

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulations Sections 3446 and 3591.31

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

The Department of Food and Agriculture (Department) proposes to adopt Title 3 of the California Code of Regulations (CCR) Sections 3446 Spotted Lanternfly Interior Quarantine and Section 3591.31 Spotted Lanternfly Eradication Area

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 December 1, 2025. The Department will consider only comments received at the Department offices by that date or postmarked no later than December 1, 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
916.403.6650
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.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture 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 adopt Sections 3446 and 3591.31 pursuant to the authority vested by Sections 401.5, 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 401.5, 407, 5301, 5302, 5322, 5761, 5762, and 5763 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The specific purpose of the proposed adoption of the regulations 3446 and 3591.31 will allow for the creation of interior quarantine and eradication areas for spotted lanternfly in California. This will allow targeted actions for eradication of spotted lanternfly and reduce the chance of allowing natural and artificial dispersal and the subsequent spread of the pest in California. Any eradication and quarantine actions taken by the Department will be in cooperation with the United States Department of Agriculture (USDA) and the affected county agricultural commissioners.

EXISTING LAWS & REGULATIONS

Existing law, FAC Section 401.5, states that the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.

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 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.

Existing law, FAC section 5761, provides that the Secretary may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC section 5762, provides that any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC section 5763, provides that the Secretary or the commissioner acting under the supervision and direction of the Secretary, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which they think is necessary.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

The adoption of this regulation provides the necessary regulatory authority for the prompt quarantine and eradication of a future infestation of a serious insect pest which is a mandated statutory goal.

This regulation is necessary to prevent the future spread of spotted lanternfly to uninfested areas of the state. The regulation benefits industries (nursery, fruit for domestic use and exports, packing facilities), the environment, and the overall California economy by preventing the spread of spotted lanternfly.

California is a large-scale commercial producer of many host plants of spotted lanternfly. The Californian, national, and international consumers of California agriculture benefit by having high quality produce and produce products available at lower cost. It is assumed that any increases in production costs will ultimately be passed on the consumer. By avoiding an infestation of spotted lanternfly, these increased production costs will be avoided.

The adoption of this regulation benefits homeowners who grow host material for consumption and/or ornamentals in various rural and urban landscapes. By preventing infestation with spotted lanternfly and thereby preventing damage to hosts, the regulation eliminates the need for hosts to be treated to mitigate infestations of spotted lanternfly.

There is no existing, comparable federal regulations or statute.

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

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 3446 and 3591.31 and has determined that they are not inconsistent or incompatible with existing state regulations.

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 to any local agency or school district requiring reimbursement pursuant to 17500 et seg: None

Cost or savings to any state agency: 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 compliance activities are currently being performed by existing staff throughout quarantine areas within the State without any impact on small business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The Department has made an assessment that the amendment 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 have an impact on the health and welfare of California residents, (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 would facilitate a fast and effective response if spotted lanternfly is detected in the designated eradication area. Speed of response is key to eradicating an incipient pest infestation. Programmatic delays potentially can lead to pest quarantines, as well as increased production costs and potential job loss. It is assumed that any increases in production costs will ultimately be passed on the consumer. By avoiding an infestation with spotted lanternfly, these increased production costs will be avoided.

The state's environment: The proposed action will benefit the state's environment as its host plants are widely grown in California, both native plants and agriculturally important crops. By adopting these regulations to prevent infestation the general public benefits by having a native environment and agriculture safe from this pest.

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.cdafa.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.