

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3, California Code of Regulations

Section 3588 Mexican Fruit Fly Eradication Area

3591.2 Oriental Fruit Fly Eradication Area

3591.5 Mediterranean Fruit Fly Eradication Area

3591.11 Caribbean Fruit Fly Eradication Area

3591.12 Peach Fruit Fly Eradication Area

3591.13 Guava Fruit Fly Eradication Area

3591.15 Melon Fruit Fly Eradication Area

3591.23 White Striped Fruit Fly Eradication Area

3591.25 Anastrepha striata Eradication Area

3591.26 Malaysian Fruit Fly Eradication Area

3591.27 Zeugodacus tau Eradication Area

3591.28 West Indian Fruit Fly Eradication Area

3591.30 Queensland fruit fly Eradication Area

INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to repeal Title 3 California Code of Regulations (CCR) Sections 3588 Mexican Fruit Fly, 3591.2 Oriental Fruit Fly Eradication Area, 3591.5 Mediterranean Fruit Fly Eradication Area, 3591.11 Caribbean Fruit Fly Eradication Area, 3591.12 Peach Fruit Fly Eradication Area, 3591.13 Guava Fruit Fly Eradication Area, 3591.15 Melon Fruit Fly Eradication Area, 3591.23 White Striped Fruit Fly Eradication Area, 3591.25 *Anastrepha striata* Eradication Area, 3591.26 Malaysian Fruit Fly Eradication Area, 3591.27 *Zeugodacus tau* Eradication Area, 3591.28 West Indian Fruit Fly Eradication Area, and 3591.30 Queensland fruit fly Eradication Area. This repeal of these regulations is intended to address the obligation of the Department of Food and Agriculture (Department) to regulate the agricultural industry in California.

## Description of Public Problem, Administration Requirement, or Other Condition or Circumstance the Regulations are Intended to Address

These 13 regulations are intended to address the obligation of the Department of Food and Agriculture to protect the agricultural industry and environment from the introduction and spread of injurious plant pests within California. Specifically, these regulations are intended to prevent the establishment of several fruit flies in the family Tephritidae, a family of pest that are threats to agriculture and the environment, in California. To better protect California against these pests, a regulation has been created against all fruit flies in the Tephritidae family, Section 3591.32 Tephritidae Fruit Fly Eradication Area. To prevent confusion caused by having duplicative fruit flies eradication areas in the CCR, we are repealing Sections 3588, 3591.2, 3591.5, 3591.11, 3591.12, 3591.13, 3591.15, 3591.23, 3591.25, 3591.26, 3591.27, 3591.28, and 3591.30.

## Background

The fruit fly family Tephritidae includes roughly 5000 species worldwide. Many of the fruit fly species within this family share a common life history that places them in the highest pest risk category for agricultural production. The females punctures young host fruit to lay eggs which develop into larvae. This contrasts with common household fruit flies or pomace flies (family Drosophilidae) that generally lay eggs in overripe or rotting fruit. 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. While the time it takes varies, some species reach sexual maturity in 32 days and can fly up to 30 miles in search of food. This, along with their high reproductive rate, allows tephritid fruit flies to infest new areas and expand their range very quickly.

## Purpose and Factual Basis

The purpose of Sections 3588, 3591.2, 3591.5, 3591.11, 3591.12, 3591.13, 3591.15, 3591.23, 3591.25, 3591.26, 3591.27, 3591.28, and 3591.30 is to protect California from invasive fruit flies in the family Tephritidae. These are being repealed as duplicative, as a statewide

eradication area regulation is being promulgated that will allow for more effective means to regulate against these pests.

The factual basis for determination by the Department that the adoption of these regulations is necessary is as follows:

There are 44 known invasive tephritid species, of which only 13 have been identified in California. Currently the Department has regulations against these 13 species. In a separate, related proposed rulemaking, the Department proposes the adoption of new section 3591.32 in Title 3 of the CCR entitled Tephritidae Fruit Fly Eradication Area. Adoption of section 3591.32 will bring the existing, separate 13 fruit flies under the one general heading of the Tephritidae Fruit Fly Eradication Area regulation, since all 13 fruit flies fall under the general Tephritidae fruit fly family. However when Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation goes into effect these 13 individual regulations will be duplicative, and potentially confusing to the public. To prevent confusion caused by having these fruit flies eradication areas in the CCR twice we are repealing Sections 3588, 3591.2, 3591.5, 3591.11, 3591.12, 3591.13, 3591.15, 3591.23, 3591.25, 3591.26, 3591.27, 3591.28, and 3591.30.

