly displayed at the station or by any other means which is deemed by the director as effective.

The director may accept, on behalf of the state, donations of money from any person to defray the costs of the department under this section. Any such money shall be paid into the State Treasury and credited to the Department of Agriculture Fund. The director may limit expenditures under this section relating to livestock to the amounts so donated for this purpose, and shall limit expenditures under this section relating to poultry and poultry products and eggs to the amounts so donated for this purpose.

5343. The director shall cause conspicuous signs to be erected at or near each inspection station which disclose the existence of the station.

5343.5. At any inspection station maintained at or near the California border by the director pursuant to Section 5341, the following sign shall be conspicuously posted in block letters not less than four inches in height:

"NOTICE: IF YOU ARE A CALIFORNIA RESIDENT, THE FEDERAL GUN CONTROL ACT MAY PROHIBIT YOU FROM BRINGING WITH YOU INTO THIS STATE FIREARMS THAT YOU ACQUIRED OUTSIDE OF THIS STATE.

IN ADDITION, IF YOU ARE A NEW CALIFORNIA RESIDENT, STATE LAW REGULATES YOUR BRINGING INTO CALIFORNIA HANDGUNS AND OTHER DESIGNATED FIREARMS AND MANDATES THAT SPECIFIC PROCEDURES BE FOLLOWED.

IF YOU HAVE ANY QUESTIONS ABOUT THE PROCEDURES TO BE FOLLOWED IN BRINGING FIREARMS INTO CALIFORNIA OR TRANSFERRING FIREARMS WITHIN CALIFORNIA, YOU SHOULD CONTACT THE CALIFORNIA DEPARTMENT OF JUSTICE OR A LOCAL CALIFORNIA LAW ENFORCEMENT AGENCY."

5344. (a) It is unlawful for the operator of any vehicle to fail to stop the vehicle at an inspection station or to willfully avoid an inspection station. It is also unlawful for the operator to fail to stop either upon demand of a clearly identified plant quarantine officer or upon demand of an officer of the California Highway Patrol, when the officer orders the operator to stop for the purpose of

determining whether any quarantine which is established pursuant to any provision of this division is being violated.

(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor and grounds for the vehicle to be stopped for inspection.

5345. It is unlawful for any person to operate upon any highway in this state any vehicle which, in violation of Section 5344, was not stopped as required by that section, if the person who is operating such vehicle knows of such violation of Section 5344. The violation of this section continues unless and until one of the following occurs:

(a) A period of 24 hours has elapsed following the violation of Section 5344.

(b) The operator who violated Section 5344 has been apprehended and the vehicle which is involved has been inspected and released from quarantine by any authorized state plant quarantine officer. An operator who is so apprehended does not violate this section by reason of operating the vehicle en route to the closest inspection station immediately following his apprehension for violation of Section 5344, nor does any other person, who operates the vehicle for such purpose, violate this section.

5346. (a) It is unlawful for any person to conceal any plant from any plant quarantine officer or to fail to present it or any quarantined article for inspection at the request of such officer.

(b) It is unlawful to move into California any outdoor household article from a federally regulated gypsy moth area unless accompanied by certification that the article has been inspected and does not contain gypsy moth egg masses. The director may adopt regulations to specify the type of certification and inspection required as necessary to carry out this section.

5348. Plant quarantine officers, and officers of the California Highway Patrol, are authorized to cite persons for any violation of this article.

5349. (a) It is unlawful for the operator of a vehicle to intentionally route the vehicle and travel on that route in order to prevent the vehicle from passing through a plant quarantine inspection station.

(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor.

5350. (a) The director shall establish a program for the inspection of conveyances entering California through airport and maritime facilities to prevent the introduction into, or the spread within, this state of pests.

(b) The director shall maintain plant quarantine inspection stations at points of entry at airports and marine terminals pursuant to Section 5341.

(c) The director shall establish a program for the dissemination of information at airports and marine terminals in order to provide the users of the facilities information regarding the pest control and quarantine requirements of this state.

(d) The director may authorize the inspection and certification of conveyances outside the state if the director finds that the inspection and certification meets the standards established for in-state inspection and certification programs and, for that purpose, may enter

into any agreements necessary with any other state or the federal government. The director may provide that conveyances inspected and certified pursuant to this subdivision are not required to be inspected at California airports or marine terminals.

(e) The functions of this section shall be performed by the Division of Plant Industry, Pest Exclusion Branch, of the department, and the duties shall be performed by plant quarantine officers.

5350.5. (a) The director may establish a task force comprised of representatives of the following industries:

- (1) Air common carriers.
- (2) Port authorities.
- (3) Maritime common carriers.
- (4) Other industries that the director deems appropriate.

(b) The goal of this task force shall be to develop and implement a program of preventive measures to reduce the likelihood that pests will be transported into the state aboard aircraft or vessels. The program may include, but is not limited to:

(1) Educational materials to warn passengers of the special quarantine and pest exclusion rules and regulations that apply in California.

(2) Recommendations of appropriate methods for distributing those educational materials to passengers.

(3) Special training for employees of carriers who handle cargo and baggage that may contain pests.

(4) Special training and educational materials aimed at enlisting the assistance of passenger ticket agents in educating potential passengers of the special pest exclusion measures in effect at California points of entry.

(5) Public announcements to passengers enroute to California regarding the rules and regulations related to transporting pests into the state.

(c) The program shall include methods for determining the effectiveness of the preventative measures developed pursuant to this section.

(d) The task force shall also develop a program for the purposes of seeking federal funds sufficient to maintain airport pest inspection activities at the same levels as the level maintained during the 1991-92 fiscal year.

5351. (a) The director shall levy a service charge, to the extent authorized by subsection (b) of Section 1513 of Title 49 of the United States Code, based on the schedule established pursuant to Section 5353, on each air carrier or foreign air carrier engaged in foreign air commerce, as those terms are defined by Section 5353, for the use of airport facilities for plant and animal pest inspection, quarantine, and eradication.

(b) For the purposes of this section, "airport facilities" means those airports owned or operated by any public entity.

5352. To the extent permitted by federal law, the director shall levy a fee on commercial marine carriers, based on the schedule established pursuant to Section 5353, for the use of marine terminal facilities for plant and animal pest inspection, quarantine, and eradication. The director shall identify and establish a list of countries which the director has reason to believe are potential sources of exotic plant and animal pests.

5353. (a) Each air carrier or foreign air carrier engaged in foreign air commerce which carries animals or plants or other materials which are, or are likely to be, infected or infested with any pest shall pay a charge of eighty-five dollars (\$85) to the director upon the initial landing in this state of each flight of the carrier which originates outside the United States.

(b) Each commercial marine carrier engaged in foreign commerce which carries animals or plants or other materials which are, or are likely to be, infected or infested with any pest shall pay a fee of two hundred dollars (\$200) to the director upon the initial arrival in this state of the carrier on a voyage which originated outside the United States from a country identified and listed by the director pursuant to Section 5352, or which made an intermediate stop on that voyage in a country identified and listed by the director pursuant to Section 5352.

(c) Each such carrier shall maintain records, which shall be subject to inspection by the director, and pay the charges and fees prescribed by this section in accordance with a procedure adopted by the director, by regulation.

(d) Each such carrier who fails to pay the charges and fees required pursuant to this section and the regulations adopted pursuant to this section is subject to a penalty of 2 percent on the amount of the unpaid charge or fee for each month, or portion thereof, that the charges or fees are not paid.

(e) The charges and fees collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund and shall be used by the director for the purposes of this section and Section 5350.

(f) The director may, by regulation, increase or decrease any of the charges or fees prescribed in subdivision (a) or (b) upon determining that the revenue received is inadequate or in excess of the amount needed to conduct an effective inspection program. The maximum adjusted charge or fee shall not exceed three times the amount of the charge or fee specified in subdivision (a) or (b).

(g) The director may contract with federal and state agencies and with county agricultural commissioners to assist the director in carrying out the purposes of this section and Section 5350.

(h) The regulations adopted by the director pursuant to this section shall be deemed to relate to rates for purposes of Section 11343 of the Government Code and are not subject to review, approval, or disapproval by the Office of Administrative Law pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(i) "Air carrier," "foreign air carrier," and "foreign air commerce", as used in this section, and Section 5351 shall have the same meaning as specified in subsections (3), (22), and (23), respectively, of Section 1301 of Title 49 of the United States Code.

Chapter 6 Abatements, Generally

Article 1 Authority

5401. Any premises, plants, conveyances or things which are infected or infested with any pest, or premises where any pest is found, are a public nuisance, and shall be prosecuted as such in all actions and proceedings. All remedies which are given by law for the prevention and abatement of a nuisance apply to such a public nuisance.

5402. It is unlawful for any person to maintain such a public nuisance. The remedies which are provided by this article are in addition to any other remedy by way of abatement which is provided in this division.

5403. If, after service of notice pursuant to this chapter a public nuisance is not abated within the time which is specified in the notice, the commissioner shall abate the nuisance by eradicating, controlling, or destroying the pest.

5404. (a) If, after service of the notice pursuant to this chapter, the commissioner determines that the nuisance constitutes an immediate hazard to adjoining or nearby property, and that great or irreparable injury would result from delay until expiration of the time required by law for constructive notice, he or she may forthwith abate the nuisance by eradicating, controlling, or destroying the pest.

(b) For purposes of this section, cotton, which is being produced in violation of a host-free period declared pursuant to Article 5 (commencing with Section 5781) of Chapter 8 of this part, is a nuisance.

(c) The commissioner shall take summary abatement action against any cotton found in violation of a planting date established as part of a host-free period. The person producing the cotton shall be given not more than 48 hours to commence abatement of the nuisance and shall be given not more than five days to complete abatement.

(d) If the person producing the cotton fails to commence and complete abatement within the time specified by the commissioner pursuant to subdivision (c), the commissioner shall abate the nuisance by disking to a depth of six inches. The person who produced the cotton shall pay 150% of all costs associated with the commissioner's abatement of the nuisance.

(e) The commissioner may request that the district attorney assist him or her in expediting summary abatements pursuant to this section.

5405. The board of supervisors of any county may authorize the commissioner to contract with any state or federal agency, public corporation for municipal purposes, or person that owns, controls, or administers within the county any property or premises which are infected or infested with any pest, to eradicate, destroy, or control it on such property or premises. The contract shall not impose any cost or obligation on the county, unless the imposition of the cost or obligation upon the county is authorized by the board of supervisors.

Article 2 Notice and Expense of Abatement Generally

5421. If the commissioner finds, after inspection, that any premises, plant, conveyance, or thing in his jurisdiction is infected or infested with any pest, he may in writing notify the record owner or person in charge or possession of the premises, plant, conveyance, or thing, that it is infected or infested with a pest. He may, to his satisfaction, require the person to eradicate, destroy, or control, the pest within the time which is specified in the notice.

5422. The notice may be served upon the record owner or person having charge or possession of the premises, plant, conveyance, or thing infected or infested with the pest or upon the agent of either, in the

same manner as a summons in a civil action if such persons can be found within the county.

5423. If no person upon whom service may be had, can, after diligent search be found within the county, the notice may be served by posting copies of it in three conspicuous places upon the infected or infested property or premises, and by mailing a copy of it to the owner at his last known address.

5424. If the address of the owner is not known, and cannot be ascertained by the exercise of reasonable diligence, a copy of the notice shall be mailed to him at the county seat of the county in which the property is situated.

5425. The commissioner may record a copy of any notice that is served and may mail a copy of the notice to the person that appears of record to be the owner of any encumbrance on the property, at his last known address.

5426. If the address of the encumbrancer is unknown to the commissioner, he shall state in the copy of the notice that the address is unknown to him and shall mail the copy, addressed to the encumbrancer at the county seat of the county in which the property is situated.

5427. If the eradication, control, or destruction of the pest is undertaken by the commissioner pursuant to Section 5403, the notice shall be recorded.

5428. The recorded notice is, from the date of recording, a lien against the property which is described in the notice for the expense that is incurred by the county subsequent to the recordation of the notice in the abatement of the nuisance.

5429. The expense of the abatement by the commissioner is a county charge which is payable out of county funds.

5430. If the notice to abate is recorded before the commissioner incurs the expense of abatement, the amount which is incurred or expended by the county in the abatement is a lien on the land against which the expense is chargeable. In a case pursuant to Section 5494, the total expense shall be prorated and chargeable against each parcel of land in proportion to the acreage of such parcel which is served by water from the canal or ditch that is involved.

5431. A notice which sets forth the amount expended shall be recorded within 30 days after the date of payment of the last item of expense of the abatement by the county. The amount is a lien from the date of the recording of the notice of abatement pursuant to Section 5427.

5432. If a copy of the notice to abate a public nuisance, as described in Section 5401, is recorded and a copy is served upon or mailed to the holder of any encumbrance of record pursuant to this article, the lien is superior to all encumbrances, existing and future, except liens for taxes and assessments.

5433. If the sum which is secured by lien is not repaid to the county within 80 days from the recording of the amount of the lien, there shall be added to the sum a penalty of 15 percent. The penalty shall also be secured by the lien.

5434. Except as provided in Article 3 (commencing with Section 5461) of this chapter, the district attorney of the county which makes payment of the abatement expense shall, within 120 days after the notice which is required by Section 5431 is recorded, commence in the name and for the benefit of such county, an action to foreclose the lien.

5435. (a) If, after foreclosure, the property is sold, enough of the proceeds shall be paid into the treasury of the county which forecloses the lien as shall satisfy the lien, penalty, and costs.

(b) If there is any surplus, it shall be paid to the owner of the property, if he is known. If the owner of the property is not known, the surplus shall be paid into the court for his use at such time as he is ascertained.

5436. If no action to foreclose is commenced within 120 days subsequent to the recordation of the notice which is required by Section 5431, the lien ceases to exist.

Article 3 Notice and Expense of Abatement on Tax - Deeded Property

5461. If any pest is found to exist upon any property which has been deeded to the state for nonpayment of taxes, the notice of abatement shall be served by recording and mailing a copy of the notice to the State Controller, and either by personally serving or by mailing a copy of it, in the manner provided in Sections 5425 to 5428, inclusive, to the last owner of record prior to the deeding of the property to the state.

