

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Sections

2950 Registration Fee

2951 Registration Fee Schedule

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to amend Title 3 California Code of Regulations (CCR) Sections 2950 and 2951 to update the registration fee structure for the Apiary Protection Program.

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

This regulation is intended to address the obligation of the Secretary of Food and Agriculture to adopt such regulations as are reasonably necessary to carry out the provisions of the California Food and Agricultural Code (FAC). The California regulation that sets the fee to register the location of each apiary, CCR Section 2951, was last updated in 1984. The fee, 15 cents a colony, is no longer reflective of the cost the county agricultural commissioners must spend to register the colonies and provide apiary services. Combined county costs to administer the apiary registration program in FY 2018-19 were \$126,000, in FY 2019-20 were \$260,000, and in FY 2020-21 were \$ 142,000. The current annual registration fee of \$10 for resident beekeeper authorized by Food and Agriculture Code Section 29044 covers only a portion of the cost to administer the registration portion of the Apiary Protection Program. Collected registration fees in FY 2019-20 were \$11,620 (Bee Safe Program Legislative Report, p. 10). If apiaries are not registered, the counties are unable to perform actions such as notifying apiary owners before certain pesticides are applied.

### Purpose

The fees collected from apiary owners serve multiple purposes. The county agricultural commissioners who enforce FAC, Division 13, Chapter 1, and collect the fees can apply to be reimbursed for their costs spent inspecting and registering apiaries, protecting against the spread of invasive pests, and hive theft prevention and recovery. When the apiaries are registered, notifications are available to apiary owners when pesticides are being sprayed in the area, which can protect bees and the owner's investments in their colonies. Apiary owners and brokers must provide a phone number or email to receive pesticide notifications. Other funds from this fee go to the costs incurred by the county agricultural commissioners in the administration and enforcement of Division 13, Chapter 1 of the Food and Agricultural Code.

At this time, the fees collected are not covering the costs required for registration, pest control and hive theft prevention and recovery. Also, unregistered apiary owners cannot be reached when pesticides are being sprayed. Without reimbursement for registration, counties may lack funding to spend time on apiary registration. With a decrease in registration, the potential increases for hives to be sprayed by pesticides due to the lack of communication that would be facilitated by registration.

### Factual Basis

The factual basis for the determination by the Department that the amendment of CCR Sections 2950 and 2951 is necessary is as follows:

The current assessment fees for colonies in California, last amended in 1984, does not cover the costs associated with apiary registration, administration, and enforcement of the program. The Department, working with the California State Apiary Board (and a task force

appointed by the Board), proposes to change the existing fee from 0.15 cents per colony fee structure to the following fee structure:

<u>Number of colonies</u>	<u>Fee</u>
<u>1-9 colonies</u>	<u>\$0</u>
<u>10-50 colonies</u>	<u>\$100</u>
<u>51+ colonies</u>	<u>\$250</u>

This annual fee will cover a much larger portion of the county agricultural commissioner’s cost in registering apiaries and protecting from invasive pests associated with the movement of colonies into the state. (The Department’s Pest Exclusion branch help fund inspections of hives entering California from other states.)

Project Description

**Section 2950**

The title “Assessment” is being changed to “Registration Fee” to fix a clarity issue. Section 2950 has been divided into two subsections. In subsection (a) the presence of “fee” in the title makes clear the subject matter of the section. The due date for the fee is now stated as January 1 of each year. No due date was listed prior to this proposed regulation and creating a new due date helps the individual paying the fee and the program track what fees are due. “Regardless of origin” has been added to the description of colonies to which the fees apply. Apiaries, by definition, include bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found and are moved around the country (FAC Section 29002). An apiary in California may have arrived from another state, and the amendment makes clear that despite this fact the fee still applies.

