

REGULATION EXEMPT FROM THE ADMINISTRATIVE PROCEDURE ACT

The proposed regulation is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code section 485(d). However, the Department herein provides an Initial Statement of Reasons.

DEPARTMENT OF FOOD AND AGRICULTURE

PROPOSED ADOPTION OF REGULATION

Title 3, California Code of Regulations

Division 1, Chapter 5

Sections 400 through 700, Grant Administration

INITIAL STATEMENT OF REASONS

Description of the Public Problem, Administrative Requirement, or Other Condition of Circumstance the Regulation is Intended to Address

The Department of Food and Agriculture (Department) receives federal funds for various purposes consistent with promoting, protecting, and enhancing agriculture in this state. These federal funds, received as grants and cooperative agreements are subject to the federal regulations currently contained in Title 2 of the Code of Federal Regulations (CFR) (beginning with section 200). These federal regulations clearly state the requirements for federally-funded grants and cooperative agreements.

The Department also receives non-federal funds consistent with promoting, protecting, and/or enhancing the agricultural industry in the state. However, currently no state regulations exist to consistently govern these non-federal funds when awarded to recipients by the Department. The proposed regulation is intended to address this issue.

The Governor's 2016-2017 proposed budget includes a total of \$75 million in non-federal funds to promote, protect, and enhance California agriculture. This is in addition to more than \$29 million in non-federal funds awarded between July 2015 and January 2016.

The majority of the non-federal funds were received in March 2015 as a one-time appropriation and the grant program was administered on a competitive basis with procedures modeling the federal regulations. Subsequent non-federal funding received in fiscal year 2015-2016 was also designated as a one-time appropriation and again the grant program was administered on a competitive basis with procedures modeling the federal regulations. Other non-federal funds awarded in fiscal year 2015-2016 were received from special interest license plate fees, and the grant program was also administered on a competitive basis with procedures modeling the federal regulations. Continuing availability of these funds is subject to receipt of special interest license plate fees and therefore the amount of future funding is unknown. Assembly Bill 485 [Stats. 2015, Ch. 557] established the Prevention of Animal Cruelty and Homelessness Fund and provides for a competitive grant process for grants funded by the Prevention of Animal Cruelty and Homelessness Fund and awarded by the Department.

Despite recent appropriations of non-federal funding designated as one-time funding or the uncertainty of continued funding, the Governor's proposed budget for fiscal year 2016-2017 indicates a probability of additional non-federal funding in the future. Therefore, adopting the proposed regulation to administer

non-federally funded grants is in the best interest of the potential applicants and recipients, as well as the Department, the agricultural industry, and the people of the State of California. Consideration was given to adopting Title 2 of the Federal Code of Regulations section 200 et seq., but the Department determined that large portions of the federal regulations are not applicable to non-federally funded grants and will not be effective if the Department were to adopt. While grant administration regulations for other departments exist, several were evaluated and the determination was made that none may be utilized by the Department as the subject matter is too specific for the Department's use.

Anticipated Benefits of the Proposed Regulation

The proposed regulation would ensure that grants funded with non-federal monies are awarded and managed in an effective and efficient manner. In addition, this rulemaking action would promote consistency, fairness, and equity and prevent discrimination in awarding and managing grant funds. The proposed regulation would establish the transparent regulatory framework of the requirements, processes, and procedures relating to applying for grant awards and managing grant awards. This would ensure applicants and recipients have a clear understanding of their and the Department's responsibilities, leading to the effective and efficient use of grant funds, and therefore safeguarding those funds.

Specific Purpose and Necessity of each Subsection

Subsection 400 Applicability

Purpose: The purpose of this subsection is to set forth the applicability of this Chapter to grants funded by non-federal funds.

Necessity: This subsection is necessary to clarify that the regulation applies only to grants funded by non-federal funds.

Subsection 401 Definitions

Purpose: The purpose of this subsection is to provide definitions of key terms for the regulation.

Necessity: This subsection is necessary because terms could be subject to multiple interpretations. This subsection improves consistency, clarity and overall understanding of the regulation by making terms specific.

Subsection 402 Pre-award procedures

Purpose: The purpose of this subsection is to establish when the Department will conduct a pre-award process, and the procedures for the pre-award process.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure applicants have a clear understanding of the application process and requirements.

Subsection 402.1 Request for Proposals

Purpose: The purpose of this subsection is to establish the requirement to issue a request for proposals for awards made on a competitive basis, and that a request for proposals is not required for awards made on a non-competitive basis.

