

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulation Section 3422 Caribbean Fruit Fly Interior
Quarantine

Notice of Proposed Rulemaking

45 – Day Notice

The Department of Food and Agriculture (Department) proposes to make permanent the emergency amendment of Title 3 of the California Code of Regulations (CCR) Section 3422 Caribbean Fruit Fly Interior Quarantine.

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes July 6, 2026. The Department will consider only comments received at the Department offices by that date or postmarked no later than July 6, 2026. Submit comments to:

Erin Lovig, Senior Environmental Scientist Supervisor
California Department of Food and Agriculture Plant Health and
Pest Prevention Services
1220 N St,
Sacramento, CA 95814
916.403.6650
Permits@cdfa.ca.gov

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Rachel Avila at (916) 698-2947 or rachel.avila@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Section 3422 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This amendment will make permanent the emergency amendment of the Caribbean Fruit Fly Interior Quarantine.

The purpose of the amendment of title 3 CCR Section 3422 is to raise the threshold quarantine trigger for Caribbean fruit fly (CFF) from two fruit flies find to five. Without this change, a quarantine area will be created when the risk of an infestation is low, creating an unnecessary burden for the Department, the agricultural sector, and the general public.

EXISTING LAWS & REGULATIONS

Existing law, FAC section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5301, provides that the Secretary may establish, maintain, and enforce such quarantine regulations as he or she 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.

Existing law, FAC section 5302, provides that the Secretary may make and enforce such regulations as he or she 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.

Existing law, FAC section 5311, provides the Secretary may levy a civil penalty against a person violating this regulation in an amount not to exceed two thousand five hundred dollars (\$2,500) for each violation. The remainder of the section outlines the procedures for implementing this fine and the appeals process.

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

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

Changing the quarantine trigger will prevent unnecessary interior quarantines, which will benefit:

- the general public
- homeowners and community gardens
- the agricultural industry
- California's natural environment
- the State's general fund

This amendment prevents harm to fruit growers, sellers, transporters, and the public that will occur if quarantines are unnecessarily enacted as required by the current interior quarantine regulation. In FY23/24, there were seven invasive fruit fly (IFF) quarantines, each costing between 1.3 and 10 million dollars. Any fiscal or economic savings resulting from this amendment depend on the number of unnecessary interior quarantines avoided. While the precise number cannot be predicted, past experience indicates that the amendment would likely prevent one unnecessary CFF quarantine every two to ten years; however, this quarantine number may increase as detection frequency has increased over the last two years.

Interior quarantines remain essential when an established fruit fly population is detected. Such necessary actions prevent far greater economic losses by protecting host fruit growers, nurseries, packing facilities, and the public from the impacts of CFF establishment.

Quarantines are the last resort in preventing fruit flies from spreading because they are expensive and directly impact on fruit growers, sellers, transporters, and the public. When quarantines are enacted, they place severe restrictions on host material movement to ensure there is no artificial spread of the pest. These restrictions impose financial burdens on growers, nurseries, packing facilities, and the public within the quarantine, especially for growers who are required to undergo expensive pre-harvest or post-harvest treatments. The restrictions may include the removal of all host material, which can mean the growers are unable to realize any profit from their crop yields. Since 2015, in Los Angeles county alone these IFF quarantines persisted for durations ranging from 87 to 383 days and encompassed areas of between 74 and 159 square miles. Within these quarantines, the number of impacted establishments varied, from 88 to 1,296 entities. This impact is especially felt by small growers and family farms. Emergency action is necessary to prevent the immediate and unwarranted establishment of an interior quarantine in Los Angeles County based on an outdated detection threshold. Without this amendment, the current regulation would impose

avoidable operational burdens on growers, nurseries, packing facilities, and the public, without a corresponding increase in protection against pest establishment.

There is no existing, comparable federal regulations or statute.

There are no known specific benefits to worker safety.

There are known specific benefits to the health of California residents.

EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 3422 and has determined that they are not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq: None

Cost or savings to any state agency: None

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None

Small business determination: The proposed action will not affect small business because reducing the number of interior quarantines will prevent them from being impacted unnecessarily if quarantines are enacted when they are not required.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The amendment is designed to prevent unnecessary interior quarantines for CFF by amending Section 3422. The Department has made an assessment that the amendment to this regulation would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, (4) is expected to benefit the health and welfare of California residents, (5) is not expected to benefit the state's environment, and is (6) not expected to benefit workers' safety.

Health and welfare: The proposed action will benefit the health and welfare of California residents by preventing potential, and in this case likely, unnecessary interior quarantines. Interior quarantines impact growers who are required to undergo expensive pre-harvest or post-harvest treatments, and in some case are unable to move or sell their harvest. There is also the cost to the state, in FY23/24, there were seven invasive fruit fly (IFF) quarantines, each costing between 1.3 and 10 million dollars. Amending this regulation prevents these impacts from happening unnecessarily. Maintaining the economic baseline is important to the health and welfare of California residents.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it 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.

The Department invites interested persons to present alternatives during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.