5462. If the expense of abatement becomes a lien on such property, as provided in Sections 5429 to 5432, inclusive, and the property is redeemed or sold to a private person at a tax sale, the action to foreclose the lien shall be commenced within 120 days after the redemption or sale.

5463. If no action to foreclose is commenced within 120 days subsequent to the redemption or sale of the property, the lien ceases to exist.

5464. If the property is acquired by the state, or by any municipal corporation or political subdivision, and the right of redemption is terminated, the lien terminates at the time the right of redemption is terminated.

Article 4 Notice and Expense of Abatement on Other Public Property

5491. If any pest is found to exist in any public park or along any street, highway, or other property which is subject to the control of a city or county, the notice of abatement shall be served on the chairman of the governing body of the city or county. If the eradication, control, or destruction of the pest is performed by the commissioner, the cost of the eradication, control, or destruction is a city or

county charge, as the case may be, and shall be paid from the general fund of the city or county.

5492. If any pest is found to exist in any park or along any street, highway, right-of-way, or other property which is subject to the control of any agency of the state, the director, upon receiving a report of the existence of the pest from the commissioner, shall notify the agency. He may instruct the commissioner to serve the notice upon the director or other executive officer of the agency. If the eradication, control, or destruction of the pest is performed by the commissioner, the cost of the eradication, control, or destruction is a charge against, and shall be paid from, the maintenance fund or from other funds for the support of the agency.

This section applies to a state highway right-of-way if any pest of the same kind has been, or is being, subjected to control, destruction, or eradication on other private or public property in the immediate vicinity of the right-of-way, either at the direction of the commissioner or voluntarily by the owner of such adjacent property.

5493. If any pest is found to exist upon any property which is subject to the control of any irrigation, drainage, flood control, reclamation, or levee district, or other political subdivision of the state, the notice of abatement shall be served upon the chairman of the governing body of the district or political subdivision. If the chairman is absent from the county, or for any reason cannot be served, the notice shall be served upon some other member of the governing body. If the eradication, control, or destruction of the pests upon the property is performed by the commissioner, the cost of the eradication, control, or destruction is a legal charge and shall be paid from the general maintenance or operating fund, as the case may be, of the district or political subdivision.

5494. If any pest is found to exist in or on any irrigation canal or ditch, including its lateral banks, which is not subject to the control of any district or political subdivision of the state, the notice of abatement shall be served upon all users of water from the irrigation canal or ditch that is described in the notice.

Chapter 6.5 Roadside Vegetation Control

5501. This chapter shall be known and may be cited as the Property Owners' Roadside Vegetation Control Information Act of 1991.

5502. The following definitions shall govern the construction of this chapter:

(a) "Agency" means an agency of state government that has responsibility for roadside vegetation control operations on, or along, roadways.

(b) "Pesticide" is defined in Section 12753.

(c) "Property owner" means an owner, lessee, or tenant of real property that is adjacent or contiguous to a roadway over which an agency has responsibility for roadside vegetation control.

(d) "Roadside" means the land adjacent to, or dividing the lanes of traffic of, a roadway.

(e) "Roadway" means any highway, superhighway, expressway, street, road, lane, or other public thoroughfare.

5503. The Legislature hereby finds and declares all of the following:

(a) The unannounced and poorly coordinated use of pesticides to control roadside vegetation has too frequently resulted in damage to adjacent or contiguous private property. In some instances, this activity has caused growers to needlessly suffer economic loss or damage to their crops.

(b) Property owners have a right to know beforehand the manner in which state government intends to control the roadside vegetation adjacent or contiguous to their property.

(c) It is in the public interest to establish a voluntary mechanism by which private property owners may meet and confer with representatives of state government to enter into mutually acceptable voluntary agreements to promote coordinated programs for roadside vegetation control, and thereby minimize damage to adjacent and contiguous property.

(d) Mutually acceptable agreements may include, but are not limited to, provisions whereby the property owner assumes responsibility for roadside vegetation control in a manner which is at least as effective as that proposed by state government, the use of mechanical means of vegetation control, the use of a combination of pesticide and mechanical means of control, a delay in the application of a pesticide, or the use of different pesticides.

(e) Private property owners and representatives of state government are encouraged to voluntarily develop creative and innovative means to accomplish the goals and objectives of this chapter.

5504. An agency shall promptly provide any or all of the following information to a property owner who so requests:

(a) The date on which the agency is scheduled, or planning, to conduct roadside vegetation control and the method or methods the agency is planning to use in the roadside vegetation control operation on, or along, the part of the roadway that is adjacent or contiguous to his or her property.

(b) The frequency with which the agency is scheduled, or is planning, to conduct a roadside vegetation control operation on, or along, the part of the roadway adjacent or contiguous to his or her property.

(c) Any other relevant information in the possession of the agency that may be of interest to the property owner of the property adjacent or contiguous to the roadside where the vegetation control operation is to be conducted.

5505. The agency shall not conduct a roadside vegetation control operation on that portion of the roadway for which a property owner has made a request for information pursuant to Section 5504, until both of the conditions set forth in subdivisions (a) and (b) have been met or unless subdivision (c) applies:

(a) The agency provides the property owner the requested information pursuant to Section 5504.

(b) The property owner did not request a meeting with the representatives of the agency within 30 days after he or she received the information or, if so requested, the meeting is held in accordance with Section 5506.

(c) The agency provided the property owner the requested information pursuant to Section 5504, the property owner requested a meeting to be held in accordance with Section 5506, and the agency, having made a good faith effort to accommodate the property owner in scheduling and

conducting a meeting, is unable to reach an agreement with the property owner on a reasonable meeting time and place within 30 days of the initial request for a meeting.

5506. (a) Within 30 days of receipt of the information required to be provided pursuant to Section 5504, the property owner may request a meeting with representatives of the agency to discuss the agency's proposed schedule for, or method of, roadside vegetation control, or both the schedule and method to be used on, or along, the roadway adjacent or contiguous to his or her property.

(b) Upon receipt of a request for a meeting pursuant to this section, the agency shall meet with the property owner at a mutually agreeable time and location.

(c) The purpose of the meeting shall be to develop and adopt the following:

(1) A schedule for the roadside vegetation control operation.

(2) A method of roadside vegetation control that eliminates, or minimizes, damage to the property owner's property while preserving the ability of the agency to conduct an effective roadside vegetation control program.

(d) The agency shall consider and, if the facts presented to the agency warrant further action in order to carry out the objectives of this chapter, do any or all of the following:

(1) Revise the schedule for the roadside vegetation control operation.

(2) Revise the proposed methods of roadside vegetation control, including, but not limited to, the use of a pesticide or mechanical methods of control, or a combination thereof.

(3) Use different pesticides, or different combinations or concentrations of pesticides.

(4) Enter into an agreement with the property owner whereby the property owner agrees to assume the responsibility, in whole or in part, of roadside vegetation control by any lawful method of control, if the agency determines that the property owner's method is as effective as the method proposed to be used by the agency.

(e) The objective of this section is to establish a procedure for property owners and representatives of agencies to meet and confer in order to develop and adopt mutually acceptable times for, and methods of, well-coordinated and effective roadside vegetation control operations, and thereby minimize damage to adjacent or contiguous property.

(f) If agreement cannot be reached between the property owner and the agency, the agency shall maintain responsibility for decisions affecting roadside vegetation control in the disputed area.

5507. If the property owner does not carry out the terms of any agreement entered into pursuant to paragraph (4) of subdivision (d) of Section 5506, as determined by the agency, the agency may immediately conduct the roadside vegetation control in accordance with the agency's schedule and method of roadside vegetation control.

5508. This chapter shall be liberally construed to accomplish its purposes and objectives.

5509. Any property owner affected by the decision of the agency made pursuant to this chapter may bring an action for writ of mandamus challenging the decision pursuant to Section 1085 of the Code of Civil

Procedure. A property owner may also request a court to issue an injunction or order any other action to restrain any violation of this chapter.

Chapter 7 Abatement of Neglected or Abandoned Crops
Article 1 General Provisions

5551. Any neglected or abandoned plant or crop is a public nuisance in any of the following circumstances:

(a) It is a menace to the agriculture of the county, district, or vicinity because of the existence of any pest, in or on it.

(b) It is a menace to the agriculture of the county, district, or vicinity because of the existence of any other condition than the condition described in subdivision (a).

(c) It is a host plant of, or provides a favorable or likely harbor for, any pest.

5552. Any cotton plant which is uncultivated or that is left from a previous season is presumed to harbor pests and as such is a public nuisance. This presumption is a presumption affecting the burden of producing evidence. If any such cotton plant is not destroyed in the manner established by regulation of the director, by March 1st of any year or by such earlier date as shall be proclaimed by the director as the beginning of a host-free period pursuant to Section 5781 of this code, it is subject anytime thereafter to all remedies which are or may be given for the prevention or abatement of nuisances.

5553. It is unlawful for any person to maintain any neglected or abandoned plant or crop which is a public nuisance.

5554. All remedies for the prevention or abatement of nuisances apply to any such nuisance.

5555. If, after service of the notice pursuant to Article 1.5 (commencing with Section 5561) the nuisance is not abated within the time prescribed in the notice or such time as may be mutually agreed upon by the commissioner and the record owner or person having charge or possession of the property, the commissioner shall proceed under the provisions of Article 2 (commencing with Section 5571).

Article 1.5 Notice

5561. The commissioner shall, in writing, notify the record owner or person in charge of any property having an abandoned or neglected plant or crop which the commissioner has found to be a public nuisance, of the need to remove or destroy the neglected or abandoned plant or crop. The notice required by this section shall be made by personal service or by certified mail to the address shown on the last equalized assessment roll of the county, and by posting copies of it in three conspicuous places on the property.

5562. The notice required by this article shall set forth all of the following:

(a) A description of the property.

(b) The name of the owner or person who is in charge or in possession of the property.

(c) The fact that the commissioner's findings have determined that the removal or destruction of the neglected or abandoned plant or crop provides the best means of eliminating the menace to the agriculture of the county, district, or vicinity.

(d) That all costs incurred by the county in the detection of the nuisance and proceedings in the abatement of the nuisance shall be charged to the owner or established as a lien on the property.

Article 2 Institution of Proceedings

5571. If the commissioner of any county determines by inspection that there is a condition which constitutes a nuisance, as defined in Section 5551 or 5552, on any property or premises within his jurisdiction, he shall make a report of his inspection to the district attorney or to the county counsel if the board of supervisors has authorized the county counsel pursuant to Section 26528.5 of the Government Code to file the petition prepared pursuant to this article. The commissioner in the report shall do all of the following:

(a) State that the property owner has been notified.

(b) Describe the property upon which the nuisance exists.

(c) Name the pest or other condition which in his opinion is dangerous to the agriculture of the county, district, or vicinity.

(d) State, if his findings justify such a statement, that the removal or destruction of the neglected or abandoned plant or crop will provide the best means for the elimination of the menace to the agriculture of the county, district, or vicinity.

5572. Whenever the district attorney receives a report from the commissioner, he shall, on the basis of the report, prepare a petition to the superior court of the county praying for an order to remove or destroy the neglected or abandoned plant or crop.

5573. The petition shall set forth all of the following:

(a) A description of the property.

(b) The name of the owner or person that is in charge or possession of the property.

(c) The name of the pest, or other condition which is a menace to the agriculture of the county, district, or vicinity.

5574. Upon the filing of the petition, the court shall issue a citation which requires that the owner or person that is in charge or in possession of the property appear at a time and place which is specified to show cause why the neglected or abandoned plant or crop should not be removed or destroyed.

5575. A copy of the citation, together with a copy of the petition, shall be served upon the record owner or upon the person that is in charge or in possession of the property, or upon an agent of either, not less than 10 days before the date which is specified in the citation.

5576. A copy of the citation, together with a copy of the petition, may also be served upon any person that appears of record to be the owner of any encumbrance upon, or interest in, the property.

5577. If the property upon which the neglected or abandoned plant or crop exists has been deeded to the state for nonpayment of taxes, a

copy of the citation, together with a copy of the petition, shall be mailed to the State Controller, and a copy of each shall be served upon the last owner of record prior to the deeding of the property to the state. A notice of the pendency of the action shall be recorded pursuant to Section 409 of the Code of Civil Procedure.

5578. The service of the petition and citation may be personal, by delivery to the party on whom service is required to be made.

5579. If the party upon whom service is required to be made resides within the county, service may be made by leaving a copy of the citation, together with a copy of the petition, at the residence of the party between the hours of eight in the morning and six in the evening, with some person who is not less than 18 years of age. If at the time of attempted service between such hours, no such person can be found at the residence of the party, service may be made by mail.

5580. If the party upon whom service is required to be made does not reside within the county, service of the petition and citation may be made by mail, if he resides or has his office at a place where there is a delivery service by mail. If there is no delivery service by mail, or if his residence is not known, service may be made by posting a copy of the citation, together with a copy of the petition, in a conspicuous place on the property on which the neglected or abandoned plant or crop is situated, at least 20 days before the date specified in the citation.

5581. Service of the petition and citation by mail shall be made pursuant to the Code of Civil Procedure.

Article 3 Hearing and Order

5601. On the day on which the citation is made returnable, the court shall hear the cause and decide whether or not the neglected or abandoned plant or crop shall be destroyed or removed. The hearing shall have precedence over all matters other than injunctions, older matters of the same character, and matters which are otherwise given precedence by law.

5602. If the court is satisfied that the conditions which are set forth in the petition exist on the property and that the removal or destruction of the neglected or abandoned plant or crop is necessary and essential for the welfare of the agriculture of the county, district, or vicinity, it shall order the removal or destruction, within a certain time, of the neglected or abandoned plant or crop which is located upon the property described in the order.

5603. The order to remove or destroy the neglected or abandoned plant or crop shall be served by the commissioner, or by any person who is deputized by him for that purpose, as follows:

(a) If the owner of the property can, after due diligence, be found within the county, upon the owner.

(b) If the owner cannot, after due diligence, be found within the county, upon the person that is in charge or possession of the property.

(c) If neither the owner or person that is in charge or possession of the property can, after due diligence, be found within the county, by posting in a conspicuous place upon the property.

5604. If the order is not complied with within the time which is specified in the order, the commissioner shall cause the removal or destruction of the neglected or abandoned plant or crop which is mentioned in the order.

