

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**

**PROPOSED REGULATIONS FOR MANUFACTURERS AND  
DISTRIBUTORS OF COMMERCIAL FEED**

**Title 3. CALIFORNIA CODE OF REGULATIONS**

**SECTION 2675: Definitions**

**SECTION 2734: Adulteration**

**SECTION 2735. Supplemental Cottonseed Product Controls**

***CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE***

*Feed, Fertilizer, Livestock Drugs and Egg Regulatory Services*

*1220 N Street*

*Sacramento, CA 95814*

*916-445-0444*

**CALIFORNIA CODE OF REGULATIONS  
TITLE 3. FOOD AND AGRICULTURE  
DIVISION 4. PLANT INDUSTRY  
CHAPTER 2. FIELD CROPS  
SUBCHAPTER 2. COMMERCIAL FEED  
ARTICLE 9. MISBRANDING AND ADULTERATION**

**NOTICE OF PROPOSED RULE MAKING**

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture (Department) proposes to amend Sections 2675, 2734, and 2735 of the regulations in Title 3 of the California Code of Regulations pertaining to definitions and adulteration.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on June 8, 2009. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Kent Kitade, Program Supervisor  
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

**AUTHORITY AND REFERENCE**

Notice is hereby given, that the Department of Food and Agriculture proposes to amend regulations in Title 3 of the California Code of Regulations pursuant to the authority vested by Sections 407 and 14902 of the Food and Agricultural Code (FAC) and to implement, interpret, or make specific Section 15041 of the Food and Agricultural Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Section 407 of the FAC states that the Secretary of California Department of Food and Agriculture (Secretary) may adopt such regulations as are reasonably necessary to carry out the provisions of the FAC which he is directed or authorized to administer or enforce. FAC Section 14902 states that the Secretary shall enforce this chapter and adopt and enforce those regulations relating to the manufacturing and distribution of commercial feed, as the Secretary deems necessary to carry out the statutes.

Section 15041 of the FAC describes adulterated feed. In particular, Section 15041(a) states that a commercial feed is adulterated if it bears or contains any poisonous substance in amounts specified as unsafe by the Secretary.

Within the authority of California Food and Agricultural Code, Section 15041, the Department is proposing to:

- Adopt Section 2675 subsection (i) of the California Code of Regulations by adding Section 2751(b) to define “aflatoxins”
- Amend Section 2734, subsection (a)(6) which sets the limit for aflatoxins at which commercial feed is deemed adulterated.
- Amend Section 2735, subsections (a), (b), and (d) which describes documentation required for cottonseed originating outside of California to enter the state.
- Repeal Section 2735, subsection (e) that allows cottonseed meal with higher limits of aflatoxins to be fed to beef cattle in Imperial County feedlots.

### **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 non-discretionary cost or saving 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 Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption 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.

## **EFFECT ON SMALL BUSINESS**

The Department has initially determined that the proposed changes in the regulations would result in no added costs to small businesses affected by these proposed changes. There are no new costs associated with the proposed regulations. There are no new or additional fees associated with the proposed regulation changes. The potential savings to mitigate a contaminated milk incident outweigh the costs incurred to comply with the proposed change of the meaning of aflatoxin and the removal of the exemption.

## **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative considered by the Department, 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 regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

## **CONTACT PERSON**

Inquiries concerning the proposed administrative action may be directed to:

Kent Kitade, Program Supervisor  
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814  
916-445-2140

The backup contact person for these inquiries is:

Dale Rice, Program Supervisor  
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814  
916-445-0444

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Mr. Kitade at the above address.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons;

the Feed Inspection Advisory Board meeting minutes; the letter of support from California Grain and Feed Association. Copies may be obtained by contacting Kent Kitade at the contact address or phone number listed above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After 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 that 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. Please send requests for copies of any modified regulations to the attention of Kent Kitade at the contact 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 FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Kent Kitade at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: [www.cdffa.ca.gov/is/regulation.htm](http://www.cdffa.ca.gov/is/regulation.htm)