Subsection (b) describes the requirements to pay fees if a person obtains an apiary after the January 1<sup>st</sup> deadline has past. Under this circumstance, the fees are to be paid within 30 days of possession of the apiary. This allows for the fees to be paid on newly obtained colonies that would otherwise be missed until the next year.

The authority and reference for this section has been updated from Section 29032 to 29044, as 29044 is the existing law that prohibits an annual registration fee from exceeding two hundred and fifty dollars.

### **Section 2951**

The title “Assessment Fee” is being changed to “Registration Fee Schedule” to fix a clarity issue. The presence of “registration” in the title makes clear the subject matter of the section, and further changes to the section to include adding schedule.

The previous fee of 15 cents per colony has been removed. This fee, last set in the 1980s, no longer covers program requirements that include registration, pest control, and hive theft prevention and recovery.

Section (a) establishes the new annual registration fee. It removes the fee for those with one to nine colonies and establishes a new fee for those with a larger amount of colonies: \$100 for 10-50 colonies and \$250 for over 51 colonies. These new fees will be used to reimburse the counties who are responsible for registering colonies, as well as fund programs that benefit beekeepers throughout California. These programs are registration, pest control, and hive theft prevention and recovery. A late fee shall be established according to statutory requirements. However, the late fee shall be \$0 until January 1, 2025. A grace period in the form of this \$0 amount is provided until 2025 because apiary owners may have decided to possess apiaries in 2023 prior to the Department proposing this regulation, and those apiaries will be subject to registration fees under this regulation. Thus, apiary owners may need to shift resources in order to pay fees for apiaries possessed in 2023 and for which such owners did not anticipate having to pay fees.

The process for adjusting fees is also described. Section (b) explains how the Apiary Board will make recommendations to the Secretary. The board is made up of a public

member along with registered beekeepers who reside in California and represent the industry functions of queen breeding, pollination, or honey production. The Apiary Board advises the Secretary on matters relating to the beekeeping industry. To ensure the beekeeping community is part of these recommendations, the public meeting requirements for the Apiary Board meetings are also outlined, ensuring the community can provide comment during the decision-making process. If future fee changes are approved, the Apiary Board will be responsible for promptly communicating these recommendations to the Secretary.

Section (2) provides 30 days for the Secretary to respond to the Board's recommendations. This allows for timely review. If the Secretary does not respond in 30 days, then the recommendation shall be considered disapproved.

Section (3) outlines the next steps for adopting fee changes, which are adoption into regulation and posting online at:

<https://www.cdfa.ca.gov/plant/pollinators/ApiaryProtection.html>

Both these actions allow the public to be notified of proposed fee changes.

Section (4) explains that the fees will be effective upon the first day of the year following the date on which the approved change is posted to <https://www.cdfa.ca.gov/plant/pollinators/ApiaryProtection.html> if prior to October 1. Fees posted after October 1 will become effective on the first day of the second year following the date posted. This gives apiary owners time to plan for the upcoming fee change.

The authority and reference for this section has been updated from Section 29032 to 29044, as 29044 is the existing law that prohibits an annual registration fee from exceeding two hundred and fifty dollars.

### 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 29026, provides that the (Apiary) Board shall be advisory on all matters related to the beekeeping industry and may make recommendations on all matters affecting the activities of the department in relation to the beekeeping industry including an annual review of the department's apiary program.

Existing law, FAC Section 29044 provides that each beekeeper, apiary owner, apiary operator, broker, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee not to exceed two hundred fifty dollars (\$250) to the secretary on January 1 of each year, to cover the cost of apiary registration. The Secretary may adopt such regulations and update a schedule of registration fees.

#### Evaluation of Inconsistency/Incompatibility with Existing State Regulations

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

#### Anticipated Benefits from This Regulatory Action

The implementation of these amendments will allow for higher fees to be collected from apiary owners. County agricultural commissioners will be able to enforce apiary registration. Registering apiaries allows the Department and county agricultural commissioners to know where these apiaries are and be in contact with apiary owners to notify them of pesticide releases that can affect the bees, leading to healthier apiaries overall.