5605. Any person that fails to comply with any lawful order of the court which is made and served pursuant to the provisions of this article and Article 2 (commencing with Section 5571) of this chapter is in contempt of court and shall be punished accordingly. The punishment is in addition to any other penalty which is provided for in this code.

Article 4 Expense of Abatement

5631. If the removal or destruction of any neglected or abandoned plant or crop which is a public nuisance as defined in Section 5551 or 5552, is undertaken by the commissioner, he shall cause a notice of lien which describes the land on which it exists to be recorded.

5632. From the date of the recording, the land which is described in the notice is subject to a lien for any expense which is incurred by the county subsequent to the recording of the notice in the abatement of the nuisance which is referred to in the notice.

5633. The commissioner shall keep an account of the cost of the removal or destruction and shall render an itemized report of the cost to the board of supervisors.

5634. The expense of the removal or destruction is a county charge which is payable out of county funds.

5636. A notice which sets forth the amount which has been expended for the removal or destruction of any neglected or abandoned plant or crop which is a public nuisance, as defined in Section 5551 or 5552, shall be recorded within 30 days after the date of payment of the last item of expense incurred by the county, and such amount is a lien from the date of recording of the notice of lien.

5637. The lien is superior to all encumbrances, existing and future, except liens for taxes and assessments, if a copy of the notice of lien is recorded and a copy is served upon or mailed to the holder of any encumbrance of record, at the last known address of the encumbrancer.

5638. If the address of the encumbrancer is unknown to the commissioner, he shall state in the copy of the notice that the address is unknown to him and shall mail the copy addressed to the encumbrancer at the county seat of the county in which the property is situated.

5639. If the sum which is secured by the lien is not repaid to the county within 80 days from the recording of the amount of the lien, there shall be added to it a penalty of 15 percent. The penalties shall also be secured by the lien.

5640. Except as provided in Section 5643, the district attorney of the county which makes the payment for the expense of eradication or destruction shall, within 120 days after the lien is recorded, commence in the name and for the benefit of such county an action to foreclose the lien.

5641. (a) If, after foreclosure the property is sold, enough of the proceeds shall be paid into the treasury of the county which forecloses the lien as shall satisfy the lien, penalty and costs.

(b) If there is any surplus, it shall be paid to the owner of the property, if he is known. If the owner of the property is not known, the surplus shall be paid into the court for his use at such time as he is ascertained.

5642. If no action to foreclose is commenced within 120 days subsequent to the recordation of the notice of lien, the lien ceases to exist.

5643. If the expense of removal or destruction of any abandoned plant or crop becomes a lien on property which has been deeded to the state for nonpayment of taxes, as provided in Sections 5635 to 5637, inclusive, and the property is redeemed or sold to a private person at a tax sale, the action to foreclose the lien shall be commenced within 120 days after the redemption or sale of the property.

5644. If no action to foreclose is commenced within 120 days subsequent to the redemption or sale of the property, the lien ceases to exist.

5645. If the property is acquired by the state, or by any municipal corporation or political subdivision, and the right of redemption is terminated, the lien terminates at the time the right of redemption is terminated.

Chapter 8 Special Quarantine, Control, and Abatement Methods
Article 1 Hold Notices on Infested and Nearby Properties

5701. (a) If any pest exists on any premises, the director or the commissioner may hold any plant or other host or possible carrier which is, or may be, capable of disseminating or carrying the pest. The director or the commissioner also may hold the plants, other hosts, or other possible carriers on any premises within five miles of the premises on which the pest was found to exist. The director or commissioner shall notify the owner of the plant or other host or possible carrier, or his or her agent, of this action, and the issuance of any shipping permit or nursery stock certificate with respect to the plant or other host or possible carrier shall be refused and any such permit or certificate which has been previously issued shall be revoked.

(b) The distance from the premises at which a pest is found that the director or commissioner may hold plants, other hosts, or other possible carriers shall be the maximum distance that the director or commissioner determines the pest is likely to travel, but not to exceed five miles.

5702. If, in the opinion of the director or commissioner, the plant or other host or possible carrier is not infested or infected with the

pest, or has been disinfected or cleaned so as to eradicate or control the pest, the director or commissioner shall in writing release it or issue the shipping permit or nursery stock certificate as the case may be.

5703. This article does not affect any other authority which is granted to a commissioner by Chapter 3 (commencing with Section 6501), Part 2 of this division.

5704. It is unlawful for any person to move any plant or other host or possible carrier from the premises on which a hold notice has been issued, except under the written permission of the director or commissioner and in accordance with the conditions which are stated in the written permission.

5705. (a) The director or commissioner may enter into compliance agreements with any person which provide for the movement of hosts or other possible carriers of any pest from one area of the state to another. These agreements shall establish the treatment, harvesting, packing, and handling requirements that may be necessary to assure that the hosts or carriers are not infested.

(b) Violation of the treatment, harvesting, packing, or handling terms of a compliance agreement is unlawful.

(c) Any person who violates treatment, harvesting, packing, or handling terms in an agreement is also liable civilly in an amount not exceeding ten thousand dollars (\$10,000). This remedy is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that otherwise are available to the state.

(d) Any funds recovered by the department pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for use, upon appropriation by the Legislature, to cover costs related to the enforcement of this division.

Article 2 Standards for Cleanliness

5721. If the director by regulation designates any plant, appliance, or other thing as liable to be infected or infested with any pest, and provides for notifying the commissioner of its arrival as required by Article 1 (commencing with Section 6501), Chapter 3, Part 2 of this division, he may include in the regulations standards of cleanliness for the plant, appliance, or other thing and provide for the certification by the commissioner of the county of origin of shipment that it conforms to the standards of cleanliness. The regulations may provide for the qualification of certain counties or certain areas where in the opinion of the director the standards of cleanliness are maintained in respect to all shipments of the designated plant, appliance, or thing. The regulations may also provide for shipments which originate in areas that are so qualified.

5722. The commissioner of the county of destination may waive the notification and holding for inspection of any shipment which bears a certificate of cleanliness or certificate of origin, issued pursuant to this article.

5723. This article is not applicable to seed which is intended for planting purposes or to other nursery stock.

Article 3 Prevention of Pest Dissemination by Movement of Appliances

5741. To prevent the dissemination of pests through the agency of appliances, the director may from time to time publish a list of such pests which may be carried through such agencies and designate any treatment which in his opinion would prevent their dissemination.

5742. Except as otherwise provided in Section 5744, it is unlawful for any person to ship or move any used appliances unless there is furnished to the commissioner of the county of destination such proof as he may require that the appliances either:

(a) Have not been exposed to infestation or infection by any pests.

(b) Have been treated immediately prior to shipment or movement in the manner which is designated by the director.

5743. The commissioner of the county of destination shall refuse entry of the used appliances until the proof required in Section 5742 is furnished.

5744. The used appliances may be moved to a place which is designated by the commissioner for treatment under his supervision.

Article 4 Eradication Areas

5761. The regulations which are adopted pursuant to Article 2 (commencing with Section 5321) of Chapter 5, Part 1 of this division may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

5762. Any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

5763. The director, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

5764. If an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment.

Any expenditures for the replacement nursery stock shall not exceed an amount which is budgeted for the purpose or approved by the Director of Finance.

Article 4.5 Notice Requirements

5771. When the secretary proclaims an eradication project in an urban area pursuant to Article 4 (commencing with Section 5761), the secretary or the commissioner, pursuant to this article, shall notify residents and physicians practicing in the area, and the local broadcast and print media, before aerially applying a pesticide to effect the eradication.

5772. The notice shall be delivered at least 72 hours prior to applying the economic poison. When the application of a pesticide is to be made pursuant to an emergency, the notice shall be delivered at least 24 hours prior to applying the pesticide.

5773. The notice shall be delivered to each residential unit in the treatment area. The notice shall also be mailed by first-class mail to each physician who maintains an office in the eradication area or is determined by the director to be likely to serve patients from the eradication area and whose scope of practice is determined by the director to be likely to include persons residing in the eradication area.

5774. The notice shall be delivered by hand distribution whenever practicable. If it is not practicable to provide notice by hand distribution, then notice may be accomplished by first-class mail so long as the affected residents and physicians receive the notice within the time limits prescribed in this article.

5774.5. (a) In addition to any other notice requirements of this article, if the secretary determines that it may become necessary to use aerial application of a pesticide in a pest eradication program over an urban area, the secretary shall notify, as soon as it is feasible, the city and county in that affected area of the possibility of an aerial application.

5775. If the date of a pesticide application is changed, the notice required by this article shall be redistributed and contain the revised information. Additionally, the secretary shall transmit the revised information to the local broadcast and print media, including not less than two radio stations providing the broadest coverage in the eradication area. No pesticide shall be applied within 96 hours from the date of that change.

5776. The notice distributed pursuant to this article shall contain all of the following:

- (a) The date and approximate time of all proposed pesticide applications in the eradication area.
- (b) The type of pesticide to be applied.
- (c) Any health and safety precautions that should be taken.
- (d) A telephone number and address of public health personnel who are familiar with the eradication program.

5777. The notice, other than the notice specified in Section 5774.5, shall be in both English and in any other language in a city or county in the area where the pesticide is to be applied in which over 5 percent of the persons receiving the notice speak only that other language.

5778. In every county that contains an eradication area in which a pesticide is used in the eradication effort, the department shall establish and operate a telephone service to provide information to the public on health issues related to application of the pesticide.

5779. For pesticide applications other than by air, the procedures in this article may be followed subject to the discretion of the director as to their practicality.

5780. No agency of the state or county shall be liable in any civil actions arising from the administration of this article if the director or the commissioner utilizes his or her best efforts to comply with the requirements of the article.

Article 5 Host-Free Periods and Districts

5781. If the director determines that a particular pest, either within the state or from any area which is adjacent to the state, cannot be eradicated or effectively controlled by recognized ordinary means, or that it is impracticable to eradicate or control the pest without the destruction, in whole or in part, of uninfected or uninfested host plants, the director may adopt regulations which do all of the following:

(a) Declares a host-free period or a host-free district, or both.

(b) Describes any host and the district in which the planting, growing, cultivating, or maintenance in any manner of any plant which is capable of continuing the particular pest is prohibited during a specified period of time and until the menace from it no longer exists.

5782. During the existence of a host-free period or host-free district which is established by regulations of the director, any host which is planted, growing, or being cultivated or maintained within the host-free period or district is a public nuisance and is subject to all the laws which relate to the abatement of the nuisance.

5783. It is unlawful for any person to plant, grow, cultivate, or maintain any host which is described in any regulation of the director that establishes a host-free period or host-free district, within the host-free period or host-free district after notice of the host-free period or host-free district.

5784. (a) The regulations adopted by the director upon the establishment of a cotton host-free period or district for a particular pest shall, insofar as practical, be uniform and shall be uniformly enforced in all cotton host-free periods or districts established for that pest. Any exemptions or variances thereafter shall be extended to all other districts or periods unless the director finds that it will be detrimental to the eradication or effective control of the particular pest to do so.

(b) The remedies provided in this article for any violation of this article are in addition to any other remedy provided by law.

(c) Any person producing cotton in violation of cotton plowdown requirements adopted pursuant to this article is subject to a civil penalty of five hundred dollars (\$500) for the first violation and one thousand dollars (\$1,000) for each subsequent violation. Each acre not in compliance is a separate additional violation subject to a civil penalty of five dollars (\$5) per acre of land not in compliance for the

first violation and ten dollars (\$10) per acre of land not in compliance for each subsequent violation.

(d) Any person producing cotton in violation of cotton planting dates adopted pursuant to this article is subject to a civil penalty of five hundred dollars (\$500) for the first violation and one thousand dollars (\$1,000) for each subsequent violation. Each acre not in compliance is a separate additional violation subject to a civil fine of fifty dollars (\$50) per acre of land not in compliance for the first violation and one hundred dollars (\$100) per acre of land not in compliance for each subsequent violation.

(e) The Attorney General, upon the request of the director, or the district attorney or county counsel, upon the request of the commissioner, may request a court to issue an injunction or take other appropriate action to restrain violations of this article relating to cotton pests.

5785. (a) Celery which is being produced in violation of a host-free period or district adopted pursuant to this article is a nuisance.

(b) The commissioner shall take abatement action against any celery plants or parts thereof, other than seed, including any variety or subspecies of *Apium graveolens* found in violation of celery host-free period or district regulations. The person producing, who has produced, or who owns the celery shall be given not more than 48 hours to commence abatement of the nuisance and shall be given not more than five days to complete abatement.

(c) If the person who is producing, has produced, or owns celery fails to commence and complete abatement within the time specified by the commissioner pursuant to subdivision (b), the commissioner shall abate the nuisance by appropriate means. The person who produced the celery plants shall pay 150 percent of all costs associated with the commissioner's abatement of the nuisance.

(d) The commissioner, with the approval of the director, may approve or deny a request for a hardship variance for celery plowdown due to adverse weather conditions.

(e) It is unlawful to harvest for sale or to sell any celery grown during a host-free period. Any person, firm, or corporation harvesting celery (*Apium graveolens*) in violation of a host-free period regulation shall forfeit the total sale price received for the celery to the county in which the violations occurred. An action to recover the sale price shall be brought in the name of the county on order of the board of supervisors by the county counsel of the county. This remedy shall be in addition to any other remedy provided for by law.

(f) The commissioner may request that the district attorney or county counsel assist him or her in expediting abatements and other actions necessary pursuant to this section.

5786. (a) The Legislature finds that any cotton plants and parts thereof not in compliance with any cotton plowdown dates adopted pursuant to this article constitutes a public nuisance which immediately threatens the health and safety of the public.

(b) In addition to any other remedies provided by law, any cotton plant or part thereof not in compliance with any cotton plowdown order may be abated at the direction of the commissioner in the county where the cotton plant or parts exist. The notice of the cotton plowdown date shall serve as notice to the owner of the plant or parts thereof that the plant or parts constitute a public nuisance if not brought into compliance with the orders by that date.

Thereafter, the commissioner may take any abatement action as is reasonably necessary to bring the plant and parts thereof into compliance.

(c) The person who produced the cotton plant and parts thereof shall pay 150 percent of all costs associated with the commissioner's abatement of the nuisance. The producers may, when making the payment of the amount, submit a written appeal of the payment to the director.

