

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on August 27, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 28, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on August 31, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 28, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on October 30, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 28, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on November 16, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 28, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on November 25, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 28, 2010.

A public hearing is not scheduled. 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. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also give that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before March 22, 2010.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (FAC Section 5761).

The amendments of Section 3435(b) expanded regulated areas in Riverside and San Diego counties, established a regulated area in a portion of San Bernardino County, placed all of Imperial, Los Angeles and Orange counties in the regulated area, required all nursery stock within the quarantine area to be treated in a manner approved by the Department and bear labels stating that it may not be moved outside the quarantine area, allowed for the movement of regulated articles within the quarantine area and allowed for the movement of articles or commodities through a quarantine area without delay and by a direct route in an enclosed vehicle or container. The effect of these amendments was to establish authority for the State to conduct quarantine activities in these portions of the State against this pest. There is no existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DSITRICTS

The Department of Food and Agriculture has determined that Section 3435 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 Section 3435. No reimbursement is required for Section 3435 under Section 17561 of the Government Code because both of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings 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.

### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative producer of citrus nursery stock could incur costs of approximately \$1.24 to \$4.61/plant in reasonable compliance with the proposed action; while a commercial citrus producer could incur costs of approximately \$300/acre.

### ASSESSMENT

The Department has made an assessment that the proposed amendment to the 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 reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department 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.

### AUTHORITY

The Department amended Section 3435(b) and (c) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California.

### REFERENCE

The Department amended Section 3435(b) and (c) to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

## EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

## CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Susan McCarthy, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, 916.654.1017, FAX 916.654.1018, e-mail: smccarthy@cdfa.ca.gov In her absence, you may contact Stephen Brown at 916.654.1017. Questions regarding the substance of the proposed regulations should be directed to Susan McCarthy.

## INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. 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 is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE