

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE
Notice of Proposed Rulemaking

The Department of Food and Agriculture proposes to amend Section 3601 of the regulations in Title 3 of the California Code of Regulations pertaining to the assessment on sales of tomatoes, sugar beets, muskmelons, watermelons, cucumbers, dry beans, green lima beans, green snap beans, peppers, spinach, squash (green weight) and pumpkins (green weight).

PUBLIC HEARING

A public hearing is not scheduled. 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 his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to smccarthy@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on December 27, 2010. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Susan McCarthy
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 985814
smccarthy@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

AUTHORITY AND REFERENCE

Food and Agricultural Code Section 407 authorizes the Department to amend this regulation. The proposed revision is to a regulation that interprets and makes specific Sections 6034, 6035 and 6036 of the Food and Agricultural Code.

INFORMATTIVE DIGEST/POLICY STATEMENT OVERVIEW

Food and Agricultural Code (FAC) Section 6035 authorizes the secretary to establish and adjust the assessment rate for the beet leafhopper control program.

FAC Section 6034 establishes the four districts for the Curly Top Virus Program (Program). FAC Section 6036 provides that the assessment to support the Program may vary from district to district and from crop to crop based on the degree of vulnerability to

damage from curly top virus experienced by the affected crops in each district, and may vary in accordance with the protection afforded to the affected crops in each district.

FAC Section 6039 provides for the establishment of a Beet Curly Top Virus Control Board (Board) and Section 6041 provides that the Board shall make recommendations on all matters pertaining to the Program, including assessments.

The proposed amendments to Section 3601(g), Title 3, California Code of Regulations, will decrease the assessment for all affected crops, except sugar beets and tomatoes. The assessments for these two crops will not be changed.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The proposed amendment will reduce the assessment rates for all affected crop producers, except producers of tomatoes and sugar beets. Those assessments rates will be unchanged.

Amendment of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations will affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department 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 action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Susan McCarthy
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
smccarthy@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

In her absence, you may contact Stephen Brown at the same phone number.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all of the information upon which its proposal is based, and has available the express terms of the proposed action. 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 above.

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. McCarthy at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulation 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 regulation as revised. Please send requests for copies of any modified regulations to the attention of Susan McCarthy at the address indicated above. 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 will be posted on the Department's web site or a copy may be obtained by contacting Ms. McCarthy at the address listed above.