

**State of California  
Office of Administrative Law**

**In re:**  
Department of Food and Agriculture

**Regulatory Action:**

**Title 03, California Code of Regulations**

**Adopt sections:**

**Amend sections: 3425, 3436**

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2024-1015-03**

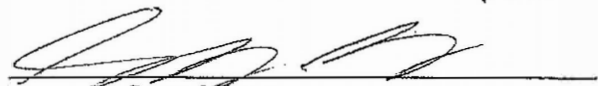
**OAL Matter Type: Regular (S)**

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In this rulemaking action, the California Department of Food and Agriculture regulates regarding enactment, designation, location, and duration of interior quarantines for Melon Fruit Fly and White Striped Fruit Fly.

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

**Date: November 21, 2024**



**Sam Micon  
Senior Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Karen Ross, Secretary  
Copy: Rachel Avila**

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2024-0812-01</b>	REGULATORY ACTION NUMBER <b>2024-1015-035</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		<p style="text-align: center;">OFFICE OF ADMIN. LAW 2024 OCT 15 AM 9:45</p>	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Food and Agriculture			AGENCY FILE NUMBER (If any)

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

NOV 21 2024

3:20 PM  
*[Signature]*

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	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <b>2024, 34-2</b>	PUBLICATION DATE <b>8/23/24</b>

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)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND 3425 and 3436
TITLE(S) 3	REPEAL

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: 2024.10.14 13:20:30 -0700</small>	DATE
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

NOV 21 2024

Office of Administrative Law

Amend the following:

3425. Melon Fruit Fly Interior Quarantine.

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(b) Area Under Quarantine. [Reserved] An area shall be designated as under quarantine when survey results indicate an infestation is present, the Department has defined the infested area, and the local California County Agricultural Commissioner(s) is notified and requests the quarantine area be established. The Department shall also provide electronic and/or written notification of the area designation(s) to other California County Agricultural Commissioners and other interested or affected parties and post the area description to its website at <https://www.cdfa.ca.gov/plant/pdep/treatment/>. An interested party may also go to the website <https://public.govdelivery.com/accounts/CADFA/subscriber/new> and elect to receive automatic notifications of any changes in quarantine areas through the list serve option.

(1) An infestation is present when:

(A) Either eggs, a larva, a pupa, a mated female or two or more adult Melon 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 detection of a single life stage of Melon 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.

(2) The initial area under quarantine shall be a minimum of a 4.5-mile radius surrounding the detections being used as an epicenter. Commercial host properties shall not be split by the quarantine boundary line and the boundary line shall be expanded beyond the 4.5 miles as necessary to encompass such host material in its entirety. Wherever possible, known accepted mapping features, including, but not limited to, roads, streets, highways, creeks, streams, rivers, canals, city, county, state, park, and forest boundary lines are used first, and if there are no acceptable features such as these, then imaginary lines with or without latitude and longitude points may be used.

(3) Any interested party or local entity may appeal an area designation by submission to the Department of a written request for review of the designation accompanied by clear and convincing evidence justifying a change in the designation. The appeal must be submitted to the Department's Legal Office at 1220 N Street, Suite 315, Sacramento, CA 95814 or emailed to [CDFA.LegalOffice@cdfa.ca.gov](mailto:CDFA.LegalOffice@cdfa.ca.gov) no later than ten (10) working days following publication of the notice of designation. The Department must respond with a written decision no later than ten (10) working days following receipt of the

appeal. During the pending of the appeal, the designation under appeal shall remain in effect.

(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 that triggered the quarantine. 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).

(5) The time determined for Melon fruit fly to complete three life cycles begins from the date of the most recent detection and is measured by a life cycle estimate. A life cycle estimate is an assessment of insect development based on a model derived from the temperatures recorded for each day at the time and in the area of an infestation. Daily minimum and maximum temperatures are used to produce an interpolated temperature curve over each 24-hour period and a calculation of how much time is above and below a base developmental (minimum) temperature needed for insect development. This information is used to estimate the time period necessary for the completion of one full lifecycle of Melon fruit fly under the specific local and temporal circumstances. The total amount of heat required to develop from one stage to another is calculated in units called degree-days. If the average temperature in 24 hours is one degree higher than the minimum temperature required for a particular pest, one degree-day's temperature is accumulated in the life cycle estimate. Accumulating degree-days is used to determine the generation time. For Melon fruit fly, the Department uses 1357 degree-days Fahrenheit as the length of one life cycle.

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

### § 3436. ~~Bactrocera albistrigata~~ White Striped Fruit Fly Interior Quarantine.

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(b) Area Under Quarantine. [Reserved] An area shall be designated as under quarantine when survey results indicate an infestation is present, the Department has defined the infested area, and the local California County Agricultural Commissioner(s) is notified and requests the quarantine area be established. The Department shall also provide electronic and/or written notification of the area designation(s) to other California County Agricultural Commissioners and other interested or affected parties and post the area description to its website at <https://www.cdffa.ca.gov/plant/pdep/treatment/>. An interested party may also go to the website

<https://public.govdelivery.com/accounts/CADFA/subscriber/new> and elect to receive automatic notifications of any changes in quarantine areas through the list serve option.

(1) An infestation is present when:

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

(B) Satellite infestations. Notwithstanding (b)(4), detection of a single life stage of White striped 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.

(2) The initial area under quarantine shall be a minimum of a 4.5-mile radius surrounding the detections being used as an epicenter. Commercial host properties shall not be split by the quarantine boundary line and the boundary line shall be expanded beyond the 4.5 miles as necessary to encompass such host material in its entirety. Wherever possible, known accepted mapping features, including, but not limited to, roads, streets, highways, creeks, streams, rivers, canals, city, county, state, park, and forest boundary lines are used first, and if there are no acceptable features such as these, then imaginary lines with or without latitude and longitude points may be used.

(3) Any interested party or local entity may appeal an area designation by submission to the Department of a written request for review of the designation accompanied by clear and convincing evidence justifying a change in the designation. The appeal must be submitted to the Department's Legal Office at 1220 N Street, Suite 315, Sacramento, CA 95814 or emailed to [CDFA.LegalOffice@cdfa.ca.gov](mailto:CDFA.LegalOffice@cdfa.ca.gov) no later than ten (10) working days following publication of the notice of designation. The Department must respond with a written decision no later than ten (10) working days following receipt of the appeal. During the pending of the appeal, the designation under appeal shall remain in effect.

(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 that triggered the quarantine. 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).

(5) The time determined for White striped fruit fly to complete three life cycles begins from the date of the most recent detection and is measured by a life cycle estimate. A life cycle estimate is an assessment of insect development based on a model derived from the temperatures recorded for each day at the time and in the area of an infestation. Daily minimum and maximum temperatures are used to produce an interpolated temperature curve over each 24-hour period and a calculation of how much

time is above and below a base developmental (minimum) temperature needed for insect development. This information is used to estimate the time period necessary for the completion of one full lifecycle of White striped fruit fly under the specific local and temporal circumstances. The total amount of heat required to develop from one stage to another is calculated in units called degree-days. If the average temperature in 24 hours is one degree higher than the minimum temperature required for a particular pest, one degree-day's temperature is accumulated in the life cycle estimate. Accumulating degree-days is used to determine the generation time. For White striped fruit fly, the Department uses 1125 degree-days Fahrenheit as the length of one life cycle.

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