

NOTE: Originally proposed changes noticed during the 45-day public comment period are shown in plain text. Modifications noticed during the 15-day public comment period are shown in single underline and single strikeout. Modifications being noticed during this second 15-day public comment period are shown in double underline and double strikeout. The public may submit comments on all changes proposed below.

NOTE: All Text shown below for section 3287 is being added to the CCR.

3 CCR § 3287

§ 3287. Spotted Lanternfly Exterior Quarantine.

A quarantine is established against the following pest, its hosts, and possible carriers:

(a) Pest: Spotted lanternfly, *Lycorma delicatula*, a lanternfly in the Order Hemiptera, Family Fulgoridae.

(b) Definitions

- 1) "Compliance Agreement" means a written agreement between a person engaged in handling, receiving, or moving regulated articles and a state plant regulatory agency, such as a state department of food and agriculture, wherein the former agrees to fulfill the requirements of the compliance agreement and comply with the provisions of this regulation.
- 2) "Covering" means a rigid or flexible sheet that ~~that~~ can be secured over an otherwise open load to prevent the egress of spotted lanternfly. If woven or of mesh, openings in the weave must be 1 millimeter or less.
- 3) "Exposed to the environment" means exposed to the outdoors without a barrier present.

~~"Decontaminate" means to treat so as to remove any stages of the spotted lanternfly.~~

- 4) "Infestation" means an established, reproducing population of spotted lanternfly as designated or determined by the Department. Any of the following shall be sufficient evidence of an infestation: One viable egg mass, one living nymph, one living visibly mated female, or two living adults found in the environment within a state or county within one year.
- 5) "Infested area" means the entire state where an infestation is present in the absence of detailed information regarding the pest's distribution within a state, or nation where an infestation has been detected, or the counties in which the infestation is documented if survey data provided by the state plant regulatory agency or the United States Department of Agriculture allows detailed delimitation of the extent of the infestation within a state. The Department may remove a county or state from quarantine if surveys in the area previously designated as infested indicate an infestation is no longer present. any state, province, political sub-division, nation, or any delineated area within a nation or sub-division that the United States Department of Agriculture, United States Forest Service, or respective State Plant Pest Regulatory Agency has declared to have an infestation of, or to be quarantined for, spotted lanternfly.
- 6) "Living Life Stage" means all life stages of the spotted lanternfly, including, but not limited to, adults, nymphs, or viable egg masses.
- 7) "Move; movement" means shipped, offered or received for shipment, carried, transported, or relocated, into or through any area of the State/Province of the infested area.
- 8) "Moving through the infested area" means the regulated article, including the vehicle and conveyance, is moved directly through the infested area without stopping (except for refueling

or for traffic control devices or conditions) and has been stored, packed, or handled only at locations outside the infested area.

- 9) "Permit" means a document issued by a ~~State Plant Regulatory Agency~~ that certifies that a person has successfully completed training regarding spotted lanternfly and agrees to the conditions specified by the permit.
- 10) "Person" is defined as any individual, partnership, association, corporation, limited liability company, or any organized group of persons whether incorporated or not.
- 11) "Phytosanitary Certificate" means a document issued by an authorizing official that certifies a commodity has been inspected or treated and found to be apparently free from specific pests.
- 12) "Regulated Article or Articles" means the plant pest spotted lanternfly along with any plant, plant product, storage place, packaging, conveyance, container, soil, and any other organism, object, or material capable of harboring or spreading pests and deemed to require phytosanitary measures, particularly where interstate transportation is involved.
- 13) "Reproducing Population" means biological evidence including, but not limited to, a viable egg mass, a living nymph, a living, visibly mated female, or two living adults found in the environment within a county within one year ~~egg masses, visibly mated females, early instar nymphs, or multiple life stages present within one year~~, indicating successful reproduction in the environment.
- 14) "Treatment" means official procedure for the killing, inactivation, or removal of pests, for rendering pests infertile, or for devitalization.

