

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3060.3 Plants That Are Pests

INITIAL STATEMENT OF REASONS/
POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to amend Title 3, California Code of Regulations (CCR) Section 3060.3 Plants That Are Pests to include plants rated as A or B, as a pest plant.

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests as required by Food and Agricultural Code (FAC) Sections 401 and 403.

Purpose and Factual Basis

This amendment will include plants rated as A or B, as defined in CCR 3162, as pest plants.

The factual basis for the determination by the Department that the amendment of Section 3060.3 is necessary is as follows:

Currently Section 3060.3 only includes plants listed in CCR Section 4500. This list does not include plants that are rated in Section 3162. Section 3162 provides a rubric to rate potential pests of all kinds, including plants, to determine if they are harmful to California and what actions need to take place to protect California's agriculture and environment. Including

these plants in Section 3060.3 will help direct members of the public to these pest plants.

Project Description

Section 3060.3

This amendment adds section (b), which adds plants rated as A or B, as defined, in CCR 3162, as pest plants.

The proposed amendment will direct the public to a more complete listing of pest plants in California. Currently plants that are pests are listed in multiple locations, the section 4500 list and the website location included in section 3162. This amendment adds the plants with a pest rating to Section 3060.3, allowing the public to correctly identify pest plants.

Current Laws & Regulations

Existing law, FAC section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

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 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 6901, provides that the director by regulation shall provide for periodic inspections of nurseries and may prescribe standards of cleanliness for nursery stock which is produced or sold within the state.

The existing laws obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

Anticipated Benefits from This Regulatory Action

Adding plants rated as A or B as pest plants to Section 3060.3 will benefit:

- the general public
- homeowners and community gardens
- agricultural industry
- California's natural environment
- the State's general fund

California Environmental Quality Act

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.).

Mandate on Local Agencies or School Districts

The Department has determined that this regulation does not impose a mandate on local agencies or school districts.

Economic Impact Analysis (Government Code 11346.3(b))

Adding plants rated as A or B, as pest plants to Section 3060.3 benefits:

- the general public

- homeowners and community gardens
- the agricultural industry
- California's natural environment
- the State's general fund

When pest plants become established within California, they greatly affect the general public. Directing the public to the plants currently rated as pests lowers the risk of these plants being artificially introduced into the state. The amended regulation will assist the public to correctly identify pest plants, and there will be less risk of plants known to be pests entering California. Lowering the risks will help prevent potential infestations. The general public benefits by having a native environment and agriculture safe from these pest plants.

The adoption of these regulations benefits home gardeners who grow material for consumption and/or ornamentals in various rural and urban landscapes. By preventing infestation with pest plants, the regulations eliminate the need for hosts to be treated to mitigate infestations.

There are economic benefits to the State's general fund from these regulations. Pest plants can infest a broad array of field crops. Established infestations can reduce crop yields, threaten export markets, and are extremely difficult to eradicate. By having plant pests listed clearly the Department will reduce the chances of future incursions and help maintain the economic baseline.

The Creation or Elimination of Jobs within the State

The amendment adds plants rated as A or B as pest plants to Section 3060.3. The Department has been maintaining a pest plant list throughout the state since 1962 without causing significant creation or elimination of jobs. These actions have helped to preserve the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the creation or elimination of jobs in California.

The Creation or Elimination of Businesses in California

The amendment adds plants rated as A or B as pest plants to Section 3060.3. The Department has been maintaining a pest plant list throughout the state since 1962 without causing significant creation or elimination of businesses. These actions have helped to maintain the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the creation or elimination of businesses in California.

The Expansion of Businesses in California

The amendment adds plants rated as A or B as pest plants to Section 3060.3. The Department has been maintaining a pest plant list throughout the State since 1962 without causing significant expansion of businesses. These actions have helped to maintain the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the expansion of businesses in California.

Worker Safety

This regulation is not expected to have an effect on worker safety.

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

The Department has determined that Section 3060.3 does not impose a mandate on local agencies or school districts. All quarantine activities shall be conducted by the Department and quarantines by county agricultural commissioners as part of their regular duties. 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 the amendment of Section 3060.3.

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. Rather, it will help maintain the economic baseline.

Potential Impact to Homeowners and Community Gardens

Many of the host plants that would be affected by pest plants are enjoyed by the home gardener and community gardens. If more pest plants become established in California, homeowners and community gardeners would be negatively impacted, some severely so.

Potential Impacts to General Fund and Welfare

The proposed amendment does not have immediate or definitive impact to the general fund or general welfare. Rather, it would facilitate preventing the artificial spread of destructive pests. The agricultural industry is one of the economic engines in the state. Negative impacts to agriculture impact the State's economic recovery and the general welfare of the state. Additionally, any further job losses in this area would likely be felt by low-skilled workers whose employment options are already limited. The loss of any additional agricultural jobs would likely result in an increase in the State's public assistance obligations which would also negatively impact the state's economic recovery.

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

Assessment

The amendment is designed to prevent or minimize the spread of pest plants by amending Section 3060.3. 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 pest plants would be prevented from spreading within California, thus protecting the agricultural sector. Maintaining the economic baseline is important to the health and welfare of California residents.

The state's environment: The proposed action will benefit the state's environment by increasing the chance that pest plants would be prevented from spreading within California. If pests were to spread throughout California it could adversely impact private and commercial landscape plantings, local, regional, state and national parks, other recreational sites, open habitats, and wild lands. Affected plants could become less vigorous and may produce fewer seeds. Plants/trees with low propagule output can result in major changes to plant community structure. Therefore, this amended regulation may contribute to the preservation of the natural environment.

Alternatives Considered

The Department 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, plants rated A or B would not be clearly designated as plant pests for the public. Therefore, this alternative was rejected.

Information Relyed Upon

The Department is relying upon the following studies, reports, and documents in the adoption and amendment of Section 3060.3:

California Code of Regulations, Barclays California Code of Regulations, Title 3. Food and Agriculture, Division 4. Plant Industry, Chapter 3. Entomology and Plant Quarantine, Subchapter 4. Plant Quarantine, Article 2. General Provisions of Quarantine Regulations, § 3162. Pest Ratings and Official Control Actions.