

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE
Notice of Proposed Rulemaking

The Department of Food and Agriculture proposes to amend Section 4500 of the regulations in Title 3 of the California Code Regulations pertaining to noxious weed species.

A public hearing is not scheduled. 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.

Any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 12, 2010.

AUTHORITY AND REFERENCE

Food and Agricultural Code Sections 407 and 5004 authorize the Department to adopt these proposed regulations. The proposed revisions are to a regulation that interprets and makes specific Section 5004 of the Food and Agricultural Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Food and Agricultural Code Section 5004 authorizes the Department to adopt a list of noxious weeds in order to both protect California's agricultural industry and protect important native plant species.

The factual basis for the determination by the Department that amendment of these regulations is necessary is as follows: Section 5004, Food and Agricultural Code. Section 5004 defines "noxious weed" as any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the Secretary, by regulation, designates to be a noxious weed.

The revisions proposed in this rulemaking action would add 33 weeds to the list of noxious weed species.

The specific purpose of Section 4500 is to establish the weed species that have been designated as noxious by the Secretary. Plant species that have been designated as noxious weeds may be subject to various restrictions including the statutory provisions for weed-free areas, noxious weed management, and provisions of the California Seed Law. Management or control activities taken against noxious weeds may both protect California's agricultural industry and protect important native plant species.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Cost or savings in federal funding to the state: None.

Nondiscretionary cost or savings imposed on local agencies: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or business: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations will affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Susan McCarthy
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
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916.654.1017
916.654.1018 (FAX)

In her absence, you may contact Stephen Brown at the same phone number.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all of the information upon which its proposal is based, and has available the express terms of the proposed action. 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 above.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named above.

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. McCarthy at the above address.