

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3, California Code of Regulations  
Section 3406(b), Mediterranean Fruit Fly Interior Quarantine  
INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3406(b) is to provide for the State to regulate the movement and possible carriers of Mediterranean fruit fly (Medfly) from the area under quarantine to prevent the artificial spread of the Medfly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that the emergency amendment of Section 3406(b) was necessary is as follows:

Mediterranean fruit fly is a destructive insect pest which attacks the fruit of various plants including over 260 crops such as citrus, tomatoes, grapes, avocados, peaches, and cherries.

The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Pupae may be found in fruit, but normally are found in soil.

Mediterranean fruit flies were detected in the County of San Diego. In November of 2008 multiple life stages of adult Mediterranean fruit flies were detected in the El Cajon area of San Diego County. As a result, an emergency quarantine was implemented which was effective November 26, 2008. In December of 2008, additional Mediterranean fruit flies were detected in the El Cajon area away from the existing epicenter. As a result, the regulated area was expanded as an emergency action which was effective on December 18, 2008. In May of 2009, Mediterranean fruit flies were detected in the Mira Mesa area of San Diego County. As a result, the regulated area was expanded as an emergency action which was effective on June 1, 2009. Effective July 22, 2009, the Department removed approximately 105 square miles surrounding the El Cajon area of San Diego County from the regulation. The area remaining was designated as the Spring Valley area. This regulation was subsequently amended to add areas surrounding Escondido and Fallbrook.

#### Mira Mesa Area

On May 20 and 23, 2009, adult mated female Mediterranean fruit flies were taken from traps in the San Diego area of San Diego County. The detection of mated female adult Mediterranean fruit flies was indicative of an incipient infestation of the fly in this new area, locally called Mira Mesa, of San Diego County. The United States Department of Agriculture's Animal and Plant Health Inspection Service also accepts this standard as the trigger for a quarantine response. The Food and Agriculture Organization of the United Nations has a similar international standard established.

This proposed amendment of the regulation will remove the quarantine area for Mediterranean fruit fly of approximately 106 square miles surrounding the Mira Mesa area of San Diego County. The effect of the amendment is to remove the authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and

from this new area under quarantine to prevent artificial spread of the fly to noninfested areas.

This action is necessary due to the Mediterranean fruit fly being declared eradicated in the Mira Mesa area. Much of this affected area included the Miramar Marine Base and there was no significant agricultural production and exports. The enforcement of this regulation was administratively discontinued by the affected program on October 24, 2009. This was based upon an October 13, 2009 memo from John Hooper to John Connell in which eradication was jointly declared by the Department and the USDA. Additionally, the USDA subsequently removed this area from its regulation based upon the belief the Department had also formally completed this action first. Once it was realized this area had not been removed from the State regulation, the memo triggering this action was sent via email on March 10, 2010.

#### Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. The San Diego County Agricultural Commissioner originally requested that these areas be placed under quarantine. No reimbursement is required under Section 17561 of the Government Code because this action removes two areas from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of

California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

This action removes all previous quarantine regulatory restrictions which applied to businesses located within this area.

#### Assessment

The Department has made an assessment that the amendment to this regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3606(b):

Internet page printed on March 25, 2010, USDA-APHIS-Plant Health, Plant Protection and Quarantine.

Email dated March 10, 2010, from Debby Tanouye to Stephen Brown and its attachment.