

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulation Section 3591.6 Spongy Moth 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 3591.6 Spongy Moth 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 April 20, 2026. The Department will consider only comments received at the Department offices by that date or postmarked no later than April 20, 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 Sections 5322, 5761, 5762 and 5763 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 spongy moth in California. This will allow targeted actions for eradication of spongy moth 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 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 5762, provides that the Secretary may proclaim 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 director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is 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 spongy moths to un-infested areas of the State. The regulation benefits the environment, and the overall California economy by preventing the spread of spongy moths.

There are economic benefits to the State's general fund from these regulations. Spongy moth is a destructive insect pest which feeds on the leaves of trees and shrubs, threatening forests, urban settings, and agricultural tree crops. Between the flighted and unflighted species they feed on over 600 plant species. If not eradicated high populations are capable of defoliating millions of acres of both forest and urban trees. This not only kills and weakens trees, but the scale of devastation can also alter forest composition and destroys habitat for native fauna. Infestations can affect recreational use of forests, parks, and backyards. In urban areas this destruction would have an economic impact that would include the cost of clean-up, tree replacement, and loss of property values.

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 3591.6 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 spongy moth 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 seq: 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 spongy moths by amending Section 3591.6. 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 spongy moths 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 spongy moths would be detected before an infestation can

happen. If the Department neglects to regulate the types of hosts, this pest 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. 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.

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 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.