



Virginia Department of Planning and Budget **Economic Impact Analysis**

2 VAC 5-336 Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine

Department of Agriculture and Consumer Services

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board of Agriculture and Consumer Services (Board) proposes to repeal the Spotted Lanternfly quarantine that has been in place since 2019.

Background

The Spotted Lanternfly (SLF) is an invasive pest native to China, India, and Vietnam, now found in several parts of the United States. It is particularly destructive to grapevines, hardwood trees, and crops such as fruit trees and vegetables. In Virginia, the SLF was first detected in 2018 in Frederick County. In response, this regulation was established the next year, designating the City of Winchester and Frederick County as quarantine areas. The quarantine restricts the movement of SLF life stages and articles capable of transporting the pest. The SLF is primarily spread through human-assisted movement, as adult lanternflies and nymphs can inadvertently hitchhike on vehicles, construction equipment, railcars, shipping containers, plants,

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

stone products, and other materials. The spread typically occurs along major transportation routes, including interstate highways and railroads.

Since the regulation's implementation, the quarantine has been expanded twice—once in 2021 and again in 2022. The current quarantine encompasses 22 regulated localities, with an additional 39 localities reporting established SLF populations. The new areas are not adjacent to the original quarantine boundaries, suggesting that the infestation was due to human-assisted spread rather than natural dispersal. Together, these affected areas represent more than one-third of the Commonwealth. It is estimated that about 60 percent of Virginia's newly detected SLF populations are linked to the railroad system, particularly railcars moving southbound from infested areas north of Virginia over which the Board has no authority. Despite the regulation being in place since 2019, surveys indicate that SLF populations continue to expand, and new infestations are occurring far beyond the regulated areas due to human-assisted movement. As a result, the Board has determined that the regulation's restrictions on the movement of regulated articles have not been effective in preventing or slowing the spread of the SLF.

Furthermore, when the quarantine was established, there was limited data on the SLF. Over the past five years, the damage caused by the SLF to Virginia's agricultural and forest resources has been found to be minimal. A long-term study conducted by Pennsylvania State University on forest health found that the SLF did not negatively affect forest ecosystems, and most trees were able to withstand feeding without significant damage.² Additionally, since 2019, treatment options have been developed to mitigate the SLF's impact. While there are potential concerns for the wine industry, no significant negative impacts have been observed in Virginia's vineyards, and new treatment strategies are now available to vineyard managers.

Given SLF's expanded presence throughout Virginia and the limited observed impact on the state's forestry and agriculture, the Board has concluded that the quarantine is ineffective and proposes its repeal. This conclusion is further supported by developments outside of Virginia. Since November 2023, three additional states—Illinois, Michigan, and Tennessee—have confirmed SLF populations but have opted not to implement quarantines. Furthermore, Georgia reported SLF presence in October 2024 and also decided against enacting a quarantine. The

² See <https://academic.oup.com/ee/article/52/5/888/7254515?>.

United States Department of Agriculture has similarly refrained from establishing a federal quarantine for the SLF.

Estimated Benefits and Costs

Under the current regulation, individuals or entities involved in the sale, transportation, or movement of regulated articles from or through designated regulated localities—along with out-of-state parties shipping regulated articles from infested areas into unregulated regions of the Commonwealth—are required to complete mandatory training before receiving a permit. These entities must also maintain records and perform inspections of regulated articles. Compliance costs include a \$6 fee for training per individual, which is remitted to Virginia Tech, the entity conducting the training. The permit itself is issued at no charge. Additional compliance costs include those associated with recordkeeping and personnel time spent on inspections.

For example, while each inspection process will vary based on the size of the vehicle transporting regulated articles, the agency estimates that inspecting an 18-wheel truck and completing the necessary documentation for shipment takes approximately 30 minutes. The agency further estimates that the average hourly rate for an 18-wheel truck driver is \$50, resulting in a cost of approximately \$25 per load for the driver's time spent on conducting an inspection when moving goods from or through a regulated area.

As a result, the agency anticipates that repealing the regulation would benefit individuals or businesses involved in the movement of regulated articles by eliminating the time and financial costs associated with inspections, permits, and training. However, the agency notes that data regarding current compliance costs for the agency, regulated entities, and localities are not readily available, making it difficult to quantify the statewide cost savings resulting from the proposed repeal of the quarantine.

It is important to note that the quarantine's primary objective is to mitigate the spread of the SLF, though it appears to have had little to no impact on the rate at which the SLF migrates to un-infested areas of the Commonwealth. Nevertheless, the agency reports that the efforts to control and treat the SLF will continue outside the scope of this regulation. The agency will maintain several key initiatives, including receiving reports of SLF populations and monitoring its distribution throughout the Commonwealth; conducting surveys for the SLF and communicating findings to the public, as well as partnering agencies and organizations;

establishing compliance agreements with Virginia-based businesses to facilitate the transportation of goods to other states with exterior quarantines and shipment requirements for goods originating in Virginia; providing outreach and educational materials to raise public awareness about the SLF and how homeowners can help control the pest, in collaboration with the Virginia Cooperative Extension; treating SLFs at high-risk sites—those that pose an elevated threat of spreading the SLF to un-infested regions, particularly near vulnerable agricultural areas—until such time as the SLF becomes ubiquitous across the landscape.

Businesses and Other Entities Affected

Currently, there are 416 SLF permits issued to individuals or businesses. No entity appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As noted above, the proposal would mainly provide cost avoidance to entities currently subject to this regulation. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected:⁶

The proposed amendments do not adversely affect small businesses.

³ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁴ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁶ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Localities⁷ Affected⁸

The localities subject to SLF quarantine are listed in the regulation which are the counties of Albemarle, Augusta, Carroll, Clarke, Frederick, Page, Prince William, Rockbridge, Rockingham, Shenandoah, Warren, and Wythe. And the cities of Buena Vista, Charlottesville, Harrisonburg, Lexington, Lynchburg, Manassas, Manassas Park, Staunton, Waynesboro, and Winchester are also included. However, the proposed amendments do not introduce costs for local governments. To the extent localities are currently involved in movement of regulated articles, the expected benefits to them would be the same as for any other regulant.

Projected Impact on Employment

The repeal of the quarantine is expected to free up some time for regulants and/or the agency from no longer requiring a permit, training, inspection, and recordkeeping. However, the magnitude and significance of these savings on labor supply or whether there would be a discernible impact on total employment are not known.

Effects on the Use and Value of Private Property

The repeal of the restrictions on movement of the SLF may provide moderate savings in terms of avoided time and administrative costs associated with securing a permit, training, and inspections adding to asset values of businesses. The proposed repeal of the SLF quarantine should not directly affect real estate development costs.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.