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 Section 11346.3(b))

The Department estimates the direct costs to registrants for annual apiary registration to be \$369,400 (2023 dollars) in the first year. This estimate is based on 2022 apiary registration data from BeeWhere, a uniform apiary registration platform owned by the California Agricultural Commissioners and Sealers Association (CACASA), and based on the proposed fee structure to be included in the amended regulation.(, .

Apiary Colonies	Registrants	Proposed Fee	Cost
1-9	4,291	\$0	\$0
10-50	514	\$100	\$51,400
50+	1,272	\$250	\$318,000
-	6,077	-	\$369,400

The annual recurring costs of the regulations is estimated to be \$369,400 (2023 dollars), but the actual amount will be directly proportional to the number of registrants in each colony tier. The estimated total cost be \$7,388,000 (2023 dollars) after twenty years.

The amendment will have an economic effect on businesses, including small businesses. However, there will be no costs to businesses with one to nine colonies as they would no longer be required to pay a registration fee. The small fee charged to larger business will not be large enough to affect business operations. The benefit of this fee to businesses will be notifications of pesticide applications and as well as theft prevention and recovery.

*The Creation or Elimination of Jobs within the State*

This amendment raises registration fees charged to apiary owners. It is not expected to have a significant effect on any business. 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*

This amendment raises registration fees charged to apiary owners. It is not expected to have a significant effect on any business. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses in the State of California.

*The Expansion of Businesses in California*

This amendment raises registration fees charged to apiary owners. It is not expected to have a significant effect on any business. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the expansion of businesses currently doing business in the State of California.

*Worker Safety*

The amendment of this regulation may have a positive effect on worker safety, as being alerted to pesticides being used in the surrounding area could be a safety benefit.

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

The Department has determined that Sections 2950 and 2951 do 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 2950 and 2951.

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 adoption of this amendment.

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

*Potential Impact to Homeowners and Community Gardens*

This amendment raises registration fees charged to apiary owners. Homeowners and community gardens with less than 10 colonies do not need to pay the amended fee.

*Potential Impacts to General Fund and Welfare*

The proposed regulation does not have immediate or definitive impact to the general fund or general welfare. This amendment raises registration fees charged to apiary owners.

Assessment

The Department has made an assessment that the amendment to these regulations 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 (6) is expected to benefit workers' safety.

Health and welfare: Less exposure to pesticides is a general benefit of the amendment.

Environment: Having apiaries registered allows the Department and county agricultural commissioners to know the location of the apiaries and notify apiary owners of pesticide applications that can affect the bees, leading to healthier apiaries overall.

Workers' Safety: The amendment of these regulations benefits worker safety because the amendments assist with alerting workers to pesticide use in the surrounding area, which is a safety benefit.

These conclusions are based upon the same analysis related to the adverse economic impact on businesses above. Furthermore, the Department does not expect this fee increase to create jobs or businesses.

#### Alternatives Considered

The Department must determine that no alternative 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 actions.

The Department considered taking no action. If no action is taken the fee structure will not be changed and apiaries will continue to be unregistered. Some counties will continue not collecting these fees. If apiaries are not registered, the county agricultural commissioners will be unable to perform actions such as notifying apiary owners when a pesticide is being sprayed.

The Department also considered implementing an out-of-state hive fee, a broker registration fee, and using State General Funds (Bee Safe Program Legislative Report, p.8). However, the proposed fee structure in the regulation was determined to be the most effective means to fund the program.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents to amend of

Sections 2950 and 2951:

BeeWhere Help Mailbox, Email sent July 14, 2023, Registered Apiary Information?

Department of Food and Agriculture, "Memorandum, California State Apiary Board Motions – January 12, 2023" January 26, 2023

California Agricultural Commissioners and Sealers Association [CACASA], 399 Attachment, July 14, 2023