

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

3055.6. Application and Fees

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Section 3055.6 to amend the Nursery Stock Nematode Certification Testing Fee. This would amend the Nursery Stock Nematode Certification Program testing fee subsection (c)(1)(C) to update the \$40 fee to \$55.

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulation amendments are intended to address the following obligations. The Department is required to certify as to the true pest condition of plants and fix fees that are based on the approximate cost of the service which is rendered. Currently the fee for the Nursery Stock Nematode Certification Program testing of \$40 does not cover the cost of testing.

Purpose and Factual Basis

The factual basis for the determination by the Department that the amendment of Section 3055.6 is necessary is as follows:

The specific purpose of amending Section 3055.6 is to update the fees so they cover the cost of the Nursery Stock Nematode Certification Program. The Nursery Stock Nematode Certification Program is industry funded and provides that California grown nursery stock may be certified to nematode cleanliness. Currently the fee for testing is \$40 per sample, which does not cover the cost of testing as required by FAC 5822. The CDFA Plant Pest Diagnostics Center Nematology Lab has a fee of \$55 per sample, which is charged to

Nursery Services. The fee in Section 3055.6 used to cover the fee charged by Nematology Lab, but the cost of testing has increased to cover increasing expenditure for staff salaries and benefits, laboratory supplies, among other costs. Participation in the Nursery Stock Nematode Certification Program is voluntary, and nurseries that participate in the program will be impacted by increased fees.

Project Description

3055.6. Application and Fees.

This amendment removes the \$40 flat fee currently being charged for testing and changes it to a \$55 flat fee. The purpose of this is to change the fee, which no longer covers the cost of the program as described above, to \$55 which will cover costs. Currently the existing fees are not defraying expenses, and the program is operating at an annual deficit of \$3,030. The new schedule of fees would cover this shortfall.

Current 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 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.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Department is the only agency that can implement plant registration and certification. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

Anticipated Benefits from This Regulatory Action

These amendments allow the Department to meet the Nursery Stock Nematode Certification Program regulatory requirement of fees being based upon the approximate cost of the service which is rendered. Nursery Stock Nematode Certification Program also provides for the certification of California grown nursery stock certified to nematode cleanliness, thus protecting the state's agriculture and environment by preventing the introduction and spread of injurious pests. The Nursery Stock Nematode Certification Program benefits California businesses by allowing nurseries to fulfill contract obligations and regulatory mandates for export of nursery stock.

California Environmental Quality Act

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.).

Mandate on Local Agencies or School Districts

The Department has determined that this regulation does not impose a mandate on local agencies or school districts.

Economic Impact Analysis (Government Code 11346.3(b))

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. This will benefit:

- The State's general fund
- The environment
- California businesses

These amendments allow the Department to meet the regulatory requirement of fees defraying program costs, provides for the certification nursery stock as free of nematodes of interest, and benefits California businesses by allowing nurseries to fulfill contract obligations and regulatory mandates for export of nursery stock.

The Creation or Elimination of Jobs within the State

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. No additional staff positions will be created or eliminated. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

The Creation or Elimination of Businesses in California

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. No new businesses will be required, and current activities do not eliminate existing business. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or elimination of new businesses in California.

The Expansion of Businesses in California

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. No new businesses will be required, and current activities do not expand existing businesses. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the expansion of businesses currently doing business in California.

Significance Adverse Impact on Business

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. Increasing fees will cover expenses and allow the Department to meet program requirements. However, the Department has determined that this regulatory proposal will have an adverse impact on businesses currently doing business in California by increasing costs (up to \$975 annually) for meeting requirements for nursery stock nematode certification via laboratory testing. This regulatory proposal will also impact California competitiveness for nurseries that request nematode sampling, if these nurseries need to increase sales prices of nursery stock in response to increased testing costs.

Worker Safety

This regulation is not expected to have an effect on worker safety.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department has determined that Sections 3055.6 does not impose a mandate on local agencies or school districts. Therefore, no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts, will result from the amendment of Section 3055.6.

There are no reimbursable costs or savings under Part 7 (commencing with section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts anticipated from the amendment of this amendment.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states.

Potential Impact to Homeowners and Community Gardens

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection(c)(1)(C) to \$55. Current activities do not have an impact on homeowners and community gardens. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on homeowners and community gardens in California.

Potential Impacts to General Fund and Welfare

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. By allowing the Department to meet the registration and certification regulatory requirement of fees defraying program costs the general fund is positively impacted. Nursery Stock Nematode Certification Program also provides for the certification of nursery stock as free of pests of interest, thus protecting State agriculture and environment by preventing the introduction and spread of injurious pests. Therefore, the Department has determined that this regulatory proposal will have positive impacts on the general fund or welfare in California.

Assessment

The proposed amendment of Section 3055.6 would amend the nursery stock nematode certification program testing fee in subsection (c)(1)(C) from \$40 to \$55. 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 Nursery Stock Nematode Certification Program provides for the certification of nursery stock as free of pests of interest, thus protecting the state's environment by preventing the

introduction and spread of injurious pests.

The proposed amendment of Section 3055.6 would amend the Nursery Stock Nematode Certification Program testing fee in subsection (c)(1)(C) to \$55. There are no existing comparable federal regulations or statutes.

Alternatives Considered

The Department of Food and Agriculture considered not changing the fee to \$55. This would result in the Nematology Lab continuing to charge Nursery Services \$55 per sample and with Nursery Services only able to charge nurseries \$40 per sample. This results in Nursery Services not being able to cover testing costs in the amount of approximately \$3,030 annually, which cannot be recovered from nurseries that receive testing services. As this would not cover the cost of the program as required by statute this alternative was rejected.

Information Relied Upon

California Department of Agriculture, Nursery Stock Nematode Certification Testing Fee, July 2025