

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Amend sections: 3406, 3417, 3423, 3424,
3441, 3442, 3444, 3445

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2024-0918-02

OAL Matter Type: Regular (S)

This action by the California Department of Food and Agriculture amends existing quarantine language in eight sections of interior plant quarantine regulations. The amendments prevent future detections of a single fruit fly of a species specified in each of the sections within a quarantine area from triggering an expansion of a quarantine or being automatically considered a satellite infestation, and further align with current United States Department of Agriculture guidelines.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2025.

Date: October 23, 2024



Stephen P. Mehlert
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Karen Ross, Secretary
Copy: Rachel Avila

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2024-0708-01	REGULATORY ACTION NUMBER 2024-0918-02S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

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

OCT 23 2024
AB 1:53 PM

OFFICE OF ADMIN. LAW
2024 SEP 28 PM 12:06

AGENCY WITH RULEMAKING AUTHORITY
Department of Food and Agriculture

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input checked="" type="checkbox"/> ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2024,29-2	PUBLICATION DATE 7/19/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fruit Fly Interior Quarantine	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	3406, 3417, 3423, 3424, 3441, 3442, 3444, and 3445
TITLE(S)	REPEAL
3	

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Rachel Avila	TELEPHONE NUMBER 916-698-2947	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rachel.avila@gmail.com
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Victoria Hornbaker <small>Digitally signed by Victoria Hornbaker Date: 2024.09.17 18:58:02 -0700</small>	DATE
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TYPED NAME AND TITLE OF SIGNATORY
Victoria Hornbaker, Director Plant Health & Pest Prevention Services Division

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 23 2024

Office of Administrative Law

Amend the following:

3 CCR § 3406

§ 3406. Mediterranean Fruit Fly Interior Quarantine (Quarantine Regulation 7).

...

(b)(4) Satellite infestations: Notwithstanding (b)(6), a detection of a single life stage of Mediterranean fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(6) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2).

...

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

3 CCR § 3417

§ 3417. Mexican Fruit Fly Interior Quarantine.

...

(b) (4) Satellite infestations: Notwithstanding (b)(6), a detection of a single life stage of Mexican fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(6) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2).

...

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

3 CCR § 3423

§ 3423. Oriental Fruit Fly Interior Quarantine (Quarantine Regulation 28).

...

(b) (2) An infestation is present when:

(A-) In urban areas either eggs, a larva, a pupa, a mated female or eight or more adult Oriental fruit flies of either sex are detected within three miles of each other and within one life cycle and all detections shall be more than 4.5 miles from any commercial host production area; or

(B-) In rural or commercial host production areas either eggs, a larva, a pupa, a mated female or six or more adult Oriental fruit flies of either sex are detected within three miles of each other and within one life cycle; or

(C-) Satellite infestations: Notwithstanding (b)(5), a detection of a single life stage of Oriental fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(5) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2)(A) or (B).

...

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

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

3 CCR § 3424

§ 3424. Bactrocera zonata Interior Quarantine.

...

(b) (2) An infestation is present when:

(A) In urban areas either eggs, a larva, a pupa, a mated female or eight or more adult peach fruit flies of either sex are detected within three miles of each other and within one life cycle and all detections shall be more than 4.5 miles from any commercial host production area; or

(B) In rural or commercial host production areas either eggs, a larva, a pupa, a mated female or six or more adult peach fruit flies of either sex are detected within three miles of each other and within one life cycle; or

(C) Satellite infestations: Notwithstanding (b)(5), a detection of a single life stage of peach fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(5) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2)(A) or (B).

...

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

3 CCR § 3441

§ 3441. Bactrocera correcta Interior Quarantine.

...

(b) (2) An infestation is present when:

(A) In urban areas either eggs, a larva, a pupa, a mated female or eight or more adult guava fruit flies of either sex are detected within three miles of each other and within one life cycle and all detections shall be more than 4.5 miles from any commercial host production area; or

(B) In rural or commercial host production areas either eggs, a larva, a pupa, a mated female or six or more adult guava fruit flies of either sex are detected within three miles of each other and within one life cycle; or

(C) Satellite infestations: Notwithstanding (b)(5), a detection of a single life stage of guava fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(5) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2)(A) or (B).

...

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

3 CCR § 3442

§ 3442. Malaysian Fruit Fly Interior Quarantine.

...

(b) (2) An infestation is present when:

(A) In urban areas either eggs, a larva, a pupa, a mated female or two or more adult Malaysian fruit flies of either sex are detected within three miles of each other and within one life cycle and all detections shall be more than 4.5 miles from any commercial host production area; or
(B) In rural or commercial host production areas either eggs, a larva, a pupa, a mated female or two or more adult Malaysian fruit flies of either sex are detected within three miles of each other and within one life cycle; or
(C) Satellite infestations: Notwithstanding (b)(5), a detection of a single life stage of Malaysian fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5 mile radius surrounding the detection to expand the quarantine area.

...

(b)(5) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(2)(A) or (B).

...

Authority cited: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.
Reference: Sections 401.5, 407, 5301, 5302, 5321 and 5322, Food and Agricultural Code.

3 CCR § 3444

§ 3444. *Zeugodacus tau* Interior Quarantine.

...

(b) (1) An infestation is present when:
(A) Either eggs, a larva, a pupa, a mated female or two or more adult *Zeugodacus tau* fruit flies of either sex are detected within three miles of each other and within one life cycle.
(B) Satellite infestations: Notwithstanding (b)(4), A a detection of a single life stage of *Zeugodacus tau* within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5-mile radius surrounding the detection to expand the quarantine area.

...

(b)(4) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine-area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(1)(A).

...

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

3 CCR § 3445

§ 3445. Queensland Fruit Fly Interior Quarantine.

...

(b) (1) An infestation is present when:

(A) Either eggs, a larva, a pupa, a mated female or two or more adult Queensland fruit flies of either sex are detected within three miles of each other and within one life cycle.

(B) Satellite infestations: Notwithstanding (b)(4), A a detection of a single life stage of Queensland fruit fly within any established quarantine area may be considered a satellite infestation and may be used as the epicenter using an additional 4.5-mile radius surrounding the detection to expand the quarantine area.

...

(b)(4) The infested area designation shall be removed if no additional life stages are detected by trapping or visual surveys for three life cycles after the last detection within that triggered the quarantine area. Subsequent detections within the quarantine area that are more than three miles from, or one lifecycle after, the detections triggering the quarantine will not affect the area or duration of the quarantine unless they meet the criteria in subsection (b)(1)(A).

...

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

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