

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the 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

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

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.

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 repeal 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. pursuant to the authority vested by Sections 401 and 407 of the Food and Agricultural Code (FAC).

REFERENCE

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 the 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.

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.

ANTICIPATED BENEFITS OF THE PROPOSED REPEAL

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. 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.

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 these regulations repeal 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.

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 is a regulation repeal and does not require reporting, recordkeeping, or compliance by businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The repeal of these regulations will avoid duplication with the forthcoming adoption of 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 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 have no impact on the state's environment, and (6) is not expected to benefit workers' safety.

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). 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.