

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 03, California Code of Regulations

Amend section: 3601

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2018-0726-02

OAL Matter Type: Regular Resubmittal (SR)

This action by the Department of Food and Agriculture specifies rate adjustment procedures for the Beet Curly Top Virus Control Program.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 9/6/2018 pursuant to Government Code section 11343.4(b)(3).

Date: September 6, 2018



**Nicole C. Carrillo
Attorney**

**For: Debra M. Cornez
Director**

**Original: Karen Ross, Secretary
Copy: Rachel Avila**

NOTICE PUBLICATION (REGULATIONS SUBMISSION) (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2018-0226-01	REGULATORY ACTION NUMBER 2018-0726-02 SR	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

ENDORSED - FILED
In the office of the Secretary of State
of the State of California
SEP 06 2018
1:44pm

AGENCY WITH RULEMAKING AUTHORITY
Department of Food and Agriculture

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2018-10-2	PUBLICATION DATE 3/9/2018	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Assessments for Control of Beet Leafhopper	1b. ALL PREVIOUS RELATED REGULATORY ACTION NUMBER(S) 2018-0424-01 S <i>per agency request 9/6/18</i>
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND 3601
TITLE(S) 3	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
7/11/18 - 7/25/18 per agency request 9/6/18

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Rachel Avila	TELEPHONE NUMBER 916-403-6813	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Rachel.Avila@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Nick Condos</i>	DATE 7-26-18
TYPED NAME AND TITLE OF SIGNATORY Nick Condos, Director, Plant Health and Pest Prevention Services	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 06 2018

Office of Administrative Law

3 CCR § 3601

§ 3601. Assessments for Control of Beet Leafhopper.

This section establishes a schedule of, and procedures for the collection of, assessments for the crops shown in ~~paragraph~~subsection (g) below for the purpose of beet leafhopper control as authorized in sections 6032-6036 of the Food and Agricultural Code, ~~added by Ch. 1017, Stats. 1970.~~

(a) As used in this section, unless the context otherwise requires:

(1) Producer-handler means a producer who operates as a handler, as to any crop in ~~paragraph~~subsection (g), produced.

(2) Producer means any person who owns or shares in the proceeds of a crop subject to payment of assessment pursuant to this section.

(b) The ~~Secretary~~Director of Food and Agriculture, pursuant to Sections 6031-6036 of the Food and Agricultural Code, hereby establishes an assessment for each crop produced in each district stated in ~~paragraph~~subsection (g). The full amount of the assessment shall be collected from the producer by the first handler at the point and time that the crop is purchased or received by the handler, or in the case of a producer-handler when the crop is marketed.

(c) The assessment collected from producers by handlers or due from producer-handlers with the exception of handlers of dry beans and/or vine seeds shall be paid to the ~~Secretary~~Director before the 15th day of the following month. Assessments collected from producers by handlers or due from producer-handlers of dry beans and/or vine seeds shall be paid to the ~~Secretary~~Director annually by April 1 for products cleaned during the crop year.

(d) Each handler or producer-handler shall accompany payments with a statement in duplicate containing such information as is required by instructions of the ~~Secretary~~Director.

(e) Each handler or producer-handler shall maintain for four years such books and records as are necessary to verify reports and remittances to the ~~Secretary~~Director. All such records shall be made available for inspection by the ~~Secretary~~Director.

(f) All information obtained by the ~~Secretary~~Director from books, records, and reports of handlers or producer-handlers pursuant to this section shall be confidential.

(g) The assessments are as follows:

District I - Imperial and Riverside Counties.

	<i>Assessment Rate Per Ton</i>
<i>Crop</i>	<i>(Dollars)</i>
Tomatoes	.271
Sugar Beets	.041
Muskmelons	.030
Watermelons	.010
Cucumbers	.030
Beans (Dry)	.059
Beans (Green Lima)	.051
Beans (Green Snap)	.036
Peppers	.062
Spinach	.010
Squash (Green weight)	.028
Pumpkin (Green weight)	.016

District II - Kern, Kings, Tulare, Fresno, Madera, Merced, Stanislaus, and San Joaquin counties, and that portion of Los Angeles County lying north of the San Gabriel Mountains.

