

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulations

Section 3280 Japanese Beetle Exterior Quarantine

**Notice of Proposed Rulemaking
45 – Day Notice**

The California Department of Food and Agriculture (Department) proposes to make permanent the emergency amendment to Title 3, California Code of Regulations (CCR) Section 3280 Japanese Beetle Exterior Quarantine, which removes Oregon from the exterior 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 their 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 on September 7, 2026. The Department will consider only comments received at the Department offices by that date or postmarked no later than September 7, 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.

AUTHORITY

The Department proposes to amend Section 3280 pursuant to the authority vested by Sections 401.5, 407, 5301, 5302 and 5311 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5024, 5301, 5302, 5311, 5701, 6401, 6403, 6441, 6442 and 6461, and 6461.5 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This amendment will remove the state of Oregon as a quarantine area for Japanese beetle. The effect of the regulation is to remove this state to the quarantine area to comply with the U.S. Domestic Beetle Harmonization Plan and to prevent a violation of the provisions of the plan and to avoid an unnecessary burden on the public and the state.

Existing law, FAC Section 401.5, states that the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.

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 5024, provides that the Secretary, 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 inspection, except pursuant to a certificate of inspection and release that is signed by that person.

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 5701, provides that if any pest exists on any premises, the Secretary may hold any plant or other host or possible carrier which is, or may be, capable

of disseminating or carrying the pest. The Secretary 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.

Existing law, FAC Section 6401, provides that 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.

Existing law, FAC section 6403, provides that 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.

Existing law, FAC section 6441, provides that 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.

Existing law, FAC section 6442, provides that 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.

Existing law, FAC section 6461, provides that 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 Secretary, as detrimental to agriculture in this state. In addition to the civil, criminal, and administrative remedies specified in this division, the Secretary 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. Regarding any commercial shipment violating any of those requirements imposed pursuant to this section, the Secretary may also charge the shipper or transporter the cost of inspecting and controlling the pest.

Existing law, FAC section 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. The existing laws

obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

Removing Oregon from the quarantine area will help the Department continue to allow covered articles and commodities to move between the states without the requirements of the Japanese beetle exterior quarantine. Including Oregon is no longer necessary as the State has funded its Japanese Beetle eradication program, allowing it to maintain its status "Category 1 state" classification as defined by the National Plant Board. This will benefit the:

- the general public
- agricultural industry
- the State's general fund.

There are no existing, comparable federal regulations or statutes.

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 3280 and has determined that they are not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et. seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et. seq.).

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code sec. 17500 et seq. (Gov. Code sec. 11346.5(a)(6).): 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 and minimal/non-consequential. 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 this action only provides authority for state quarantine activities and does not require reporting, recordkeeping, or compliance by businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The amendment is designed to prevent or minimize the spread of Japanese beetle by amending Section 3280. 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 (6) not expected to benefit workers' safety.

Health and welfare: The proposed action will benefit the health and welfare of California residents by preventing an unneeded regulator burden. 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.