(d) Any moneys collected pursuant to Section 5784 or this section for violation of cotton pest provisions shall be allocated to the commissioner in the county where the action is brought.

Article 6 Grafts and Buds from Plants Generally Infected

5801. If the director, after investigation and hearing, determines that any kind or variety of plant is generally infected with a virus or mycoplasma-like disease that is dangerous or detrimental to the production of fruit, nut, or vine crops in this state, he may adopt regulations which prohibit or restrict the propagation by cuttings and the budding, grafting, or otherwise joining of tissue of such kind or variety of plant with any kind or variety of fruit or nut tree or vine.

5802. If a source of any prohibited or restricted kind or variety of plant has been demonstrated to be free of dangerous or detrimental viruses or mycoplasma-like organisms, the director shall, in the regulation, permit use of such source.

5803. It is unlawful for any person to bud, graft, or otherwise propagate or grow any fruit or nut tree or vine in violation of any regulations which are adopted pursuant to this article or to sell as nursery stock any plant which is so produced.

Article 7 Registries

5821. The director, for the purpose of promoting and protecting the agricultural industry of the state, may, upon request, inspect plants and the premises upon or near which they are growing and the records of their sources and qualities. He may upon the basis of the information thus determined, maintain registries of the plants which are found not to be infested or infected, or liable to become infested or infected, with pests.

5822. The director may do any of the following:

(a) Certify as to the pest freedom of plants which may have been inspected or registered or may certify as to the true pest condition of the plants.

(b) Issue tags, labels, or certificates in evidence of inspection or registry.

(c) Supervise or conduct any special treatments which may be necessary to insure the pest freedom of plants for propagation or planting purposes.

(d) Fix uniform fees to be charged for inspections, registrations, certifications, and special treatments. The fees shall be based upon the approximate cost of the service which is rendered.

5823. The director may also establish and enforce regulations which are necessary to carry out the purposes of this article.

5824. The cost of any service which is rendered pursuant to this article shall be paid from the Department of Food and Agriculture Fund out of any money which is derived pursuant to this article and shall not be a charge against the General Fund.

5825. The services which are authorized by this article shall not duplicate services which are being rendered by commissioners.

5826. It is unlawful for any person to alter, deface, or misuse any statement of registry, certificate, label, or tag which is issued pursuant to this article.

5827. Any money which is received by the department pursuant to this article shall be paid into the State Treasury and be credited to the Department of Food and Agriculture Fund. Any money in the Department of Food and Agriculture Fund which was derived pursuant to this article may be expended for the administration and enforcement of any or all of the following which relate to nursery stock, notwithstanding any other provision of law which limits the expenditure of this money to some specific purpose or to the administration or enforcement of some specific section, article, chapter, or law:

(a) Section 435.

(b) Article 7 (commencing with Section 5821) of Chapter 8 of Part 1.

(c) Chapter 1 (commencing with Section 6701) of Part 3.

(d) Any other provision of this division, which relates to nursery stock, except Article 5 (commencing with Section 6001) of Chapter 9 or Chapter 10 (commencing with Section 6101) of Part 1, Part 5 (commencing with Section 8401), or Part 6 (commencing with Section 8801).

(e) Chapter 5 (commencing with Section 53301) of Division 18.

Article 7.5 Quality Certification Services

5850. The Legislature finds and declares all of the following:

(a) Enhancing global business and trade is in the economic interest of the state.

(b) Domestic and foreign country quarantine and product quality requirements must be met to allow for the trade of many agricultural products.

(c) Currently, to be acceptable to other states and foreign governments, phytosanitary and product quality certification and supporting analyses, diagnostics, and other testing of that type must be performed by an impartial, third-party governmental agency.

(d) As a result of its regulatory responsibilities, the department has the technical capacity and expertise to meet current domestic and foreign government requirements for impartial, third-party governmental analytical, certification, diagnostic, inspection, quality assurance, and testing services and, as accreditation becomes acceptable to states and foreign governments, to accredit private entities to perform these kinds of services.

(e) Nonregulatory activities are services for which the entities that receive the benefits should pay the costs. However, the department is not authorized or funded to establish a program to perform nonregulatory accreditation, analytical, certification, diagnostic, inspection, quality assurance, or testing work, nor is it authorized to establish a schedule of charges to recover its costs for those services.

5851. It is the intent of the Legislature, in enacting this article, to enhance the state's business and trade opportunities by authorizing the department to do all of the following:

(a) Perform nonregulatory services such as export market phytosanitary and product quality analyses, certification, diagnostics, inspections, quality assurance, and testing relating to nursery stock, plants, seed, or plant pests and diseases.

(b) Accredit and monitor or audit private entities as necessary.

(c) Establish charges sufficient to recover its costs for nonregulatory services such as export market phytosanitary and product quality activities.

5852. (a) The department may provide, upon request, nonregulatory accreditation, analytical, certification, diagnostic, inspection, quality assurance, testing, and other nonregulatory services relating to nursery stock, plants, seed, or other plant pests and diseases on a charge-for-service basis or may accredit private persons or business entities to perform those services.

(b) To ensure that the activities performed by private persons or business entities are valid and reliable, the department shall adopt regulations to establish accreditation criteria to govern its accreditation, monitoring or auditing, and revocation of accreditation activities. Any regulations adopted by the department pursuant to this subdivision shall be consistent with applicable federal law. The department may adopt by reference any pertinent federal laws or regulations pertaining to the accreditation of persons or business entities for the performance of work required to certify compliance with the quarantine, quality, and other import requirements established by other states or foreign countries. No private, nongovernmental entities that perform diagnostic or field inspections for the issuance of federal phytosanitary certificates shall be accredited until federal rules are adopted that permit and regulate those activities.

(c) To retain accreditation, those persons or business entities providing services described in subdivision (a) shall agree to be monitored or assessed and evaluated on a periodic basis by means of proficiency testing or sample checking.

(d) It is unlawful for any person or business entity that is not accredited by the department to make any representation regarding accreditation by the department. Any person or business entity that makes that representation, without valid departmental accreditation, may be enjoined from doing so by any court of competent jurisdiction upon suit by the department.

(e) Each governmental agency within the state that governs and conducts activities related to plant quarantine or conducts a program to control the pests or diseases of nursery stock, plants, or seed shall accept the test results of any laboratory accredited under this section as being valid, unless the agency establishes specific criteria and standards for rejecting the results prior to the rejection and provides written justification to the state accrediting entity and laboratory stating the reasons the laboratory results do not meet the quarantine or disease or pest control program requirements under its jurisdiction. Any agency under this subdivision wishing to reject the accreditation of any laboratory or the test results of any laboratory accredited under this section must first obtain written approval from the secretary.

(f) To assure validity and reliability, the department may specify, by order, the location or locations where the services described in subdivision (a) will be provided.

(g) The department may establish, by regulation, a schedule of charges to cover the department's costs for specific services it provides. Charges for the accreditation and monitoring of laboratories located outside the state shall include the expenses for all required travel and per diem and may include application, basic, initial, renewal, and other charges that the department deems necessary to cover its costs for accreditation and monitoring or auditing for compliance. Funds collected through cost-recovery charges are dedicated to, and may only be used for, carrying out the activities and functions specified in this article.

(h) Notwithstanding any other provision of this code regarding the provision of the services described in subdivision (a), orders issued by the department and regulations establishing charges adopted by the secretary pursuant to this section shall not be subject to review, approval, or disapproval by the Office of Administrative Law.

(i) Nothing in this section shall be construed to interfere with or supersede any existing inspection, quality assurance, or certification program conducted by an agricultural trade or commodity organization, and this section shall not be construed to require those programs to be certified or accredited by the department.

Chapter 9 Specific Pest Control and Abatement Provisions

Article 1 Citrus White Fly Districts

5901. To provide for the eradication of the citrus white fly, the director may by proclamation declare any portion of the state where the citrus white fly is known to exist to be a citrus white fly district.

5902. The proclamation shall state both of the following:

- (a) The existence of the citrus white fly district.
- (b) The description of the boundaries of the district.

5903. The director shall print a copy of the proclamation in one or more papers of general circulation in the infested district.

5904. Every plant within a citrus white fly district which is infested with citrus white fly or with the eggs, larvae, or pupae of the citrus white fly, or which there is reasonable cause to believe may be infested with citrus white fly, is a public nuisance.

5905. The existence of any known host plant of citrus white fly within the boundaries of the district is reasonable cause to believe the host plant is infested with the citrus white fly.

5906. The department and the commissioners may cause the destruction of any host plant of the citrus white fly in a summary manner.

5907. If, in the opinion of the enforcing officer, the host plant may be treated in a manner to destroy all citrus white flies or the eggs, larvae, or pupae of the citrus white fly which are or may be on the plant, the officer may in a summary manner cause such treatment to be given.

Article 3 Sterile Mexican Fruit Fly Production Facility

5951. The Legislature hereby finds and declares all of the following:

(a) The introduction of Mexican fruit flies into California presents a serious threat to California's economy.

(b) The use of alternative methods for pest control is generally preferred to the aerial application of pesticides over urban areas.

(c) The use of sterile flies has proven to be one of the most effective nonchemical procedures in the successful control and eradication of Mexican fruit flies.

(d) California does not have a reliable source of sterile Mexican fruit flies that may be used to control future infestations of this pest.

(e) The federal government, other states, the agricultural industry, and the country of Mexico would all benefit from a reliable source of sterile Mexican fruit flies.

5952. The director may establish and operate a facility outside of this state to produce sterile Mexican fruit flies or enter into an agreement with any other public or private entity to jointly establish and operate the facility.

5953. Any contract entered into by the department to determine the appropriate location, select a suitable facility, or prepare preliminary plans and working drawings is exempt from the Public Contract Code.

Article 5 Cotton Pest Control

6001. It is hereby declared that the cotton industry of this state is threatened with the invasion of cotton boll weevil and pink bollworm of cotton. These two pests, if established in this state, will cause losses of several million dollars per year to this state's number one field crop. The purpose of this article is the prevention of the introduction of these two pests into this state and it is not intended to set a precedent, supersede, or change the normal methods of acting to control or eradicate newly established pests in this state.

6002. The director, or an entity designated by the Cotton Pest Control Board, may contract with the United States Department of Agriculture for the purpose of controlling, suppressing, or eradicating cotton boll weevil or pink bollworm in this state, the State of Arizona, or the Republic of Mexico to prevent the entry and establishment of these pests in this state.

6003. "First handler" means the first person who, as owner, agent, or broker, purchases, or otherwise acquires from a grower, possession or control of cotton.

6005. (a) Every grower of cotton in the state shall pay a fee of three dollars (\$3) for each bale of cotton ginned or for each bale of cotton sold by a grower in this state who received the cotton under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations.

(b) The fee is a maximum fee. The amount of the fee may vary from district to district in accordance with the protection afforded to the cotton crop in the districts. The director may establish districts in

the state for the purpose of fixing the fee. Between February 1 and June 30 of each year, the Cotton Pest Control Board shall recommend to the director the amount of the fee that it determines to be necessary to carry out this article in each district. The director may fix the fee at a less amount, when it is determined that the cost of administering this article can be defrayed with the below-maximum fee. The amount of the fee shall be effective for the next fiscal year. The fee shall be paid to the director or the entity designated by the Cotton Pest Control Board at the time the cotton is ginned or by the first handler when the cotton is sold in the case of cotton received by growers under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations. The first handler shall deduct the fee from any moneys owed to the grower. To determine the number of payment-in-kind bales on which the fee is calculated that the first handler pays to the director, the first handler shall divide each grower's total payment-in-kind entitlement pounds of cotton by 500.

(c) The amount received from fees and other sources of income shall be deposited and handled in a manner determined by the Cotton Pest Control Board and shall be used exclusively to pay costs directly related to the control of pink bollworm or other related cotton pests.

(d) Fees which have not been expended by the termination date of this article shall be refunded.

(e) Moneys received from other sources for this program may be used to carry out the purposes of this article.

(f) The Cotton Pest Control Board may hire any and all necessary personnel, contract for services, and incur all other expenses necessary to carry out the purposes of this article.

6006. The director shall appoint a Cotton Pest Control Board, consisting of 10 members, to assist and advise him or her on matters which pertain to the control of cotton pests and to carry out its authority specified in this article.

The membership shall consist of at least one cottongrower from each of the major cotton-growing counties in the state, and one member who is not a cottongrower and who represents the public.

Any member of the board who misses two meetings without the permission of the board, is deemed to have resigned as a member of the board.

The board may meet in regular session each month. The chairperson of the board or the director may call any other meeting of the board at any time. Each member shall be allowed per diem and mileage in accordance with Department of Personnel Administration rules for attending any meeting of the board.

The board shall annually review the effectiveness of the cotton pest control program.

6006.5. It is hereby declared, as a matter of legislative determination, that cottongrowers appointed to the Cotton Pest Control Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

6006.6. Any decision made by the Cotton Pest Control Board which results in an entity other than the department administering this article shall be made not later than May 1 of any year.

Article 6 Field Rodents

6021. If the director receives a report from the executive officer of the State Department of Health Services which states that field rodents in a certain area carry, or are likely to carry, any disease, insect, or other vector of any disease which is transmissible and injurious to humans, he shall forthwith advise the commissioner of the county in which such rodents exist.

6022. The commissioner shall cooperate in suppressing field rodents and insects, or other associated vectors of rodent-borne diseases transmissible and injurious to humans.

6023. The director shall cooperate by entering into an agreement pursuant to Section 482 for the purpose of suppressing the field rodents and insects or other associated vectors in the reported areas and in neighboring areas, to prevent the spread of the rodents and insects, or other associated vectors.

6024. In order to carry out the purposes of this article, the director or commissioner may enter upon any and all premises within any reported area or neighboring area to bait, trap, expose chemically treated baits, or perform any act which he deems necessary for the purpose of suppressing, destroying, or repelling the rodents and insects, or other associated vectors.

Article 6.5 Vertebrate Pest Control Research

6025. The Legislature hereby finds and declares all of the following:

(a) The continued viability of the agricultural economy is of paramount importance to the people of this state.

(b) Vertebrate pests cause an estimated two hundred million dollars (\$200,000,000) damage to agricultural crops each year, and without effective controls, the losses and damage could reach one billion dollars (\$1,000,000,000) annually.

