

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulation Section 3962 Hydrilla Eradication Area

**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) Section 3962. Hydrilla Eradication Area to include the entire State of 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 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 September 14, 2026. The Department will consider only comments received at the Department offices by that date or postmarked no later than September 14, 2026. 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 amend Section 3854 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific authority vested by Sections 5322, 5761, and 6048 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This amendment will provide authority for the State to perform specific detection, control, and eradication activities against hydrilla in California. This will allow targeted actions for eradication of hydrilla and reduce the chance of natural and artificial dispersal and the subsequent spread of the pest in California. Any eradication actions taken by the Department will be in cooperation with the U.S. Department of Agriculture (USDA) and the affected county agricultural commissioners.

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 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in their opinion necessary to circumscribe and exterminate or prevent the spread of any pest that 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 6048, states that the plant hydrilla (*Hydrilla verticillata*) is a noxious aquatic weed not native to the State of California. The Legislature hereby declares that the further introduction and spread of this serious aquatic weed pest would be detrimental to the state, causing irreparable damage to the agricultural industry and recreational use of streams, lakes, and waterways and further that the eradication of this aquatic weed pest is essential to the preservation of the environment. It is unlawful to produce, propagate, harvest, possess, sell, or distribute hydrilla as such or incidental to the sale of fish, aquatic plants, or other hosts or possible carriers of hydrilla. The director may adopt quarantine or other regulations which prohibit the importation of hydrilla. Any violation of the regulations or of this section is an infraction punishable by a fine of not more than seventy-five dollars (\$75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of this section or of the regulations. These penalty provisions do not preclude civil action as

provided in Article 2 (commencing with Section 5021) of Chapter 1. It further states that the director shall conduct an ongoing survey and detection program for hydrilla. Whenever and wherever hydrilla is discovered, the director shall immediately investigate the feasibility of eradication. If eradication is feasible, the director shall perform the eradication in cooperation with federal, city, county, and other state agencies taking those steps and actions the director deems necessary.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

The amendment of this regulation provides the necessary regulatory authority for the prevention of movement of a serious plant pest which is a mandated statutory goal.

This amendment is necessary to prevent the future spread of hydrilla to un-infested areas of the State. The regulation benefits the environment, and the overall California economy by preventing the spread of hydrilla.

There are economic benefits to the State's general fund from these regulations. Hydrilla also interferes with boating and fishing and increases the risk of drowning. Heavy infestations decrease fishing stocks and impact on boating, reducing recreational opportunities and the economies they support. When it is well-established, hydrilla will clog irrigation canals and municipal water systems, resulting in flooding or control and removal costs. It can drastically affect agriculture and recreational activities (boating, swimming, and fishing) and even endanger people and property through flooding. Clogged waterways also affect agriculture that depends on the movement of water for crops.

By adding have a statewide eradication are we will reduce the chances of future incursions and help maintain the economic baseline.

There is no existing, comparable federal regulations or statute.

There are no known specific benefits to worker safety.

There are specific benefits to 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 Section 3962 and has determined that they are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern hydrilla eradication areas in California.

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 amendment is designed to prevent or minimize the spread of hydrilla by amending Section 3962. The Department has made an assessment that the amendment to this regulation would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and is (6) 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 hydrilla would be detected before an infestation can happen, and, if there is an infestation, the Department can react quickly and effectively. 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.

The state's environment: The proposed action will benefit the state's environment by increasing the chance that hydrilla would be detected and treated before an infestation happens. If the Department neglects to regulate this pest hydrilla could spread into the local environment via the surrounding 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.

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.