

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED AMENDMENT OF THE REGULATIONS

Title 3, California Code of Regulations

Section 3906

INITIAL STATEMENT OF REASONS

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations are Intended to Address

This regulation is intended to address the obligation of the Secretary of Food and Agriculture to set an annual assessment rate on the gross annual dollar volume sales of agricultural and/or vegetable seed.

Specific Purpose and Factual Basis

The specific purpose of Section 3906 is to establish the annual assessment rate per one-hundred dollars gross annual dollar volume sales of agricultural and/or vegetable seed for the preceding fiscal year, beginning July 1. This assessment supports the activities of the Seed Services Program, which administers seed law enforcement throughout California. Staff of the Seed Services Program assist county agricultural commissioners in all seed-related enforcement activities and evaluate compliance at the local and statewide level. The Department's associate agricultural biologists conduct seed sampling and coordinate enforcement activities of assigned counties, as well as investigate seed complaints. The Seed Services Program interacts with agricultural departments in other states, the United States Department of Agriculture, industry representatives, and the California Crop Improvement Association, which is the authorized seed certifying agency for California. The Department's agricultural biologists stationed throughout the State perform compliance monitoring through the annual collection of over 600 seed samples.

Food and Agricultural Code (FAC), Sections 52291-52298 provides for an eleven member Seed Advisory Board (Board) and establishes the composition, terms of office and duties of the Board. One of the duties, provided by Section 52296, is to recommend the assessment rate on gross annual dollar volume sales of agricultural and/or vegetable

seed sold in California. FAC, Section 52354 establishes that the assessment rate shall not exceed \$0.40 per \$100 gross annual dollar volume sales of agricultural and/or vegetable seed.

The current assessment rate of \$0.28 per \$100 gross annual sales was filed December 6, 2010 and became operative in regulations for the fiscal year beginning July 1, 2010. FAC Section 52354.5 establishes that the Board shall make a recommendation regarding the level of assessment to the director (Secretary) and that the director shall fix the annual assessment rate. Based on the Program's presentation of sales projections and expected revenue collections the Board approved a motion during their May 5, 2011 meeting to further reduce the assessment rate from \$0.28 to \$0.25 per \$100 gross annual seed sales made after July 1, 2011. The Board made this recommendation after they determined the present rate will cause the Program's reserve to grow to nearly \$2 million; well above the Program's total annual budget of approximately \$1.5 million. A rate of \$0.25 per \$100 will reduce the amount collected by the Department by approximately \$150,000. The Board believes this reduction in the assessment rate is necessary to prevent further growth of the reserve and will still allow sufficient funds to be collected each year to support the Program's budget.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department relied on the recommendation of the Seed Advisory Board in proposing the amendment to this regulation.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Department does not anticipate any adverse impact on small businesses from a reduction in assessment payment on their seed sales.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE  
ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

In fiscal year 2010 there were 214 firms in CA that forwarded assessment collections to the Department. One hundred and forty-eight of those firms reported sales valued at less than \$4 million dollars. They submitted an average payment of approximately \$720 per year. The proposed change to the assessment rate will reduce the average payment of those firms by about \$75. The remaining 56 larger firms, which reported average sales of over \$4 million per year, will realize an average reduction in assessment payment of approximately \$1,220 each.

Information Relied Upon

The Department is relying upon the following documents in the proposed amendment of Section 3906.

Memorandum from John Heaton to Stephen Brown, dated May 12, 2011

Minutes, dated May 5, 2011, Seed Advisory Board

18 Year Comparison and Projection Chart, Seed Sales vs. Budget, CDFA