(c) The use of materials to control vertebrate pests benefits the public health by preventing rodent-borne diseases that could be transmitted, and be injurious, to humans.

(d) County departments of agriculture have historically provided vertebrate pest control materials to the agricultural community.

(e) Recent changes in the federal law require the development of extensive data and the payment of registration fees in order to register these materials, and these requirements are costly.

Research studies to develop this data will be required if these valuable control materials are to be maintained.

(f) It is appropriate that the necessary research be funded by an assessment on the vertebrate pest control materials for which these studies are required.

6025.2. For purposes of this article, "vertebrate pest" means any specie of mammal, bird, reptile, amphibian, or fish that causes damage to agricultural, natural, or industrial resources, or to any other resource, and to the public health and safety.

6025.5. (a) The director shall establish and administer a research program to control vertebrate pests which pose a significant threat to the welfare of the state's agricultural economy and the public.

(b) The specific purposes of the program include all of the following:

(1) The investigation of effective and economical alternative materials for the control of vertebrate pests.

(2) The solicitation and consideration of research proposals for alternative humane methods of control.

(3) The continuation of current vertebrate pest control product registration at the state level until alternative products are developed which prove to be effective and economical.

(4) The funding of research for the development of scientific data to fulfill registration requirements.

(5) Cooperation with the United States Department of Agriculture in funding research programs to maintain, develop, and register vertebrate pest control materials used in this state.

6026. The director shall establish the Vertebrate Pest Control Research Advisory Committee consisting of the following members, appointed by the director, to serve at the pleasure of the director:

(a) One representative of the department.

(b) One representative of the county agricultural commissioners.

(c) Five representatives of the agricultural industry representing affected commodities.

(d) One representative of the University of California.

(e) One representative of the California State University.

(f) One representative of the State Department of Health Services.

(g) One representative of the general public, with consideration given to a person with expertise in animal welfare.

6026.5. On or before December 31 of each year, the committee shall recommend to the director priorities for conducting various vertebrate pest control research projects and the amount of the assessment necessary to carry out those research projects.

6027. There is hereby created the Vertebrate Pest Control Research Account in the Department of Food and Agriculture Fund. Notwithstanding Section 13340 of the Government Code, the money in the account is continuously appropriated to the director for purposes of carrying out this article. Notwithstanding any other provision of law, the moneys in the account shall not be transferred to any other fund or encumbered or expended for any purpose other than as provided in this article.

6027.5. During the calendar year, each commissioner shall pay to the secretary a fee not to exceed fifty cents (\$0.50) per pound of vertebrate pest control material sold, distributed, or applied by the county for vertebrate pest control purposes. No assessment shall be imposed on the sale or on the distribution of vertebrate pest control material by a county agricultural commissioner to another commissioner. Vertebrate pest control material registered by the secretary may only be sold or distributed by a county agricultural commissioner or as authorized by the secretary.

The secretary may set a different level of assessment in the amount necessary to provide revenue for the vertebrate pest control research projects carried out pursuant to this article only if the secretary, at

a minimum, has consulted with the Vertebrate Pest Control Research Advisory Committee. The new level of assessment may only commence at the beginning of the subsequent calendar year. However, the assessment shall not exceed one dollar (\$1) per pound of vertebrate control material sold, distributed, or applied by the county for vertebrate pest control purposes. To assist the advisory committee in making its recommendations, the department shall submit a progress report to the members of the advisory committee at least 30 days prior to each meeting of the advisory committee. The report shall include, but is not limited to, data on research that has been, or is proposed to be, conducted and statements regarding the necessity for that research. This section does not preclude the department from preparing and distributing additional reports that may be requested by the advisory committee.

6028. The assessment payments required pursuant to Section 6027.5, together with a report of the amount of vertebrate pest control materials sold, distributed, or applied during the previous six-month period, shall be made biannually by each commissioner to the director within one calendar month after June 30 and December 31 of each year.

6029. This article shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

Article 7 Beet Leafhopper Control

6031. The necessity of controlling beet leafhopper, the only known vector of the curly top virus, is recognized by the Legislature as being in the public benefit. The state's agricultural business economy could be seriously damaged if measures are not continued to prevent the transmittal of curly top virus by this insect. Since the control program primarily is carried on in uncultivated areas, involving both private and public lands, often far removed from the areas receiving benefits, it is necessary for a state agency to take primary responsibility. The Legislature therefore supports a program jointly funded by industry and public funds whereby protection is provided to both home gardens and commercial crops.

6032. As used in this article "handler" means any person that engages in the operation of selling, marketing, or processing any of the crops vulnerable to damage from curly top virus, as covered by this chapter, which he or she has purchased, or acquired from a producer or which he or she is marketing, selling or processing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. A producer-handler is a producer who operates as a handler as to any such crop produced by him or her. Every producer or producer-handler of agricultural crops susceptible to curly top virus as determined by the secretary, may include, but is not limited to, tomatoes, sugar beets, melons, beans, cucumbers, spinach, and peppers shall pay to the department an assessment on all those crops sold or delivered by him or her to a handler or, in the case of a producer-handler, on those crops marketed by the producer-handler. The full amount of the assessment shall be collected from the producer by the handler at the point and time that the crop is purchased or received by the handler as provided by regulations of the secretary.

6033. Except as otherwise provided in this article, the assessment collected from producers by handlers or due from producer-handlers shall be paid by the handlers or producer-handlers to the secretary as provided by regulations of the secretary.

6033.5. (a) Any assessment that is imposed on the producer pursuant to this article is a personal debt of the producer.

(b) Every handler or producer-handler is personally liable for the payment of the assessment. The failure of the handler or producer-handler to collect the assessment does not exempt the handler or producer-handler from liability, and does not relieve the producer from the obligation to pay the assessment.

(c) Any producer, handler, or producer-handler who fails to file a return or pay the assessment or otherwise comply with Section 6033 shall pay a penalty of 10 percent of the amount of the assessment determined to be due, and, in addition, shall pay 1.5 percent interest per month on the unpaid balance of the assessment and the penalty.

6034. For the purpose of assessment, the following districts are established: District I, Imperial and Riverside Counties; District II, Kern, Kings, Tulare, Fresno, Madera, Merced, Stanislaus, and San Joaquin Counties, and that portion of Los Angeles County lying north of the San Gabriel Mountains; District III, Sacramento, Solano, Yolo, Placer, Sutter, Yuba, Colusa, Butte, and Glenn Counties; District IV, Alameda, Contra Costa, Monterey, San Benito, San Luis Obispo, Santa Clara, Santa Cruz, and Santa Barbara Counties; additional areas of the state may be established in districts by regulation of the secretary if the secretary finds crops in any such district are subject to damage from curly top virus and that any such district is necessary to accomplish the purposes of this article.

6035. The secretary may establish the rate of assessment by district and crop and may adjust the assessment rate from time to time, whenever necessary as provided in Section 6036.

6036. The assessment rate may vary from district to district and from crop to crop based on the degree of vulnerability to damage from curly top virus experienced by those crops in those districts. The rates may also vary in accordance with the protection afforded to those crops in those districts. Any rate or rates established shall be set by regulation. The assessments shall be in total amount sufficient to reimburse the secretary, and whenever feasible, shall not exceed 65 percent of the expenditure by the department in carrying out the beet leafhopper control program.

6037. Any money which is received by the director pursuant to this article shall be deposited in the Department of Food and Agriculture Fund to be used for the administration and enforcement of this article.

6038. The director may receive moneys from other sources for this program, which shall be deposited into the Department of Food and Agriculture Fund and used to carry out the purposes of this article.

6039. The secretary shall appoint a Curly Top Virus Control Board consisting of nine members. The membership shall consist of at least one representative of each of the primary crop commodities assessed and shall include representation from each of the districts assessed. The

secretary may appoint one additional member on the board, who shall be a public member. The secretary shall appoint one member of the board to serve as chairperson.

Upon the secretary's request, the board shall submit to the secretary the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor or financially interested in any producer, shipper, or processor, for appointment by the secretary as a public member of the board. The secretary may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the secretary, the board shall continue to submit lists of nominees until the secretary has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the secretary from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

6039.5. It is hereby declared, as a matter of legislative determination, that persons appointed to the Curly Top Virus Control Board pursuant to Section 6039 are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

6040. Board members shall serve at the pleasure of the secretary.

6041. (a) Except as provided in subdivision (b), the board shall be advisory to the secretary and may make recommendations on all matters pertaining to this article including, but not limited to, the annual budget, the adoption, modification, and repeal of regulations and procedures, the use of funds for research, and necessary assessments required to accomplish the purposes of this article as provided in Section 6031.

(b) The secretary shall accept the recommendations of the board if the secretary determines that the recommendations are practicable and in the interest of the industry and the public. The secretary, within 30 days of the decision, shall provide the board with a written statement of reasons for his or her decision if the secretary does not accept a recommendation of the board.

6042. The board shall meet at the call of its chairman or the secretary or at the request of any three members of the board. The board shall meet at least once a year. Members of the board shall be allowed per diem and mileage in accordance with rules of the Department of Personnel Administration for attendance at meetings and other board activities authorized by the board and approved by the secretary.

6043. Upon termination of this article, any remaining funds received pursuant to this article shall be refunded on a pro rata basis to all persons from whom assessments were collected during the 12-month period preceding the date of termination, unless the secretary finds the amounts so returnable are so small as to make impractical computation

and remitting of refunds. If the secretary makes such a finding, the funds may be used for beet leafhopper control or research activities.

Article 9 Hydrilla

6048. (a) The plant hydrilla (*Hydrilla verticillata*) is a noxious aquatic weed not native to the State of California. The Legislature hereby declares that the further introduction and spread of this serious aquatic weed pest would be detrimental to the state, causing irreparable damage to the agricultural industry and recreational use of streams, lakes, and waterways and further that the eradication of this aquatic weed pest is essential to the preservation of the environment.

Hydrilla can be introduced into the state in shipments of fish and aquatic plants for wholesale and retail sale within the state. It can become established when aquariums containing hydrilla are dumped into California's streams, lakes, ponds, and waterways. Subsequent spread is rapid, both naturally and artificially.

(b) It is unlawful to produce, propagate, harvest, possess, sell, or distribute hydrilla as such or incidental to the sale of fish, aquatic plants, or other hosts or possible carriers of hydrilla. The director may adopt quarantine or other regulations which prohibit the importation of hydrilla. Any violation of the regulations or of this section is an infraction punishable by a fine of not more than seventy-five dollars (\$75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of this section or of the regulations. These penalty provisions do not preclude civil action as provided in Article 2 (commencing with Section 5021) of Chapter 1.

(c) The director shall conduct an ongoing survey and detection program for hydrilla. Whenever and wherever hydrilla is discovered, the director shall immediately investigate the feasibility of eradication. If eradication is feasible, the director shall perform the eradication in cooperation with federal, city, county, and other state agencies taking those steps and actions the director deems necessary.

6049. The department, with the cooperation of the University of California, the United States Department of Agriculture, or other agencies, may develop and implement biological control methods to eradicate or control the aquatic weed pest hydrilla (*Hydrilla verticillata*) in any area of the state, and may conduct studies for those purposes. When the development or implementation involves the use of fish, each individual program for development or implementation shall first be approved by the Department of Fish and Game.

Part 2 Shipments **Chapter 1 Generally**

Article 1 General Provisions

6301. If any article is found to have been transported into this state from any other country or state, or territory or district of the United States, in violation of any provision of a quarantine that is established by the Secretary of Agriculture of the United States, the article is subject to seizure, destruction, or other disposition to the same extent and in the same manner as if the article had originated in this state and was in violation of a provision of this division.

6301.1. (a) The secretary shall adopt, by reference, by regulation, those federal quarantine regulations and any subsequent amendments in Parts 301 to 369, inclusive, of Title 7 of the Code of Federal Regulations. Civil and criminal penalties applicable to a violation of those federal quarantine regulations may be imposed by the secretary and other duly authorized plant quarantine officers in conformity with that other law.

(b) Any funds recovered by the commissioner pursuant to this section shall be deposited in the county general fund in the county in which the action is brought and shall be allocated to the commissioner to cover costs related to the enforcement of this division. Any funds recovered by the secretary pursuant to this section shall be deposited in the Department of Food and Agriculture Fund to cover costs related to the enforcement of this division.

6302. If any shipment of plants or things which is passing through any portion of the state is, or is liable to be, infested or infected with any pest, and there exists danger of dissemination of the pest while the shipment is in transit in this state, the shipment shall be placed within sealed containers which are composed of metal or other material so constructed that they are not liable to be broken or opened while in transit so as to permit the pest to escape. The containers shall not be opened while within the state.

6303. (a) It is unlawful for any person, except under written permission from a plant quarantine officer or under his specific direction, to move any lot or shipment of plants or other things to which a warning tag or notice has been affixed pursuant to this division, or to remove, alter, destroy, deface, or mutilate any such warning tag or notice.

(b) If any shipment of plants or things is allowed to transit the state or transit to a given destination county under a quarantine warning-hold notice, the shipment of plants or things shall not be diverted to another destination without the written permission of the director or the commissioner of the destination county.

(c) Diversion of a shipment as described in subdivision (b) is unlawful.

(d) If a shipment of plants or things requires a state or county plant quarantine officer to be present at the destination to supervise the unloading, inspection, or treatment of a quarantine shipment, the director or commissioner, as the case may be, may charge the shipper or receiver a service fee for the cost of the services. Service fees shall be determined based on the director or commissioner's costs for the services rendered.

6304. It is unlawful for any person to import into the state any English or Australian wild rabbit, flying fox, mongoose, or any other form of animal life which is detrimental to agriculture. Any such animal shall be refused entry and shall be immediately destroyed or shipped out of the state within 48 hours at the option and expense of the owner or bailee of the animal.

6305. It is unlawful for any person to willfully import into, or ship or transport within, the state any live insect or any pest as such, unless the shipment or transportation and subsequent use and handling is authorized prior to shipment under written permit and the

regulations of the director or the United States Department of Agriculture, except the following:

- (a) Honey bees of the species of *Apis mellifera*.
- (b) Weeds for the purpose of identification.
- (c) Beneficial or useful insects of common occurrence in the state.
- (d) Insects or other organisms of public health or animal health interest, which are not plant pests, when imported, shipped, or transported by any governmental public health agency.