(c) Area Under Quarantine. An area shall be designated as under quarantine when an infestation is present and the Department has established the boundaries of the infested area. The Department shall update the maps of the infested areas as new information is made available to the Department to reflect the current quarantine areas. This map is available on the Department's Plant Health and Plant Protection Services Pest Exclusion program website.~~The entire states of Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.~~

~~(1) Infested Area. Areas within a given state designated as infested by the spotted lanternfly by that state.~~

d) Articles and Commodities Covered. The following are hereby declared to be hosts and possible carriers of the pest quarantined against:

- (1) **Any living life stage of the spotted lanternfly.**
- (2) **All plants and plant parts:** This shall include, but is not limited to, any species of live or dead tree, nursery stock, budwood, lumber, firewood, logs, perennial plants, garden plants and produce, stumps, roots, branches, mulch, and composted and uncomposted chips, bark, and yard waste.
- (3) **Outdoor industrial and construction materials, equipment and waste:** This shall include, but is not limited to, concrete barriers or structures, stone, quarry material, ornamental stone or concrete, wood, and construction, landscaping, and remodeling waste.
- (4) **Shipping and storage containers:** This shall include, but is not limited to, wood crates, pallets, boxes, personal moving containers, and barrels.
- (5) **Outdoor household articles:** This shall include, but is not limited to, lawn tractors

and mowers, mower decks, grills, grill and furniture covers, tarps, mobile homes, tile, stone, deck boards, fire pits, and any equipment not stored indoors.

(6) **Conveyances** of any type, including, but not limited to, cars, trucks, trains, recreational vehicles, and boats, whether utilized for movement of the materials previously listed or not, and any trailers, wagons, or other equipment attached thereto.

(7) **Agricultural equipment** including, but not limited to, tractors, harvesting equipment, and rigid containers, ~~such as shipping containers, pods, and large bins.~~

(8) Any other article, object, materials, or means of conveyance when it is determined by a California State Plant Quarantine Officer to present a risk of carrying or spreading any life stage of spotted lanternfly. When making this determination, a California State Plant Quarantine Officer shall consider, amongst other factors, whether the article, object, material, or means of conveyance originated from an infested area and whether it was exposed outdoors at a time favorable to spotted lanternfly oviposition.

(e) Restrictions. All articles and commodities covered are prohibited entry into California from the area under quarantine with the following exceptions:

~~(1) Origin Certification from non-infested Localities. Articles and commodities covered will be permitted entry into the State of California if each shipment is accompanied by a waybill issued by the state of origin indicating that the points of origin of the shipment is in a non-quarantined area or an area of quarantine not within an infested area.~~

OR

~~(1) (2) Certificate of Treatment. All of the articles and commodities covered are approved for entry into California when accompanied by a certificate issued by an authorized state agricultural official declaring that the article or shipment was treated at origin for spotted lanternfly prior to shipment in accordance with methods and procedures approved and prescribed by the Secretary. Such treatment(s) shall be in accordance with methods and procedures approved and prescribed by the Secretary.~~

All treatments shall be ~~conducted~~ performed under direct supervision of an authorized state agricultural official or by the shipper under a compliance agreement with the authorized state agricultural official to perform the treatments. ~~The authorized state agricultural official shall monitor all treatments and procedures performed under a compliance agreement.~~

OR

~~(2) (3)~~ If originating outside of the infested area and moving through the infested area during the period of March through December, the regulated article is moved shall move through into the infested area in an enclosed vehicle or conveyance or is completely covered, such as by a tarp or full shrink wrapping, to prevent exposure to the plant pest spotted lanternfly. Alternatively, ~~the article(s) may be completely covered to prevent exposure to the pest.~~ The covering must be kept on the regulated article until leaving the infested area and thereafter be inspected and found to be free of spotted lanternfly. If life stages are found, the article must be

decontaminated or destroyed.

OR

(3) ~~(4)~~ Any articles transported by means of a conveyance that has provides a global positioning system (GPS) data report indicating that the conveyance did not travel through an infested area.

