

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS
Title 3, California Code of Regulations
Section 3425(b), Melon Fruit Fly Interior Quarantine
INITIAL STATEMENT OF REASONS/
PLAIN ENGLISH POLICY STATEMENT OVERVIEW

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

This regulation is intended to address the obligations of the Department of Food and Agriculture to protect the agricultural industry of California and prevent the introduction and spread of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3425 is to provide for the State to regulate the movement and possible carriers of melon fruit fly (*Bactrocera cucurbitae*) from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that amendment of Section 3425 is necessary is as follows:

Melon fruit fly is an insect pest which attacks the fruit of various plants including: apple, avocado, beans, cantaloupe, chayote, citrus, cucurbits (cucumber, melons pumpkin, squash and gourds), eggplant, fig, guava, mango, peach, pear, peppers, tomato, and watermelon. 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.

Section 3425(b) was first amended in August and then subsequently amended in September of 2010 to establish a total quarantine area of approximately 91 square miles

surrounding the melon fruit fly infestation in the Bakersfield area of Kern County. Since that date, treatments against the melon fruit fly and trapping were conducted for three lifecycles. As a result of the treatments and negative trapping for the fly, melon fruit fly was determined to be eradicated from the Kern County on June 2, 2011. Therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. This proposed amendment is to remove the approximately 91 square miles of Kern County from the regulation.

Because this fly has been introduced into California before and any infestation requires quarantine action, the Department proposes to retain the regulation text and inserted the word "reserved" in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

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

The Department of Food and Agriculture has determined that Section 3425 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment removed a portion of Kern County which was in the area under quarantine; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of the Kern County area 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 this action.

The cost impact of the changes in the regulations on private persons or businesses is expected to be insignificant.

The Department has determined that this 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 the action will not have a significant adverse economic impact on businesses was based on the following:

This action removed restrictions on the movement of hosts and carriers of melon fruit fly in the Bakersfield area of Kern County which should have a positive impact on businesses in that area.

ASSESSMENT

The Department has made an assessment that this amendment to the regulations 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 relied upon the following studies, reports, and documents in the amendment of Section 3425(b): Memorandum of June 1, 2011 to Dr. Robert Leavitt from Debby Tanouye.