## **Project Description**

### **Section 3588 Mexican Fruit Fly**

This section is being repealed as Mexican Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.2 Oriental Fruit Fly Eradication Area**

This section is being repealed as Oriental Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.5 Mediterranean Fruit Fly Eradication Area**

This section is being repealed as Mediterranean Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.11 Caribbean Fruit Fly Eradication Area**

This section is being repealed as Caribbean Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.12 Peach Fruit Fly Eradication Area**

This section is being repealed as Peach Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.13 Guava Fruit Fly Eradication Area**

This section is being repealed as Guava Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.15 Melon Fruit Fly Eradication Area**

This section is being repealed as Melon Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.23 White Striped Fruit Fly Eradication Area**

This section is being repealed as White Striped Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

#### **Section 3591.25 *Anastrepha striata* Eradication Area**

This section is being repealed as *Anastrepha striata* is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.26 Malaysian Fruit Fly Eradication Area**

This section is being repealed as Malaysian Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.27 Zeugodacus tau Eradication Area**

This section is being repealed as *Zeugodacus Tau* is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.28 West Indian Fruit Fly Eradication Area**

This section is being repealed as West Indian Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Section 3591.30 Queensland fruit fly Eradication Area.**

This section is being repealed as Queensland Fruit Fly is a member of the tephritid family and its eradication will be included in the Section 3591.32 Tephritidae Fruit Fly Eradication Area regulation.

### **Anticipated Benefits from This Regulatory Action**

While there are no monetary benefits from the repeal of these regulations, it is the Department's responsibility to repeal regulations that no longer serve a purpose and are duplicative. In addition, repeal of these regulations would avoid duplication with the forthcoming adoption of section 3591.32 and would also prevent confusion with the public and bring clarity and transparency in this area.

### **Mandate on Local Agencies or School Districts**

The Department of Food and Agriculture has determined that these repeals do not impose a mandate on local agencies or school districts.

### **Economic Impact Analysis (Government Code 11346.3(b))**

There are no monetary effects of the repeal of these regulations, as the pests involved are all part of a newer, more effective regulation.

*The Creation or Elimination of Jobs within the State*

There are no costs for compliance, as the pests involved are all part of a newer, more effective regulation. Therefore, the Department has determined that this proposal will not have a significant impact on the creation of new businesses in the State of California.

*The Creation or Elimination of Businesses in California*

There are no costs for compliance, as the pests involved are all part of a newer, more effective regulation. Therefore, the Department has determined that this proposal will not have a significant impact on the creation of new businesses in the State of California.

*The Expansion of Businesses in California*

There are no costs for compliance, as the pests involved are all part of a newer, more effective regulation. Therefore, the Department has determined that this proposal will not have a significant impact on the expansion of businesses currently doing business in the State of California.

*Worker Safety*

These regulations are not expected to have an effect on worker safety.

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

The Department of Food and Agriculture has determined these repeals do not impose a mandate on local agencies or school districts. All eradication activities shall be conducted by the Department. Therefore, no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that 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 and no nondiscretionary costs or savings to local agencies or school districts, will result from these repeals.

There are 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 and no nondiscretionary costs or savings to local agencies or school districts anticipated from the adoption of this regulation.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states.

*Potential Impact to Homeowners and Community Gardens*

There are no impacts, as the pests involved are all part of a newer more effective regulation. Therefore, the Department has determined that this proposal will not have a significant impact on homeowner or community gardens in the State of California.

*Potential Impacts to General Fund and Welfare*

There are no impacts, as the pests involved are all part of a newer more effective regulation. Therefore, the Department has determined that this proposal will not have a significant impact to the general fund and welfare in the State of California.

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of regulations 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.

- Amendment of 11 Fruit Fly Interior Quarantine regulations in Title 3.

Amending these regulations will update the references to the pests' host lists to the forthcoming adoption of 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.

### **Assessment**

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 or elimination of 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 avoiding confusion and duplication with forthcoming adoption of section 3591.32 and bring clarity and transparency, (5) will no impact on the state's environment, and (6) is not expected to benefit workers' safety.

### **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 as and less burdensome to affected private persons than the proposed action.

The Department considered taking no action. If no action is taken, the Department would need to continue to amend or promulgate new eradication authority regulations for species in the fruit fly family Tephritidae along with the concomitant delays in regulatory response. If these response delays allowed species in the fruit fly family Tephritidae to spread and become fully established in host production areas, California's agricultural industry would suffer losses due to increased pesticide use, decreased production of marketable produce, and loss of markets if the United States Department of Agriculture (USDA) or other countries enact quarantines against California products which are hosts for species in the fruit fly family Tephritidae. Therefore, this alternative was rejected.

### **Information Relied Upon**

The Department relied upon the following studies, reports, and documents in the proposed repeal of Title 3 CCR Sections 3588, 3591.2, 3591.5, 3591.11, 3591.12, 3591.13, 3591.15, 3591.23, 3591.25, 3591.26, 3591.27, 3591.28, and 3591.30.

Jiří Trombik; Samuel F. Ward; Allen L. Norrbom; Andrew M. Liebhold; Journal of Pest Science (2023) 96:345–357, Global drivers of historical true fruit fly (Diptera: Tephritidae) invasions, 25 January 2022