

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

Sections 3406. Mediterranean Fruit Fly Interior Quarantine

3417. Mexican Fruit Fly Interior Quarantine

3422. Caribbean Fruit Fly Interior Quarantine

3423. Oriental Fruit Fly Interior Quarantine

3424. Bactrocera zonata Interior Quarantine

3425. Melon Fruit Fly Interior Quarantine

3436. White Striped Fruit Fly Interior Quarantine

3441. Bactrocera correcta Interior Quarantine

3442. Malaysian Fruit Fly Interior Quarantine

3444. Zeugodacus tau Interior Quarantine

3445. Queensland Fruit Fly Interior Quarantine

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

The California Department of Food and Agriculture (Department) proposes to amend Title 3 California Code of Regulations (CCR) Sections 3406 Mediterranean Fruit Fly Interior Quarantine, 3417 Mexican Fruit Fly Interior Quarantine, 3422 Caribbean Fruit Fly Interior Quarantine, 3423 Oriental Fruit Fly Interior Quarantine, 3424 Bactrocera zonata Interior Quarantine, 3425 Melon Fruit Fly Interior Quarantine, 3436 White Striped Fruit Fly Interior Quarantine, 3441 Bactrocera correcta Interior Quarantine, 3442 Malaysian Fruit Fly Interior Quarantine, 3444 Zeugodacus tau Interior Quarantine, and 3445 Queensland Fruit Fly Interior Quarantine. This amendment will allow the Department to update the location of these pests host's lists from the 11 eradication area regulations they are currently at to the forthcoming proposed new Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

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 May 12th, 2025. The Department will consider only comments received at the Department offices by that date or postmarked no later than May 12th, 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
916.654.1017
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 the above-referenced sections pursuant to the authority vested by Sections 407, 5301, 5302, and 5322 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 407, 5301, 5302, and 5322 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations are intended to prevent the establishment of fruit flies in the family Tephritidae, a family of pest that are threats to agriculture and the environment, into California. Currently the host lists for these pests are located within each species eradication area regulation. However, with the forthcoming adoption of the new section 3591.32 Tephritidae Fruit Fly Eradication Area regulation, the current interior quarantine regulations would direct the public to an incorrect section in the CCR. These amendments will update the reference and direct the public to the correct section.

EXISTING LAWS & REGULATIONS

Existing law, Food and Agricultural Code (FAC) Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5301, provides that the Secretary may establish, maintain, and enforce such quarantine regulations as they deem necessary to protect the agricultural

industry of this state from pests. The regulations may establish a quarantine at the boundaries of this state or elsewhere within the state.

Existing law, FAC Section 5302, provides that the Secretary may make and enforce such regulations as they deem 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 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

This regulatory action will allow the Department to correctly enact interior quarantines and prevent the spread of species of the fruit fly family Tephritidae in California and will benefit:

- the general public
- homeowners and community gardens
- the agricultural industry
- the State's general fund

There are no existing, comparable federal regulations or statutes.

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 Sections 3406, 3417, 3422, 3423, 3424, 3425, 3436, 3441, 3442, 3444, and 3445 and has determined that they are not inconsistent or incompatible with existing state regulations.

The Department is simultaneously proposing two separate and related rulemakings, both Notices of which are also being published in the March 28, 2025 California Regulatory Notice Register:

- Adoption of new section 3591.32 titled Tephritidae Fruit Fly Eradication Area

Adoption of this new section will create an eradication area for any fruit flies in the family Tephritidae.

- Repeal of 13 Fruit Fly Eradication Area regulations in Title 3.

Repealing these regulations will eliminate duplication with the forthcoming adoption of section 3591.32

The various fruit flies enumerated in these other regulations, as well as these regulations proposed for repeal, all fall under the family of Tephritidae Fruit Fly.

For more information on these proposed regulations, please see those other Notices published in this same Notice Register.

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 these regulations updates the CCR section reference concerning pests host's lists to the forthcoming new section 3591.32.

The Department has made an assessment that the adoption of these regulations will help maintain the economic baseline and (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation of new businesses or elimination of existing businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) will benefit the health and welfare of California residents by providing the correct, updated reference to the CCR section for pests host's lists, (5) will have an impact on the state's environment, and (6) is not expected to benefit workers' safety.

Health and welfare: The proposed action will benefit the health and welfare of California residents by making it more likely that the Department can react effectively if species in the fruit fly family Tephritidae infestation are detected.

The state's environment: The proposed action will benefit the state's environment by making it more likely that the Department can react effectively if species in the fruit fly family Tephritidae infestation are detected. If the Department fails to act effectively to prevent the spread and eradicate an infestation, this pest could easily spread into the local environment and non-agricultural ecosystems. This could adversely impact private and commercial landscape plantings, local, regional, state and national parks, other recreational sites, open habitats, and wild lands. Affected plants could become less vigorous and may produce fewer seeds. Plants/trees with low propagule output can result in major changes to plant community structure.

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.cdffa.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.