OR

(4) ~~(5)~~ Indoor articles not exposed to the environment, including as determined by the nature or intended purpose of the article and confirmed by the shipper. This includes, but is not limited to, household articles, house plants, and indoor furnishings.

OR

(6) ~~(5)~~ Movement of Regulated Articles ~~F~~from Infested Area(s).

Material specified in subdivisions (d) (1), (2), (3), (4), (5), (6), (7), and (8) that is accompanied by the appropriate a written permit, phytosanitary certificate, or Compliance Agreement, or checklist will be allowed entry under the following conditions:

(A) Permit required for the movement of commercial vehicles and means of conveyance. ~~If any other area inside or outside of this state is determined by Federal, State, or another Regulatory Agency to be an infested area, m~~ Movement from that an infested area into California shall, subject to passing inspection, be allowed under a permit, that may comprise a Compliance Agreement ~~under a Master Permit.~~ A person required to obtain a permit for movement of regulated articles within or from the infested area shall comply with all permit requirements.

(B) Phytosanitary Certificate. ~~Any regulated commodity~~ Phytosanitary Certificate covering regulated articles originating from an infested area, or that enter an infested area and are exposed to the environment shall, subject to passing inspection, be allowed entry if accompanied by a valid phytosanitary certificate be issued by an authorizing official from the state of origin. ~~Such regulated articles, subject to passing inspection, shall be allowed entry.~~

(C) Requirements for Compliance Agreement or Phytosanitary ~~C~~ertificate.

1. Compliance Agreement in Place. Plant products may be imported from an infested area in compliance with a written agreement between the importer and the department that includes all of the following:
 - a. The name and address of the importer.
 - b. The type and volume of material that may be imported under the agreement.
 - c. The names and addresses of the persons to whom, and the locations to which the materials may be imported under the agreement. The state will accept "various" under "names and addresses of the persons" and will accept "California" as the destination location.
 - d. The locations from which the material may be imported under the agreement.
 - e. The method by which the material may be imported.
 - f. The time period covered by the agreement.

- g. The compliance agreement holder's commitment to keep complete records of each import shipment and to submit those records to the department for inspection and copying upon request.
 - h. Specific import terms and conditions that will, in the department's opinion, effectively ensure that materials imported pursuant to the agreement will not introduce the spotted lanternfly into California.
 - i. A provision authorizing the department to terminate the agreement, without prior notice, for any reason.
 - j. A shipping certificate must accompany each shipment indicating that the product is under a compliance agreement.
2. *Phytosanitary Certificate*. Regulated ~~commodities~~ ~~articles~~ from infested areas may only enter this state if they are inspected by an inspector of the state plant regulatory agency of the originating state and a phytosanitary certificate is issued for the article. The phytosanitary certificate must state that no spotted lanternfly was found on the regulated articles and the certificate must accompany the regulated article through all movement from origin to destination. The phytosanitary certificate does not exempt the means of conveyance or vehicle, which may require a permit.

(f) ~~(D)~~ Checklist Required for Individuals Not Doing Business engaged In Commercial Activity Moving Regulated Articles from Infested Areas WHERE SPOTTED LANTERNFLY IS KNOWN TO BE ESTABLISHED. A regulated article, including any vehicle or conveyance, covered by this quarantine rule regulation may be moved from an infested area with quarantine area if accompanied by a valid checklist issued by a state plant regulatory agency and completed by the individual person moving the article(s) transporting the regulated article(s). The checklist may be issued by any state plant regulatory agency. The completed checklist must be signed by the individual and shall accompany the article(s) them. The A checklist certificate is a form titled Checklist Guide For Individuals Moving Non-Commercial Items From A Spotted Lanternfly Quarantine Area (May 2021) is available on from the department's website and is hereby incorporated by reference.

Note: Authority cited: Section 5301, Food and Agricultural Code.

Reference: Sections 5301 and 5302, Food and Agricultural Code.