

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulations
Section 4500 Noxious Weed Species

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

The California Department of Food and Agriculture (Department) proposes to amend of Title 3 California Code of Regulations (CCR) Section 4500 Noxious Weed Species to change *Volutaria canariensis* to *Volutaria tubuliflora*.

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 his or her 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 March 18, 2024. The Department will consider only comments received at the Department offices by that date or postmarked no later than March 18, 2024. Submit comments to:

Erin Lovig, Senior Environmental Scientist Supervisor California
Department of Food and Agriculture 1220 N St,
Sacramento, CA 95814
Permits@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Dean Kelch at (916) 261-9252 or dean.kelch@cdfa.ca.gov, FAX number (916) 651-2900.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Section 4500 pursuant to the authority vested by Sections 407 and 5004 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Section 5004 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CCR section 4500 lists the species of plants that are noxious weeds within the meaning of Section 5004 of the Food and Agricultural Code. A weed species originally identified as *Volutaria canariensis* has been corrected by the individual who identified it to *Volutaria tubuliflora*; this amendment changes the name within the regulation.

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 which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5004, provides that the Secretary may adopt a list of the plants that is, or is liable to be, detrimental, to agriculture or important native species, and difficult to control or eradicate, which the Secretary, by regulation, designates to be a noxious weed.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

By correctly classifying noxious weeds the Department will be limiting their spread which will provide economic savings to the general public, farmers, ranchers, local governments, state and federal agencies, affected and potentially affected businesses, and land management entities, both private and public.

There is no existing, comparable federal regulations or statute regulating this noxious weed.

There are no known specific benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department considered any other possible regulations addressing this noxious weed, and it found that these are the proposed amendment is the only regulation dealing with this subject, and the Department is the only State agency which can identify noxious weeds. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 4500 and has determined that it is not inconsistent or incompatible with existing state regulations.

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: The proposed action corrects a noxious weed species that was already being regulated. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of Section 4500. The amendment of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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 proposed action corrects a noxious weed species that was already being regulated. 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 proposed action corrects a noxious weed species name. 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 correct a noxious weed species name without any impact on small business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The Department has concluded that the amendment of Section 4500 1) will have no 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) as stated above under ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT, will limit the spread of the noxious weeds and provide benefits to California residents, including public and private entities and interests and the state's environment. There are no known specific benefits to worker safety or the health of California residents.

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 amend 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.