Any shipment which is not authorized by this section shall be immediately destroyed unless it is determined by the inspecting officer that the nature of the contents of the shipment is such that no damage can be caused to agriculture in this state through its shipment out of the state or return of the shipment to the point of origin. In such case, the shipment out of the state or the return of the shipment to point of origin shall be allowed at the expense of the owner or bailee of the shipment within the time which is specified by the inspecting officer.

6306. Unless otherwise permitted by law, any person who willfully and knowingly imports into, or who willfully and knowingly transports or ships within, this state, a Mediterranean fruit fly is guilty of a felony.

Article 2 Tephritidae Fruit Flies

6321. It is unlawful for any person to import into, or transport thereafter within, the state any plant, fruit, or vegetable which is known to be, or may become, a host of any species of the fruit fly family Tephritidae from any territory, state, or district where such species of Tephritidae is known to exist except under permit and regulation of the director if the director finds that the species is harmless to agriculture or that an effective treatment of the hosts eliminates fruit fly risk.

6322. Any plant, fruit, or vegetable which is known to be, or which may become, a host of any species of the fruit fly family Tephritidae, together with its containers and packing, shall be refused entry or transportation within the state.

6323. Any plant, fruit, or vegetable which is known to be, or which may become, a host of any species of the fruit fly Tephritidae, which is imported into, or transported thereafter within, this state shall be immediately destroyed at the expense of the owner or bailee unless it is imported or transported under permit and in accordance with regulations of the director.

Article 3 Seed Pests in Shipment

6341. If anything brought into any county or locality of the state from another county or locality within the state, or from any other state or foreign country, is found to be infested with the seed or propagule of any pest that is not of common occurrence in the county or locality into which the shipment is brought, the director or the commissioner shall notify the owner or bailee of such shipment to return it to the point from which the shipment was made.

6342. The owner or bailee shall return the shipment to the point from which it was made within 48 hours.

6343. If the director or the commissioner determines that the pest seeds can be destroyed by treatment, the shipment may, at the option and expense of the owner or bailee, be given such treatment under the supervision of the director or the commissioner. After the treatment the shipment may be released.

6344. If the director or the commissioner determines that no adverse effect to agriculture would result from allowing the shipment to be stored in quarantine pending treatment or shipment out of the state, or from procedures incidental thereto, the shipment may be so stored for such a period of time in an approved place under such conditions as the director or commissioner may require.

Chapter 2 Interstate Shipments

Article 1 Notice of Arrival and Hold for Inspection

6401. It is unlawful for any person to transport, receive, or import into the state any plant or any thing against which a quarantine has been established, or any plant, unless he does both of the following:

(a) Notifies the director or the commissioner of the county in which the plant or thing is received, of the arrival of the plant or thing immediately after its arrival.

(b) Holds the plant, or thing for immediate inspection by the director or commissioner, without unnecessarily moving it, or placing it where it may be harmful.

6402. If there is no commissioner in the county where the plant or thing is received, the person that transports, receives, or imports the plant or thing into the state shall notify the director, who shall make immediate arrangements for its inspection.

6403. The officer who makes the inspection may enter at any time into any conveyance or place within the state where the plant or thing is located to ascertain whether it is, or is liable to be, infested or infected with any pest.

6404. The secretary may enter into agreements with regulatory officials of other states and the United States Department of Agriculture to provide for the use of various pest risk mitigation measures at the place of origin of the shipment of the plants. The agreement may designate the plants or varieties of plants to which those measures are applied as being commodities that may be released upon arrival at ports of entry or terminals in this state without being held and inspected for compliance with standards and quarantine requirements.

6405. (a) Any certificate that has been altered, defaced, or improperly completed or changed is void.

(b) It shall be unlawful for any person to do any of the following:

(1) Alter, deface, or otherwise falsify or change, a certificate that is attached to any plant shipment or other thing entering the state.

(2) Use, or have in his or her possession, any certificate that has been altered, defaced, or otherwise falsified or changed.

(3) Transport, receive, or possess any plant material represented by a certificate.

(c) For purposes of this section, "certificate" means a certificate issued pursuant to a quarantine regulation.

Article 2 Marking

6421. Each shipment of plants which is brought into this state shall have legibly marked upon it in a conspicuous manner and place all of the following:

(a) The name and address of the shipper or owner.

(b) The name of the person to whom the shipment is forwarded or shipped or the name of his agent.

(c) The name of the country, state, or territory where the contents were grown.

(d) A statement of its contents.

Article 3 Pest Findings

6441. If, after inspection, any plant or thing is found to be infested or infected, the owner or bailee shall, at his expense, disinfect the conveyance or place where the plant or thing may have been located, in such manner as to destroy all infection or infestation present, or that is liable to be present.

6442. The officer who makes the inspection shall not permit any article to be removed which has come in contact with the infested or infected plant or thing, if such article might convey infection or infestation, until after the infection or infestation is destroyed, except for the purpose of destruction or disinfection under the supervision of the inspecting officer.

Any article which is liable to be infested or infected shall be held until it has been thoroughly disinfected and the pest has been destroyed.

6443. The director may designate certain plants that are not for planting, propagation, or ornamental purposes within this state, which are arriving from certain areas, to be plants that may be released without inspection, if he finds, upon investigation, that such plants from such areas are not liable to cause the introduction of pests into this state.

Article 4 Abatement, Reshipment, or Treatment

6461. It is unlawful to ship or transport any plant or any other thing into this state which is infested with any pest which has been listed, by the director, as detrimental to agriculture in this state.

The director shall either establish and amend the list of pests by order, after notice and opportunity for written or oral comments, or through the adoption or amendment of quarantine regulations.

In addition to the civil, criminal, and administrative remedies specified in this division, the director may, after notice and opportunity to respond, impose inspection, treatment, certification, holding, or other requirements for any shipper or transporter that has shipped or transported three or more pest-infested shipments into this state within any 12-month period.

With regard to any commercial shipment violating any of those requirements imposed pursuant to this section, the director or commissioner may also charge the shipper or transporter the cost of inspecting and controlling the pest.

6461.5. Except as otherwise provided in this article, if any shipment of plants or any other things in violation of this chapter or any quarantine which has been established, is brought into this state and it is found to be infested or infected, or there is reasonable cause to believe that it may be infested or infected, with any pest, the shipment shall be immediately destroyed by, or under the supervision of, the officer who inspects it, at the expense of the owner or bailee of the shipment.

6462. If the nature of the pest is such that no detriment can be caused to agriculture in the state by the shipment of the plant or thing out of the state, the officer who makes the inspection may affix warning tag or notice to the shipment. The officer shall notify the owner or bailee of the plant or thing to ship it out of the state within 48 hours. The owner or bailee shall ship the plant or thing out of the state within the time which is specified in the notice. The shipment is under the direction and control of the officer who makes the inspection and is at the expense of the owner or bailee.

6463. If the plant or thing is not shipped out of the state within the time which is specified in the notice, the inspecting officer shall immediately after the expiration of the time seize the plant or thing and destroy it at the expense of the owner or bailee.

6464. If the pest may be exterminated by treatment or processing which is prescribed by the director and it is determined by the inspecting officer that the nature of the pest is such that no damage can be caused to agriculture in this state through such treatment or processing or any procedure which is incidental thereto, the shipment may be treated or processed under the supervision of the inspecting officer at the expense of the owner or bailee in the manner, and within the time, which is specified by the inspecting officer.

6465. If, after the treatment or processing, the inspecting officer determines that the pest has been exterminated, the shipment may be released.

Part 3 Nursery Stock
Chapter 1 Licenses

Article 1 General Provisions

6701. The director may publish in pamphlet form, as often as he deems necessary, a list of all persons that are licensed pursuant to this chapter. The pamphlet may also contain such additional information as the director deems advisable concerning the enforcement of laws and regulations which pertain to nursery stock.

Article 2 Issuance and Renewal of Licenses

6721. It is unlawful, for any person, except a person who is expressly exempt pursuant to Section 6742 or 6743, to sell any nursery stock

unless such person holds a valid license which is issued pursuant to this chapter.

6722. Except as provided in Section 6761, the director, upon receipt of the total license fee which is established pursuant to Section 6723, shall issue a license to sell nursery stock for the appropriate period as established pursuant to Section 6724 to any person that sells or seeks to sell plants, as defined in Section 5007, for planting, propagation, or ornamentation. Plants for ornamentation shall include cut flowers and cut greens. The applicant shall further satisfy the director of his character and good faith in seeking to carry on the business of selling nursery stock.

6723. (a) The secretary shall establish the minimum license fee at an amount not to exceed one hundred eighty dollars (\$180).

(b) The secretary may fix the minimum license fee at an amount that is less than one hundred eighty dollars (\$180) and may adjust the license fee if, after investigation and due notice, the secretary finds that the cost of administering this division and Chapter 5 (commencing with Section 53301) of Division 18, which relate to nursery stock, can be defrayed from revenues derived from the license fee in combination with those sums as provided by Sections 435 and 5822.

(c) Both of the following amounts shall be added as an additional license fee to the license fee established pursuant to subdivisions (a) and (b):

(1) An equal sum for each branch salesyard, store, or sales location that is owned and operated by the applicant in the state.

(2) (A) An acreage fee in an amount to be established by the secretary for land used in the production, storage, or sale of all nursery stock, except as provided in subparagraph (B), in excess of one acre, which the secretary determines is necessary to carry out this part and any portion of this code that relates to nursery stock.

The total acreage fee shall not be less than twenty-five dollars (\$25) nor more than nine hundred dollars (\$900) for each licensee. The acreage fee shall be calculated using as a basis the total of the acreage at all locations where nursery stock is produced, stored, or sold.

(B) Subparagraph (A) does not apply to those licensees whose gross income from the production of cut flowers and cut ornamentals is 75 percent or greater of the gross income of their nursery.

(d) As to all the fees, the secretary may require payment of prorated amounts when necessary in the issuance of new licenses for branch salesyards, stores, or sales locations to persons already licensed pursuant to the licensing periods established in Section 6724.

6724. There shall be four licensing periods as follows: January through December, April through March, July through June, and October through September. The fees for the renewal of the license for the foregoing periods shall be paid by the 1st day of the first month of the licensee's license period. If the renewal license fee is not paid prior to the 11th day of the first month of the licensee's license period, for the 12-month period ensuing, the license to sell nursery stock is forfeited.

6725. Any person whose license to sell nursery stock has been forfeited shall not be issued a renewal license except upon written application to the department.

6726. Except as otherwise provided in Section 6727, the application for renewal of a license shall be accompanied by the following sums:

(a) If no part of the minimum license fee has been paid, a sum which is equal to the minimum license fee and a restoration fee in an amount that is equal to the minimum license fee.

(b) If a part of the minimum license fee has been paid, an amount which is a sum equal to any portion of the minimum license fee which is unpaid on the 11th day of the first month of the licensee's license period and a restoration fee in an amount which is equal to the unpaid portion of the minimum license fee.

6727. No restoration fee is required of any person whose application for renewal of a license is accompanied by his signed statement that prior to the date of his application and payment of the minimum license fee he has not sold any nursery stock during any part of the license period for which he applies for renewal of the license. The director also may accept, at his discretion, the licensee's affidavit that the minimum license fee was not paid within the time limits specified in Section 6724 for reasons beyond the licensee's control.

6728. The director shall not refund more than one-half of the minimum license fee to any person who applies for a license to sell nursery stock and who later decides not to engage in the sale of nursery stock. No portion of the minimum license fee shall be refunded to any person who is denied a license pursuant to Section 6761.

Article 3 Exemptions

6741. A person is not required to pay any license fee if all of the following facts exist:

(a) The person's sales of plants amount to less than one thousand dollars (\$1,000) within any one fiscal year.

(b) The person has reported to the commissioner his or her intention to make those sales.

(c) All plants which are sold by the person are of his or her own production, and are sold for planting within the county in which the plants were grown.

6742. Any person that sells seeds and does not sell or ship any other kinds of nursery stock is exempt from the license requirements of this chapter.

6743. Any retail florist or other person that sells plants at retail for indoor decorative purposes only is exempt as to such plants from the license requirements of this chapter.

6744. Any person that sells cut Christmas trees is exempt from the license requirements of this chapter.

Article 4 Refusal, Revocation and Suspension

6761. The director, after investigation and hearing, may refuse to issue or renew a license, or may suspend or revoke a license, if he determines that the licensee or the applicant has done any of the following:

(a) Has willfully refused to comply with the laws and regulations relative to nursery stock, or to any pest which might be carried by nursery stock.

(b) Was intentionally guilty of fraud or deception in the procurement of the license.

(c) Has been guilty of fraud or misrepresentation in the handling or sale of nursery stock.

(d) Has failed to maintain nursery stock produced or sold by him in accordance with the standards of cleanliness which are prescribed by the director.

(e) Has failed to comply with any lawful order which is issued by the director or commissioner.

6762. Any proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The director shall have all the powers which are granted in such chapter.

Article 5 Disposition of Fees

6781. Any money which is received by the department pursuant to this chapter shall be paid into the State Treasury and be credited to the Department of Agriculture Fund. Any money in the Department of Agriculture Fund which is derived pursuant to this chapter may be expended for the administration or enforcement of any or all of the provisions of the following portions of this code which relate to nursery stock, notwithstanding any other provision of law which limits the expenditure of such money to some specific purpose or to the administration or enforcement of some specific section, article, chapter, or law:

(a) Section 435.

(b) Article 7 (commencing with Section 5821), Chapter 8, Part 1, of this division.

(c) Chapter 1 (commencing with Section 6701), Part 3, of this division.

(d) Any other provision of this division, which relates to nursery stock, except any provision of Article 5 (commencing with Section 6001) of Chapter 9 or Chapter 10 (commencing with Section 6101) of Part 1, Part 5 (commencing with Section 8401), or Part 6 (commencing with Section 8801) of Division 4.

(e) Chapter 5 (commencing with Section 53301) of Division 18.

Chapter 2 Other Regulations

Article 1 Inspections and Standards of Cleanliness

6901. The director by regulation shall provide for periodic inspections of nurseries and may prescribe standards of cleanliness for nursery stock which is produced or sold within the state.

6902. The standards of cleanliness may:

(a) Provide that all nursery stock shall be kept free from pests of limited distribution or pests which are not known to be established in this state and commercially clean in respect to established pests of general distribution.

