

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

CALIFORNIA CODE OF REGULATIONS

TITLE 3. FOOD AND AGRICULTURE

DIVISION 3. ECONOMICS

CHAPTER 1. FRUIT AND VEGETABLE STANDARDIZATION

SUBCHAPTER 4. FRESH FRUITS, NUTS AND VEGETABLES

ARTICLES 4. CONTAINERS, AND 22. CITRUS

INITIAL STATEMENT OF REASONS

In 1915, the Legislature began to establish in statute minimum standards for fresh fruits, nuts, and vegetables by governing such factors as weight compliance, packaging, container size, labeling, color, and maturity. The California Department of Food and Agriculture's (Department) Standardization Program is responsible for enforcing laws and regulations establishing minimum state standards for fruits and vegetables. It is accomplished by supervising county agricultural commissioners who carry out enforcement at the local level.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the California Department of Food and Agriculture Secretary to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agricultural Code authorizes the Secretary of the Department to make such regulations that are reasonably necessary to secure uniformity in the enforcement of Division 17 of the Food and Agricultural Code.

Section 42682 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may, upon a petition of a person that the Secretary finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirement for commodities, and packing arrangement for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

The Secretary shall not, by regulation, adopt any new container or packing requirement, unless the new container or packing requirement has previously been authorized by regulation of the director as an experimental container pack.

Section 42683 of the Food and Agricultural Code establishes that the Secretary, in promulgating regulations concerning standard containers, lids, marking, sizing, consumer packages or packing requirements for fruits, nuts, and vegetables, will consider such factors as the ease of handling, identification, federal laws, rules or regulations, containers, lids and packs in substantial use in the industry and the competitive position of the California fruit, nut, and vegetable industry.

Section 42941 of the Food and Agricultural Code mandates that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, and vegetables unless their containers conform to the provisions of the Standardization Program's division or the regulations promulgated thereunder.

SECTIONS AFFECTED

California Code of Regulations Title 3 (3 CCR), Division 3, Chapter 1, Subchapter 4, Articles 4 and 22 Sections 1380.19(j), 1430.10, 1430.12, 1430.14, and 1430.45.

PROBLEM STATEMENT

The citrus industry has experimented using a new container for oranges, proposed container number 60 (Container 60), designed for a volume-fill packing method by machine, an alternate packing method to the current practice of pattern packing by hand or machine. Pattern packing machines place oranges in tight and condensed orderly rows which in turn increases pack pressure causing a loss of quality that includes bruised and misshapen fruit and compression of fruit at the bottom of container. This loss of quality presents a challenge for citrus packers and can lead to upset customers.

The proposed Container 60's dimensions are slightly taller to support volume filling as the current standard container used for pattern packing is slightly too short to accommodate the more random distribution of fruit. The natural randomness of volume filled orange placement means there are no longer consecutive pressure points being applied with increasing force on oranges towards the bottom of a container. The taller container additionally prevents waste of product as overflow while volume filling by machine frequently occurs.

BENEFITS

Container 60 is designed to improve the quality of fruit received by customers by reducing pack pressure in order to prevent misshapen fruit and minimize the risk of bruising or damage to fruit during transit. The proposed container further addresses efficiency and operational challenges. It is common to pack other citrus varieties, such as lemons, via the volume-fill method, permitting for efficiencies for packinghouses that pack other citrus fruit. The volume-fill packing method also has historical precedent and is a common practice amongst industry. Containers like reusable plastic containers ("RPCs") are already volume filled which highlights an existing industry and customer acceptance of volume-filled containers.

Volume filling can also create operational benefits. Volume filling can modernize packing processes to help address the uncertainty of the availability of labor that cause operational challenges. This transition can provide workers with an opportunity to learn higher skilled roles such as machine operation and maintenance. By shifting away from manual and repetitive tasks, companies can provide consumers with the best quality products while anticipating the future needs of their operations and workforce.

SPECIFIC PURPOSE AND NECESSITY

The following paragraphs provide the specific purpose, rationale, and summaries of these proposed changes to the CCR related to standard containers for citrus.

Amend Section 1380.19. Standard Containers. (j) CITRUS

The proposed change is necessary in order to add the new standard container, Container 60, to be used for oranges packed utilizing the volume-fill packing method. This will expand shipping opportunities currently not allowed due to experimental container restrictions. By statute, those restrictions only allow a small percentage of the crop to be shipped using the new container

during a three-year experimental permit period. Concluding the experimental permit process, the container must be adopted by regulation as a standard container before continued use by the industry.

Amend Section 1430.10. Citrus, Uniform Size Requirement.

The proposed change is necessary in order to add Container 60. This will provide regulatory consistency and assist with limiting product damage upon arrival. Uniform sizing is required to ensure minimal damage occurs during shipment.

Amend Section 1430.12. Citrus, Packing Requirements for Standard Containers No. 58, 59, 61, 63, 65, 66, 67, 68, or 69.

The proposed change is necessary in order to add Container 60. This will provide regulatory consistency and ensure that packing requirements remain consistent with current regulations.

Amend Section 1430.14. Oranges, Lemons, and Royal Mandarins, Standard Containers.

The proposed change is necessary in order to add Container 60. This will provide regulatory consistency with Section 1380.19 Standard Containers and reiterates the container requirements for oranges, lemons, and Royal Mandarins.

Amend Section 1430.45. Oranges and Royal Mandarins, Count and Average Diameter.

The proposed change is necessary in order to add Container 60. This will provide regulatory consistency with Section 1380.19 Standard Containers. The citrus industry has a long associated average diameter of individual fruits to a count per container.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON

The Department relied upon the following documents in establishing this proposed rulemaking action:

- A petition received December 9, 2024, from Sunkist Growers, Inc.
- Letters of support from two major shippers and packers of citrus, Sun Pacific and Wonderful Citrus

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Government Code Section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation. The Department has initially determined that the proposed regulatory action will not have an economic impact on any business within the citrus industry. Adding a new container that may be used for oranges will not have an economic or fiscal impact on the citrus industry, related businesses, or the general public.

The Department concludes that these regulations will not:

- (1) Create or eliminate jobs within the state.
- (2) Create new businesses or eliminate existing businesses within the state.
- (3) Affect the expansion of businesses currently doing business within the state.
- (4) Affect the health and welfare of California residents, worker safety, and the environment.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The Department has determined that this proposed change to the regulations would not have a significant adverse economic impact directly affecting businesses, including the ability of California business to compete with businesses in other states because there are no costs to businesses.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES

Pursuant to Government Code Section 11346.9(a)(4), the Department has determined that no alternative considered by the agency would be more effective and less burdensome or costly to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative is considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Pursuant to Government Code section 11346.9(a)(5), if anyone proposes an alternative that would lessen the adverse economic impact on small businesses, the final statement of reasons must include an explanation setting forth the Department's reasons for rejecting any proposed alternatives.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The proposed regulations do not duplicate or conflict with federal regulations.