

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulations

3024.8. Application and Fees.

4603. Schedule of Charges.

**Notice of Proposed Rulemaking
45 – Day Notice**

The Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Section 3024.8 to add Grapevine Registration and Certification Fees. The Department also proposes to remove Grapevine Registration and Certification Fees from CCR Section 4603. The fees will also be updated to cover the current cost of the program.

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 their 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 on August 11, 2025. The Department will consider only comments received at the Department offices, by that date or postmarked no later than August 11, 2025. 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.

AUTHORITY

The Department proposes to amend Sections 3024.8 and 4603 pursuant to the authority vested by Sections 407, 5823, 5851, 5852 and 52331 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5821, 5822, 5851, 5852 and 52331 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulation amendments are intended to address the following obligations: The Department is required to correctly reference sections in Food and Agricultural Code (FAC) that allow the Department to have registration and certification fees; currently the CCR sections that these fees are located in does not. The Department is also required to fulfill the obligation that the fees are based upon the approximate cost of the service which is rendered. These changes correct both these issues.

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 that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5821, provides that the Secretary, for the purpose of promoting and protecting the agricultural industry of the state, may, upon request, inspect plants and the premises upon or near which they are growing and the records of their sources and qualities. She may upon the basis of the information thus determined, maintain registries of the plants which are found not to be infested or infected, or liable to become infested or infected, with pests.

Existing law, FAC Section 5822, provides that the Secretary may (a) certify as to the pest freedom of plants which may have been inspected or registered or may certify as to the true pest condition of the plants. (b) Issue tags, labels, or certificates in evidence of inspection or registry. (c) Supervise or conduct any special treatments which may be necessary to insure the pest freedom of plants for propagation or planting purposes. (d) Fix uniform fees to be charged for inspections, registrations, certifications, and special treatments. The fees shall be based upon the approximate cost of the service which is rendered.

Existing law, FAC Section 5823, provides that the Secretary may also establish and enforce regulations which are necessary to carry out the purposes of this article.

Existing law, FAC Section 5851, provides that the Secretary may (a) Perform nonregulatory services such as export market phytosanitary and product quality analyses, certification, diagnostics, inspections, quality assurance, and testing relating to nursery stock, plants, seed, or plant pests and diseases. (b) Accredited and monitor or audit private entities as necessary. (c) Establish charges sufficient to recover its costs for nonregulatory services such as export market phytosanitary and product quality activities.

Existing law, FAC Section 5852, subsections (a) and (g) provides that the Secretary may provide, upon request, nonregulatory accreditation, analytical, certification, diagnostic, inspection, quality assurance, testing, and other nonregulatory services relating to nursery stock, plants, seed, or other plant pests and diseases on a charge-for-service basis or may accredit private persons or business entities to perform those services. The Department may establish, by regulation, a schedule of charges to cover the department's costs for specific services it provides. Charges for the accreditation and monitoring of laboratories located outside the state shall include the expenses for all required travel and per diem and may include application, basic, initial, renewal, and other charges that the department deems necessary to cover its costs for accreditation and monitoring or auditing for compliance. Funds collected through cost-recovery charges are dedicated to, and may only be used for, carrying out the activities and functions specified in this article.

Existing law, FAC Section 52331, subsection (a) provides that the Secretary may (d) Establish a reasonable schedule of fees for tests, examinations, and services except those which are required for quarantine or other purposes, not directly related to the enforcement of this chapter. The schedule shall be based upon the approximate cost of the service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

These amendments allow the Department to meet the registration and certification regulatory requirement of fees defraying program costs. Grapevine Registration and Certification also provides for the certification of grapevine stock as free of pests of interest, thus protecting the state's agriculture and environment by preventing the introduction and spread of injurious pests. The Grapevine Registration and Certification program benefits California businesses by allowing nurseries to fulfill contract obligations and regulatory mandates for export of nursery stock.

There are no existing, comparable federal regulations or statutes.

There are no known specific benefits to worker safety or 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 Sections 3024.8 and 4603 and has determined that they are not inconsistent or incompatible with existing state regulations.

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 or savings to any state agency: The current fee structure has been resulting in an expenditure vs. revenue deficit of over \$200k, which goes against CDFA Grapevine Registration and Certification program regulatory requirements that fees defray expenses. The fee changes will remove this deficit.

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code sec. 17500 et seq. (Gov. Code sec. 11346.5(a)(6).): 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: This regulation may increase operational expenses for grapevine producers that choose to participate in Grapevine Registration and Certification but will have no direct impact on job creation or elimination for agricultural staff.

The agency is not aware of any cost impacts that a representative private 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: Voluntary participants in the Grapevine Registration & Certification Program may need to raise the price per unit sold for grapevine that is certified through this program. There is no other State program that is identical to this CDFA program, but certified grapevine stock sold by California businesses could end up costing more than those from other states. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on businesses currently doing business in California.

Significant effect on housing costs: None

Small business determination: The proposed action will affect small businesses that voluntarily participate in the Registration & Certification Program by raising fees.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

These amendments move the Grapevine Registration and Certification Fees to the correct regulatory section and raise the existing fees. 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, and (4) is not expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

The state's environment: The proposed action will benefit the state's environment as grapevine registration and certification provides for the certification of grapevine stock as free of pests of interest, thus protecting the state environment by preventing the introduction and spread of injurious pests.

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.