	<i>Assessment Rate Per Ton</i>
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<i>Crop</i>	<i>(Dollars)</i>
Tomatoes	.127
Sugar Beets	.053
Muskmelons (Green weight)	.033
Muskmelons (Vine seed)	1.823
Cucumbers (Green weight)	.026
Cucumbers (Vine seed)	1.846
Beans (Dry)	.097
Beans (Green Lima)	.083
Beans (Green Snap)	.056
Peppers	.108
Squash (Green weight)	.028
Squash (Vine seed)	1.266
Pumpkin (Green weight)	.016
Pumpkin (Vine seed)	.725
Spinach	.010
Watermelon (Green weight)	.010

Watermelon (Vine seed)	.624
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District III - Sacramento, Solano, Yolo, Placer, Sutter, Yuba, Colusa, Butte, Glenn, and Tehama counties.

	<i>Assessment Rate Per Ton</i>
<i>Crop</i>	<i>(Dollars)</i>
Tomatoes	.019
Sugar Beets	.020
Muskmelons (Green weight)	.017
Muskmelons (Vine seed)	2.393
Cucumbers (Green weight)	.010
Cucumbers (Vine seed)	.644
Beans (Dry)	.031
Beans (Green Lima)	.035
Beans (Green Snap)	.010
Peppers	.010
Spinach	.010
Watermelon (Vine seed)	.169
Squash (Green weight)	.010

Squash (Vine seed)	1.266
Pumpkin (Green weight)	.010
Pumpkin (Vine seed)	.725

District IV - Alameda, Contra Costa, Monterey, San Benito, San Luis Obispo, Santa Clara, Santa Cruz, and Santa Barbara counties.

	<i>Assessment Rate Per Ton</i>
<i>Crop</i>	<i>(Dollars)</i>
Tomatoes	.064
Sugar Beet	.025
Muskmelons (Vine seed)	.704
Cucumbers (Green weight)	.012
Cucumbers (Vine seed)	.683
Beans (Dry)	.061
Beans (Green Lima)	.044
Beans (Green Snap)	.053
Peppers	.086
Spinach	.010
Squash (Green weight)	.012

Squash (Vine seed)	1.266
Pumpkin (Green weight)	.010
Pumpkin (Vine seed)	.725

(h) The assessment rates listed in subsection (g) may be adjusted by the Secretary, whenever necessary as provided in Section 6036 of the Food and Agricultural Code, in the following manner:

(1) The Beet Curly Top Virus Control Board (Board) shall be advisory to the Secretary and may make recommendations on necessary assessments required to accomplish the purposes of the program as provided in Food and Agricultural Code section 6031.

(A) Prior to making a recommendation to the Secretary, the Board shall provide notice of the agenda for the scheduled Board meeting, showing matters to be considered by the Board. The agenda shall include the topics to be discussed, the date, time, and location of the Board meeting, and a statement that the Board meeting is open to the public. The agenda shall be mailed at least 15 days ahead of the scheduled meeting date to board members, potentially affected commodity stakeholders, producers, handlers, and producer-handlers as described in subsection (a), and interested parties who have requested such notice in writing. The agenda shall be posted online at least 10 calendar days before the Board meeting at https://www.cdfa.ca.gov/plant/ipc/curlytopvirus/ctv_hp.htm.

(B) If the Board approves a proposed change in assessment rates as necessary to meet the operational needs of the program as provided in Sections 6031 and 6036 of the Food and Agricultural Code, then the Board shall promptly make its written recommendation on assessment rates to the Secretary.

(2) The Secretary shall approve or disapprove of the recommendation and so notify the Board in writing of his or her decision within thirty (30) calendar days of receipt of the recommendation of proposed changes by the Board.

(3) If the recommendation is approved by the Secretary, the Department shall provide electronic or written notification of the change in assessment rates to producers,

handlers, and producer-handlers. The new assessment rates will be reflected in subsection (g) and made available online at

https://www.cdfa.ca.gov/plant/ipc/curlytopvirus/ctv_hp.htm.

(4) The new assessment rates shall become effective on the first day of the third month following the date on which the approved change in rates is provided to producers, handlers, and producer-handlers and shall be paid as described in subsection (c).

Note: Authority cited: Sections 407, 6034, 6035, Food and Agricultural Code.
Reference: Sections 6034, 6035, ~~and 6036~~, and 6041, Food and Agricultural Code.