

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

Section 3558, Insects Which May Be Imported or  
Shipped Within California Without a Permit

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

The Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Section 3558, Insects Which May Be Imported or Shipped Within California Without a Permit.

**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 February, 24, 2025. The Department will consider only comments received at the Department offices, by that date or postmarked no later than February, 24, 2025. 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 3558 pursuant to the authority vested by Sections 407 and 5302 of the Food and Agricultural Code (FAC).

## **REFERENCE**

The Department proposes this action to implement, interpret and make specific Section 6305 of the FAC.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The specific purpose of Section 3558 is to identify the live insects and other arthropods that qualify under certain exemptions from requiring a permit obtained from the Secretary or the United States Department of Agriculture (USDA) to be imported into or shipped or transported within California. These exemptions include common pests that are useful in agricultural research and beneficial or useful insects of common occurrence in the state.

## **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 that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5302, provides that the Secretary may make and enforce such regulations as he 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 6305, provides that it is unlawful for any person to willfully import into, or ship or transport within, the state any live insect or any pest as such, unless the shipment or transportation and subsequent use and handling is authorized prior to shipment under written permit and the regulations of the director or the United States Department of Agriculture, except the following:

- (a) Honey bees of the species of *Apis mellifera*.
- (b) Weeds for the purpose of identification.
- (c) Beneficial or useful insects of common occurrence in the state.
- (d) Insects or other organisms of public health or animal health interest, which are not plant pests, when imported, shipped, or transported by any governmental public health agency.

Any shipment which is not authorized by this section shall be immediately destroyed unless it is determined by the inspecting officer that the nature of the contents of the shipment is such that no damage can be caused to agriculture in this state through its shipment out of the state or return of the shipment to the point of origin. In such case, the shipment out of the state or the return of the shipment to point of origin shall be allowed at the expense of the owner or bailee of the shipment within the time which is specified by the inspecting officer.

## **ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT**

This amendment adds clarity to an existing regulation and relieves an unnecessary regulatory burden for the public and the Department. By amending Section 3885, the public can quickly determine if a species require a permit. This amendment will also reduce the workload on the Department's permit staff and thus enable them to devote more time to more critical functions.

There are no existing, comparable federal regulations or statutes.

There are no known specific benefits to worker safety or 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 3558 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 of Section 3558 is designed to relieve an unnecessary regulatory burden on the Department and the public. 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, and (4) is not expected to benefit the health and welfare of California residents, (5) is not expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

This amendment clarifies an existing regulation and relieves an unnecessary regulatory burden for the public and the Department. By amending Section 3885, the public can quickly determine if a species requires a permit. This amendment will also reduce the workload of the Department's permit staff and thus enable them to devote more time to more critical functions. There are no existing comparable federal regulations or statutes.

## **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](http://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.