(b) Prescribe methods of treatment of various types of nursery stock for control of pests.

(c) Require isolation of infested or infected nursery stock pending treatment or other disposal.

(d) Make such other provisions as are reasonably necessary to insure the relative freedom from pests of all nursery stock which is produced or sold within the state.

6903. The commissioner shall inspect all nurseries within his jurisdiction when and as required by the regulations of the director.

6904. The commissioner shall issue such orders as may reasonably be necessary to insure compliance with the standards of cleanliness.

Any interested person, upon request, is entitled to a hearing before the director to review any order which is issued by a commissioner pursuant to this section.

Article 2 Shipment of Nursery Stock, Generally

6921. It is unlawful for any person to ship, or cause to be shipped, any nursery stock from one county or locality of the state to another county or locality within the state unless he has marked upon such nursery stock in a conspicuous manner and place both of the following:

(a) The name and address of the shipper, owner, or person that is forwarding the nursery stock.

(b) The name of the person, or his agent, to whom the nursery stock is forwarded.

6922. Except as otherwise provided in Sections 6502, 6504, 6505, 6506, and 6924, it is unlawful for any person to sell, deliver, or transport any nursery stock from one county to another county within the state unless he has affixed to such nursery stock in a conspicuous place one of the following which is issued by the commissioner of the county of origin:

(a) A shipping permit that warns that inspection at destination is required.

(b) A valid nursery stock certificate.

6923. Except as otherwise provided in Section 6502 or Section 6506, it is unlawful for any person to sell, deliver, or transport from one locality to another locality within the same county any nursery stock which the commissioner considers and designates to be liable to be infested with any pest, unless he has affixed to such nursery stock in a conspicuous place one of the following:

(a) A shipping permit that warns that inspection at destination is required.

(b) A valid nursery stock certificate issued by the commissioner of the county which gives notice that inspection at destination is not required.

6924. Except as provided in Sections 6505, 6506, and 6923 a nursery stock certificate need not be affixed to nursery stock if it is sold at retail and delivered to the purchaser at any sales location which is licensed in accordance with Article 2 (commencing with Section 6721) and Article 3 (commencing with Section 6741) of Chapter 1 of this part.

6925. It is unlawful for any person to move, any nursery stock from one locality to another locality within the same county under conditions provided in Section 6926 or from one county to another

county within the state, except nursery stock which is accompanied by a valid nursery stock certificate, unless such person forwards, at or prior to the time of shipment, to the commissioner who has jurisdiction at the destination, a manifest which states all of the following:

(a) Name and address of the shipper.

(b) Name and address of the person to whom the shipment is being forwarded.

(c) Name and quantity of each kind of plant which is contained in the shipment.

(d) Name of the locality where each kind of nursery stock was grown.

(e) Name of the carrier by which the shipment is being transported, whether by freight, express, mail, truck, boat, airplane, or otherwise.

The requirement for a manifest does not apply to any shipment of seeds.

6926. It is unlawful to move nursery stock from one locality to another locality within the same county without forwarding a manifest as provided in Section 6925 if the commissioner has required such nursery stock to be held for inspection as provided in Section 6505.

6927. It is unlawful for any person to alter any shipping permit or nursery stock certificate or to use it in any manner other than as provided in this chapter.

Article 4 Nursery Stock Certificates and Shipping Permits

6961. The director may issue regulations which will govern the issuance and form of nursery stock certificates and shipping permits and their use on shipments of nursery stock, to insure the relative freedom from pests of all nursery stock which is produced or sold within the state, and which will evidence compliance with the following:

(a) The inspections and standards of cleanliness in Article 1 (commencing with Section 6901).

(b) The nursery stock grades and standards in Chapter 5 (commencing with Section 53301).

(c) Any other law, or lawful order which is issued by the director or the commissioner, relating to the production or sale of nursery stock within the state, or any shipment thereof except where a specific certificate or permit is required by any quarantine regulation which is issued pursuant to Sections 5301, 5302, or 5322.

6965. The commissioner may issue and authorize the use of nursery stock certificates as provided for in this article.

6968. The commissioner may revoke or suspend the right to use any nursery stock certificate or shipping permit which is issued to any person that fails to comply with the provisions of this chapter, Chapter 5 (commencing with Section 53301), or any regulation issued pursuant thereto.

6970. It is unlawful for any person, whose right to use any nursery stock certificate or shipping permit has been revoked or suspended, to refuse to surrender to the commissioner, upon demand, any unused certificate or shipping permit.

Article 4.5 Citrus Tree Assessments

6971. (a) Prior to January 10th of each year, or as soon thereafter as possible, the advisory board shall establish an annual assessment not to exceed 1 percent on the gross sales of all citrus fruit trees, except seedlings and rootstocks, produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer during that dealer's applicable license period. This section does not apply to the sale of citrus fruit trees from one California producer to another.

(b) Gross sales shall be determined at the point of sale where the stock is sold to farmers for planting, to homeowners for dooryard planting, or to retailers or wholesalers for resale. The assessment shall only be levied and paid once on any particular plant.

(c) The secretary may set the assessment at a lower percent to cover the costs necessary to implement and carry out all department programs established pursuant to Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 concerning the registration and certification of citrus fruit trees, the University of California clonal activities concerning citrus fruit trees, indexing, registration, and disease testing for new varieties and budwood sources, and other activities related to the development of planting materials for citrus fruit trees.

6972. The assessment shall be due and payable annually to the secretary by April 10 of each year.

6973. (a) The measure of gross sales shall be the gross sales for the previous calendar year of each licensee.

(b) The secretary may conduct audits and ensure that an assessment is being properly paid.

6974. Any money that is received by the department pursuant to this article shall be paid into the State Treasury and shall be credited to the Department of Food and Agriculture Fund. Any money in the fund that is derived pursuant to this article shall be expended solely to support programs specified in subdivision (c) of Section 6971.

6975. The department may enter into agreements with the University of California, any county agricultural commissioner, and any qualified research agency to assist in development of planting material for citrus fruit tree production. The agreements shall provide for payment for services rendered from fees collected pursuant to this article.

6976. The secretary shall levy on all delinquent and unpaid assessments pursuant to this article a collection charge of 20 percent of the amount due and payable.

6977. The secretary shall not renew a nursery license for any applicant who fails to pay an assessment within 30 days after the date the assessment is due and payable.

6978. The secretary, upon consultation with the citrus fruit tree nursery industry, shall appoint a board to assist and advise the secretary concerning the implementation of this article.

(a) The board shall consist of eight members, a majority of whom are licensed producers of citrus fruit tree nursery stock, and a minority of whom are users and a public member, as follows:

- (1) Five from citrus fruit tree nurseries.
- (2) Two from the citrus fruit industry.
- (3) One public representative.

(b) Each term shall be for two-years. Board members may serve more than one term.

(c) Board members shall represent all areas of the state involved in the production of citrus fruit trees.

(d) The board shall meet at least twice a year. The chairperson or the secretary may call any other meeting when it is deemed necessary by one or both of them. Each member shall be allowed per diem and mileage in accordance with the rules of the Department of Personnel Administration for attending any meeting of the board.

(e) The board shall review and make recommendations to the secretary concerning the ongoing operations of the department and the University of California pertaining to this article. This shall include advice on expenditures, assessments needed to cover costs, and proposals concerning the development of planting materials.

6979. (a) This article shall become inoperative on April 10, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

(b) If the repeal date of this article is not extended beyond January 1, 2006, the final assessment levied pursuant to this article shall be due and payable on or before April 10, 2005.

Article 5 Special Assessments

6981. (a) An annual assessment of 1 percent shall be levied on the gross sales of all deciduous pome and stone fruit trees, nut trees, and grapevines, including seeds, seedlings, rootstocks, and topstock, including ornamental varieties of apple, apricot, crabapple, cherry, nectarine, peach, pear, and plum, produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer. For packaged or containerized stock, the assessment shall be levied on the producer's bareroot price of the plants.

(b) The secretary, as appropriate, and on the recommendation of the board established pursuant to Section 6988, may exempt from the assessment certain species of pome and stone fruit, nut trees, grapevines, or ornamental varieties of apple, apricot, crabapple, cherry, nectarine, peach, pear, and plum if it can be demonstrated that no benefit is derived by these species from programs described in subdivision (d).

(c) The assessment shall be applied at the point of sale where the nursery stock is sold by a producer to persons other than California producers of nursery stock that is subject to assessment under subdivision (a).

(d) The secretary may set the assessment at a lower percent to cover the costs necessary to implement and carry out all department programs established pursuant to Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 concerning the registration and certification of pome and stone fruit trees, nut trees, and grapevines; the University of California foundation plant materials service activities concerning pome and stone fruit trees, nut trees, and grapevines; and other activities related to the development of planting materials for pome and stone fruit trees, nut trees, and grapevines.

6982. The assessment shall be due and payable to the secretary annually by March 10. Assessments not paid within 30 days of the due date shall be considered delinquent.

6983. (a) The measure of gross sales shall be the gross sales for the previous fiscal year of each licensee.

(b) The secretary may conduct audits and ensure that an assessment is being properly paid.

6984. Any money which is received by the department pursuant to this article shall be paid into the State Treasury and shall be credited to the Department of Food and Agriculture Fund. Any money in the fund which is derived pursuant to this article shall be expended solely to support programs specified in subdivision (d) of Section 6981.

6985. The department may enter into agreements with the University of California, any commissioner, and any qualified research agency to assist in development of planting material for pome and stone fruit, nut tree, and grapevine production. The agreements shall provide for payment for services rendered from fees collected pursuant to this article.

6986. The secretary shall levy on all delinquent and unpaid assessments pursuant to this article a collection charge of 20 percent of the amount due.

6987. The secretary shall not renew a nursery license to any applicant who has failed to pay an assessment due pursuant to this article within 60 days of the due date.

6988. The secretary, upon consultation with the pome and stone fruit tree, nut tree, and grapevine nursery industry, shall appoint a board to assist and advise him or her concerning the implementation of this article.

(a) Membership on the board shall consist of 11 representatives, a majority of whom are licensed producers of pome, stone, nut, and grape nursery stock, but also users and a public member as follows:

(1) Two each from the stone fruit (including almonds), pome fruit, and nut (other than almond) industries.

(2) Four from the grape industry.

(3) One public representative.

(b) Board members shall represent all areas of the state involved in the production of pome and stone fruit trees, nut trees, and grapevines.

(c) The members of the board shall serve for fixed terms of up to two years. The secretary, upon nomination by the industry, may appoint a member for three consecutive terms. The secretary shall reappoint no more than eight of the then-current members of the board within a two-year period.

(d) The board shall meet at least twice a year. The chair or the secretary may call any other meeting when it is deemed necessary by one or both of them. Each member shall be allowed per diem and mileage in accordance with Department of Personnel Administration rules for attending any meeting of the board.

(e) The board shall review and make recommendations to the secretary concerning the ongoing operations of the department and the University of California pertaining to this article. This shall include advice on

fiscal expenditure, assessments needed to cover costs, and proposals concerning the development of planting materials.

Part 4 Weed and Pests Seeds

Chapter 1 Weeds

Article 1 Weed-Free Areas

7201. The director, after investigation and practical survey, may consult with other state and federal agencies having responsibility for forest management and protection of native species and, by proclamation, declare an area within this state to be practically free from any noxious weed, as defined in Section 5004, which is named in the proclamation.

7202. Any area which is declared by proclamation pursuant to this article to be practically free from any noxious weed named in the proclamation shall be known as a weed-free area, as to any noxious weed named in the proclamation. The name of the noxious weed shall be a part of the name of the weed-free area.

7203. The director may by similar proclamation change the boundaries of a weed-free area or declare the weed-free area free from any additional noxious weeds, naming the noxious weed.

7204. A proclamation pursuant to this article shall be under the seal of the department. It shall be published in a newspaper or farm journal of general circulation, published and circulated in the area which is to be affected by the proclamation, at least once a week for two successive weeks. If there is no such newspaper or farm journal, a copy of the proclamation shall be posted in one or more public places in the area.

7205. The director may adopt such regulations as may be necessary to carry out the provisions of this article. He, and the commissioners under the supervision and control of the director, shall enforce such provisions and regulations.

7206. It is unlawful for any person to sell, distribute, or transport into, or within, any weed-free area any seed of any noxious weed of which the area has been declared to be practically free.

7207. It is unlawful for any person that owns or possesses any land within any weed-free area to knowingly permit any noxious weed of which the area has been declared to be practically free, to mature upon his land and disseminate its seed or to propagate itself by other means upon such land, or on the land of another.

Article 1.7 Noxious Weeds Management

7270. The Legislature finds and declares all of the following:

(a) The destructive impact of invasive and often poisonous noxious weeds is profound, affecting California's cropland, rangeland, forests, parks, and wildlands.

(b) These pests cause enormous losses of private, state, and federal resources through decreased land productivity, degradation of wildlife

habitat, and outright destruction of crops, livestock, wetlands, waterways, watersheds, and recreational areas.

(c) The estimated lost crop productivity caused by noxious weeds is seven billion four hundred million dollars (\$7,400,000,000) nationwide, a large proportion of which is attributable to California. Nationally, the direct and indirect costs of controlling noxious weeds may be as high as five billion four hundred million dollars (\$5,400,000,000) annually.

7270.5. For the purposes of this article:

(a) "Integrated weed management plan" means an ecosystem-based control strategy that focuses on long-term prevention of weeds through a combination of techniques, such as biological controls, judicious use of herbicides, modified land management, and cultural practices, and where control practices are selected and applied in a manner that minimizes the risks to human health, nontargeted organisms, and the environment. An integrated weed management plan shall also, when appropriate, comply with any applicable provisions of Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, Division 6 (commencing with Section 11401) and Division 7 (commencing with Section 12500) of the Food and Agricultural Code, and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(b) "Noxious and invasive weeds" means weeds that the department has determined to be either noxious or invasive weed species.

(c) "Person" shall have the same meaning as in Section 38, but shall additionally include the United States of America, and all political subdivisions, districts, municipalities, and public agencies of the State of California.

(d) "Riverway" means the water, bed, shoreline, and riparian vegetation, of any creek, including an "urban creek" as defined in Section 7048 of the Water Code, stream, river, lake, reservoir, or other body of freshwater, including a "stream environment zone" as defined in Section 66957 of the Government Code, as well as enclosed bays and estuaries, as defined by Section 13391.5 of the Water Code.

