

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

Sections

2950 Assessment

2951 Assessment Fee

2952 Penalties

2953 Filing of Business Address

2954 Payment Form

**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) Sections 2950 Assessment, 2951 Assessment Fee, 2952 Penalties, 2953 Filing of Business Address, and 2954 Payment Form.

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 October 28, 2024. The Department will consider only comments received at the Department offices by that date or postmarked no later than October 28, 2024. 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 2950-2954 pursuant to the authority vested by Sections 407, 29040, 29042, 29043, 29044, 29045, and 29101 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 29044, 29301, and 29302 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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. Due to this discrepancy, the industry supported the passage of Assembly Bill 719 (2023), which increased the amount allowed for the apiary registration fee from \$10 to a maximum \$250 annual fee. The Department, in consultation with the Department’s Apiary Advisory Board, the California Association of Commissioners and Sealers Association, California State Beekeepers Association (industry) and the public, propose to change the existing fee from 0.15 cents per colony to the new fee structure shown below:

<u>Number of colonies</u>	<u>Fee</u>
1-9	\$10.00
10-24	\$100.00
25 + colonies	\$250.00
Broker	\$250.00

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 29040, provides that every person that is the owner, broker, or is in possession of an apiary that is located within the state, on the first day of January of each year, shall register the number of colonies in each apiary that is owned or possessed by the person and the location of each apiary. Every person required to register under this article, shall do so on the first day of January of each year in which they maintain, possess, or are in possession of an apiary, or within 30 days thereafter, as prescribed in this article.

Existing law, FAC Section 29042, provides that every person who moves bees into the state or otherwise comes into possession of an apiary that is located within the state after the first day of January, shall register the name of the owner and the number and location of colonies moved into the state or so acquired within 30 days after coming into possession of the apiary.

Existing law, FAC Section 29043, provides that registration of an apiary shall be filed with the commissioner of the county in which the apiary is located, or with the director if there is no commissioner in the county. The director shall adopt a form of registration to be used statewide, which shall include a request for notification of use of pesticide in accordance with Section 29101. All commissioners shall use the same form.

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.

Existing law, FAC Section 29045 provides that it is unlawful for a person to maintain any apiary that is not registered pursuant to this article. Each registration is valid until January 1 of the following year.

Existing law, FAC Section 29101 provides that each beekeeper shall report to the commissioner of the county in which the beekeeper's apiary is located, on a form approved by the secretary, each location of apiaries for which notification of pesticide usage is sought. This report for notification may be filed with and be part of the form used for registration pursuant to Article 4 (commencing with Section 29040), or shall be submitted in writing if notice of relocation is made as set forth in Section 29070 or 29070.5. Except for reports filed as part of an initial registration pursuant to Section 29040, each request shall be provided electronically or shall be mailed within 72 hours before locating an apiary, where feasible, but in no event later than 72 hours after locating an apiary.

Existing law, FAC Section 29301 provides that the director may make any regulations that are reasonable and necessary to carry out this chapter.

Existing law, FAC Section 29302 provides that unless otherwise stated, it shall be an infraction for any person to fail to comply with any requirement of this chapter, or regulations adopted pursuant to this chapter, after a warning notice of seven days is given.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

The implementation of these amendments will allow for higher fees to be collected from some 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.

There are no existing, comparable federal regulations or statute.

There will be 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 2950 thru 2954 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: None

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: The amendment will have an economic effect on business; however, there will be no increased costs to businesses with one to nine colonies as the historic rate remains the same for this group. 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.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The Department has determined that the proposed action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination there will be no increased costs to businesses with one to nine colonies as the historic rate remains the same for this group. The small fee charged to larger business will not be large enough to affect business operations.

Significant effect on housing costs: None

Small business determination: The proposed action will not affect small business because the beginning tier of 1-9 represents the number designated in statute (Food and Agriculture Code 29044) as the number of hives that are designated as a hobbyist and qualify for a waiver. This amount remains at \$10 after consultation with hobbyists and other public members that were likely to be impacted by this fee.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / 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 of California residents: The amendment of these regulations benefits the health and welfare of California residents. Pollinator health insures important pollination services to commercial agricultural crops as well as home gardens, providing a more secure food system, lower costs, less carbon emissions.

Environment: The amendment of these regulations benefits the state's environment. Having more healthy pollinators will benefit all plants requiring pollination they interact with, both native and not.

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 safely benefit.

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.