7271. (a) The Legislature designates the Department of Food and Agriculture as the lead department in noxious weed management and the department is responsible for the implementation of this article in cooperation with the Secretary for Resources.

(b) There is hereby created in the Department of Food and Agriculture Fund the Noxious Weed Management Account.

(c) Funds appropriated for expenditure by the secretary for purposes of this article may be spent without regard to fiscal year and shall be allocated as follows:

(1) Eighty-five percent of moneys in the account shall be made available to eligible weed management areas or county agricultural commissioners for the control and abatement of noxious weeds according to an approved integrated weed management plan.

(2) Ten percent shall be made available toward research on the biology, ecology, or management of noxious and invasive weeds.

These research moneys shall be made available to qualified researchers through a grant program administered by the department. Proposals shall be evaluated in consultation with the Range Management Advisory Committee, with emphasis placed on funding of needs-based, applied and practical research.

(3) Five percent shall be made available to the department, and shall only be used for the following purposes:

(A) Carrying out the provisions of this article.

(B) Developing of noxious weed control strategies.

(C) Seeking new, effective biological control agents for the long-term control of noxious weeds.

(D) Conducting private and public workshops as needed to discuss and plan weed management strategies with all interested and affected local, state, and federal agencies, private landowners, educational institutions, interest groups, and county agricultural commissioners.

(E) Appointing a noxious weed coordinator and weed mapping specialist to assist in weed inventory, mapping, and control strategies.

7272. (a) To be eligible to receive funding from the Noxious Weed Management Account pursuant to this article, a weed management area, as defined in subdivision (b), shall be formed in a county or other geographic area.

(b) A "weed management area" is a local organization that brings together all interested landowners, land managers (private, city, county, state, and federal), special districts, and the public in a county or other geographical area for the purpose of coordinating and combining their action and expertise to deal with their common weed control problems. The organization shall function under the authority of a mutually developed memorandum of understanding and subject to statutory and regulatory requirements. A weed management area may be voluntarily governed by a chairperson or a steering committee.

(c) Not more than 10 percent of the noxious weed management funds distributed to a weed management area subject to this section may be used by that local organization for meeting, travel, administration, and coordination costs.

(d) Each weed management area within the state shall create a cost-share integrated management plan for the management of noxious weeds within that area. The plan shall be submitted to the department for review, approval, and funding.

(e) The secretary and weed management areas shall consider the use of the California Conservation Corp and local conservation corps to assist in implementing integrated weed management plans pursuant to this article.

7272.5. (a) To be eligible to receive funding from the Noxious Weed Management Account pursuant to this article, a county agricultural commissioner shall submit a cost-share integrated weed management plan to implement an aggressive control program for noxious weeds. The goals of the program shall include, but not be limited to, all of the following:

(1) Increase the profitability and value of cropland and rangeland.

(2) Decrease the costs of roadside, park, and waterway maintenance.

(3) Reduce the fire hazard and fire control costs in the state.

(4) Protect the biodiversity of native ecosystems.

(5) Maintain the recreational and aesthetic value of open space, recreational, and public areas.

(b) Funds dispersed pursuant to this section shall be allocated on the basis of the total number of infested acres in each county and the degree of infestation that exists in the counties, and shall be only used for the following purposes upon submission of a plan approved by county boards of supervisors and the department.

(1) Operation of programs by the agricultural commissioner for control of noxious weeds along county roads and other local government owned property.

(2) Matching funds for control of noxious weeds on city owned streets, parks, rights-of-way, and other public areas.

(3) Disseminating biological control agents by the county agricultural commissioner for the long-term control of yellow starthistle or other noxious weeds.

(4) Abatement of noxious weed infestations on land vital to the success of the program.

(5) Not more than 10 percent of the noxious weed management funds distributed to a local agriculture commissioner subject to this section may be used by that commissioner for meeting, travel, administration, and coordination costs.

7273. (a) The department shall designate and provide staff support to an oversight committee to monitor this article and shall consider input from weed management areas, county agricultural commissioners, and the Range Management Advisory Committee.

(b) The membership of the oversight committee shall include an equitable number of representatives from each of the following interests:

- (1) Livestock production.
- (2) Agricultural crop protection.
- (3) Forest products industry.
- (4) California Exotic Pest Plant Council.
- (5) Research institutions.
- (6) Wildlife conservation groups.
- (7) Environmental groups.
- (8) Resource conservation districts.
- (9) The general public.
- (10) Local government.
- (11) The Department of Fish and Game.

7274. Notwithstanding Section 7550.5 of the Government Code, the department shall submit to the Legislature an annual report on or before April 1 of each year, to and including the year 2005, highlighting the status of its efforts to abate noxious weeds in this state.

7275. (a) The department is authorized to operate a government-volunteer partnership Adopt-A-Riverway Program.

(b) The department may receive funds or services from any person to assist a weed management area in implementing an integrated weed management plan, pursuant to this article.

(c) Adopt-A-Riverway Program activities may include the following activities, provided the activities are completed as part of an approved integrated weed management plan and are coordinated with the responsible local agency:

(1) Planting and establishing native seedling trees, native grasses, and wildflowers along the adopted riverway.

(2) Removal of litter and noxious and invasive plant species.

(d) Adopt-A-Riverway Program activities shall be conducted only on publicly owned land unless permission is granted by the owner or owners of private property for program activities to take place on their property as well.

(e) Activities undertaken pursuant to subdivision (c) are subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and any state or locally adopted river management or conservancy plan.

(f) The secretary may request a local authority to authorize a courtesy sign to be placed on a county highway or city street, near the riverway, pursuant to Chapter 2 (commencing with Section 1975) of Division 2.7 of the Streets and Highways Code.

(g) It is the intent of the Legislature that the duties and responsibilities of the department, as provided for in this section, be accomplished by utilizing existing staff resources, as available.

7276. (a) The Adopt-A-Riverway Fund is hereby established in the State Treasury. The fund is a trust fund and shall contain money and any other proceeds donated, appropriated, transferred, or otherwise received for purposes pertaining to the Adopt-A-Riverway Program. The secretary may collect for deposit into the fund, gifts, donations, bequests, and moneys made available from federal, state, and local sources.

(b) Notwithstanding subdivision (c) of Section 7271, the secretary of the department shall award grants from the Adopt-A-Riverway Fund to weed management areas, as defined by subdivision (b) of Section 7272, for the purpose of integrated weed management along riverways and in riparian habitats consistent with Sections 7272 and 7272.5.

(c) Notwithstanding subdivision (c) of Section 7271, the secretary of the department may award grants from the Adopt-A-Riverway Fund to nonprofit organizations for integrated weed management along riverways and in riparian habitats. The department shall establish regulations for grant eligibility and award pursuant to this subdivision.

(d) Fifteen percent of the total moneys in the Adopt-A-Riverway Fund shall be made available to the department, to be used only for the following purposes:

(1) Carrying out the provisions of this article.

(2) Developing of noxious weed control strategies.

(3) Seeking new, effective biological control agents for the long-term control of noxious weeds.

(4) Conducting private and public workshops as needed to discuss and plan weed management strategies with all interested and affected local, state, and federal agencies, private landowners, educational institutions, interest groups, and county agricultural commissioners.

(e) Upon receipt of donations to the fund totaling a minimum of one hundred thousand dollars (\$100,000), up to 5 percent of any individual donation of five thousand dollars (\$5,000) or more may be used for courtesy signs to be produced, placed, and maintained pursuant to chapter 2 (commencing with Section 1975) of Division 2.7 of the Streets and Highways Code.

(f) All startup costs incurred by the state in establishing the Adopt-A-Riverway Program shall be reimbursed to the General Fund from the Adopt-A-Riverway Fund before any money or other proceeds in the fund may be expended for program purposes or transferred by grant award.

Article 2 Camelthorn

7301. Camelthorn is a public nuisance. It may be abated by summary action or otherwise pursuant to the law which relates to the abatement of public nuisance.

7302. The director shall eradicate camelthorn wherever it exists in this state.

7303. The expense incurred by the director in eradicating camelthorn shall be borne as follows:

(a) One-third by the state, to be paid out of any sum appropriated for such purpose.

(b) One-third by the county in which the land is located on which such camelthorn exists.

(c) One-third by the owner of the land.

7304. The board of supervisors may direct the commissioner to proceed with the abatement of the camelthorn pursuant to Chapter 6 (commencing with Section 5401), Part 1 of this division. If the commissioner does so, the board of supervisors shall allow and pay the share of the county and the share of the owner of the land out of the general fund of the county.

7305. The share of the expense of eradication which is required by Section 7303 to be borne by the owner of the land is a lien on the land against which the expense is chargeable. The provisions of Sections 5429 to 5436, inclusive, apply, insofar as possible, to such lien.

Chapter 2 Pest Seeds

Article 1 General Provisions

7501. It is unlawful for any person to disseminate the seed of any pest within this state.

7502. The enforcement of this chapter is under the supervision of the director. He shall make such regulations as he may deem necessary to properly carry out the provisions of this chapter.

7503. The provisions of this chapter are in addition to the requirements which are specified in the following provisions of this code:

(a) Article 1 (commencing with Section 5701), Chapter 8, Part 1 of this division.

(b) Article 2 (commencing with Section 5721), Chapter 8, Part 1 of this division.

(c) Article 3 (commencing with Section 5741), Chapter 8, Part 1 of this division.

(d) Article 3 (commencing with Section 6341), Chapter 1, Part 2 of this division.

(e) Chapter 3 (commencing with Section 6501), Part 2 of this division.

(f) Articles 2 (commencing with Section 6921), 3 (commencing with Section 6941), and 4 (commencing with Section 6961), Chapter 2 of Part 3 of this division.

(g) Chapter 2 (commencing with Section 52251) of Division 18.

Article 2 Certificates

7531. To prevent the dissemination of the seed of any pest through the medium of crop seed for planting, the commissioner of each county may

issue certificates which state that the crop seed is free from the seed of any pest.

7532. The commissioner may issue the certificate if all of the following requirements are complied with:

(a) The applicant is the grower of any crop seed within this state.

(b) The applicant notifies the commissioner who has jurisdiction where such crop seed is being grown of his intention to harvest the crop seed for planting purposes not less than 10 days prior to the date of harvest of such crop seed.

(c) The applicant, after notice to him of such requirement, has complied with any requirement of the commissioner with respect to the removal of any pest which is growing in the crop and which may be harvested with the crop seed.

7533. The commissioner, upon receipt of a notice from any person who is the grower of any crop seed within the commissioner's jurisdiction of such person's intention to harvest crop seed not less than 10 days prior to the date of harvest, may cause a field inspection to be made of such crop. If any pest is found growing in such crop, the seed of which may be harvested with such crop seed, the commissioner shall serve a notice which specifies the particular pest that is growing in such crop and the methods to be used in removing the pest which is found in the crop.

7534. It is unlawful for any person to alter, deface, or otherwise misuse a certificate which is issued pursuant to this article.

Article 3 Seed Screenings and Cleanings

7571. Except as otherwise provided in Section 7572, it is unlawful for any person to move any seed screenings or cleanings from crop seed from the place where they may be unless one of the following first has been done:

(a) The seed screenings or cleanings have been inspected by the commissioner and found to be free from the seed of any pest.

(b) The seed screenings or cleanings have been processed under the supervision of, and to the satisfaction of, the commissioner by grinding, or otherwise, to render the seed of any pest incapable of reproduction.

7572. The commissioner may permit the movement of seed screenings or cleanings for the purpose of destruction or processing.

7573. If, upon inspection by the commissioner, any seed screenings or cleanings from crop seed are found to contain the seed of any pest, the commissioner shall give notice in writing of such fact to the person in possession of the screenings or cleanings. The notice shall order that the screenings or cleanings be processed or destroyed, as provided in this article, within 60 days.

7574. If the person that is notified by the commissioner is not the owner of the screenings or cleanings, the person so notified shall forthwith transmit the notice to the owner. He shall cause the screenings or cleanings to be processed or destroyed, as directed by the owner, pursuant to the provisions of this article.

7575. If the owner fails or neglects to direct the disposition of the screenings or cleanings within 10 days after the notice has been transmitted to him, the person in possession of the screenings or cleanings, at his option, may do one of the following:

(a) Cause the screenings or cleanings to be processed and return to the owner the value of the screenings or cleanings less the cost of handling.

(b) Destroy the screenings or cleanings. He is not liable to the owner for the destruction of such screenings or cleanings.

7576. Any lot of seed screenings or cleanings from crop seed which contains the seed of any pest, together with its containers, is a public nuisance. If such lot is not disposed of pursuant to this article, it is subject to seizure on complaint of the director or the commissioner to a court of competent jurisdiction.

7577. The district attorney of the county in which the nuisance is found, at the request of the director or the commissioner, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent such nuisance.

7578. Upon judgment and by order of the court, the lot which is a nuisance shall be handled in one of the following ways:

(a) Condemned and destroyed in the manner directed by the court.

(b) Denatured or otherwise processed to render the seed of any pest incapable of reproduction.

(c) Released upon such conditions as the court may impose to insure that the nuisance will be abated.

7579. If the owner fails to comply with the order of the court within the time which is specified in the order, the court may order disposal, or sale, under such terms and conditions as the court may prescribe, by the director or the commissioner, or by the sheriff or marshal.

7580. If the court orders the sale of any of the seed screenings or cleanings from crop seed, or containers, which can be salvaged, the cost of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

7581. A proceeding pursuant to this article where the value of the property seized amounts to twenty-five thousand dollars (\$25,000) or less is a limited civil case.

Article 4 Crop Seed Cleaning Business

7601. Every person, before engaging for hire in the business of cleaning crop seed, shall obtain a permit from the commissioner to operate each separate portable seed cleaner which is being used for the first time in the county.

7602. Upon application by the owner for such permit or if the commissioner deems it necessary to determine that the cleaner is free from the seed of any pest, the commissioner may cause an inspection to be made of the cleaner of each permittee.

7603. The permit may be suspended or revoked by the commissioner at any time the permittee does not comply with any of the provisions of

this division, or any regulations which are adopted pursuant to this division by the director relative to preventing the dissemination of the seed of any noxious weed pest.