Necessity: This subsection is necessary to ensure equal opportunity to all interested persons who apply for a grant award in a competitive process, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 402.2 Contents of a request for proposals

Purpose: The purpose of this subsection is to establish the information a request for applications must contain.

Necessity: This subsection is necessary to ensure potential applicants are provided with information regarding the specific grant program and the requirements of the application process, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 403 Competitive process

Purpose: The purpose of this subsection is to establish the requirement that grant awards be made on a competitive basis whenever possible, and this section applies to grants awarded on a competitive basis.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 403.1 Administrative review

Purpose: The purpose of this subsection is to establish a process for administrative review of applications to ensure that minimum eligibility and application criteria are met.

Necessity: This subsection is necessary to ensure consistency in the administrative review of applications, to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 403.2 Technical review

Purpose: The purpose of this subsection is to establish a process for technical review of applications to determine the merits of proposals.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, to ensure consistency in the technical review of applications, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 403.3 Recommendation for funding

Purpose: The purpose of this subsection is to establish the bases on which recommendations for funding shall be made, recommendations are submitted to the Secretary or designee for decision, the Secretary's or designee's decision is final and not subject to appeal, and to ensure potential applicants have a clear understanding of the application process and requirements.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, to ensure consistency by establishing the bases for recommendations for funding, that recommendations are submitted to the Secretary or designee for decision, to establish the Secretary's or designee's funding decision is final and not subject to appeal, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 404 Non-competitive process

Purpose: The purpose of this subsection is to establish procedures for a non-competitive grant award process.

Necessity: This subsection is necessary to establish processes in those instances where a competitive process is not possible, to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 404.1 Administrative review

Purpose: The purpose of this subsection is to establish a process for administrative review of applications to ensure minimum eligibility and application criteria are met.

Necessity: This subsection is necessary to ensure consistency in the administrative review of applications, promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 404.2 Technical review

Purpose: The purpose of this subsection is to establish that technical review is not required in a non-competitive process.

Necessity: This subsection is necessary to establish a technical review is not required in a non-competitive process, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 404.3 Recommendation for funding

Purpose: The purpose of this subsection is to establish that a recommendation for funding shall be based on either the applicable statute, court order, or mandate under which the grant program or the proposed use of the funds is authorized, recommendations are submitted to the Secretary or designee for decision, and the Secretary's or designee's decision is final and not subject to appeal.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, to ensure consistency by establishing the bases by which recommendations for funding will be made in a non-competitive process, that recommendations are submitted to the Secretary or designee for decision, to establish the Secretary's or designee's funding decision is final and not subject to appeal, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 405 Disqualification

Purpose: The purpose of this subsection is to establish the bases for disqualification from the application process, requirement for notification, and method to appeal.

Necessity: This subsection is necessary to ensure consistency, promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 406 Technical reviewers

Purpose: The purpose of this subsection is to establish the qualifications of technical reviewers, and the process for reimbursing technical reviewers for travel expenses.

Necessity: This subsection is necessary to ensure technical reviewers have the expertise to perform a technical review of applications, to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to establish the process for reimbursement of travel expenses.

Subsection 406.1 Qualifications

Purpose: The purpose of this subsection is to establish technical reviewer qualifications.

Necessity: This subsection is necessary to ensure technical reviewers have the expertise to perform a technical review of applications, promote consistency, fairness, and equity and prevent discrimination in awarding grant funds, and to ensure potential applicants have a clear understanding of the application process and requirements.

Subsection 406.2 Reimbursement for travel expenses

Purpose: The purpose of this subsection is to establish the availability, rates, and process for technical reviewers to receive reimbursement for travel expenses.

Necessity: This subsection is necessary to ensure technical reviewers have a clear understanding of the process and requirements for reimbursement for travel costs.

Subsection 407 Award notification

Purpose: The purpose of this subsection is to establish the process by which award notification is conducted, and that grant activities may not begin until a grant agreement is fully executed.

Necessity: This subsection is necessary to ensure potential applicants have a clear understanding of the award notification process, and when grant activities may commence.

Subsection 500 Post-award procedures

Purpose: The purpose of this subsection is to establish the procedures by which the Department will manage grant awards.

Necessity: This subsection is necessary to promote consistency, fairness and equity, prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the grant management process and requirements.

Subsection 500.1 Grant agreement

Purpose: The purpose of this subsection is to establish the requirements with regard to a grant agreement.

Necessity: This subsection is necessary to promote consistency, fairness and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure recipients expend grant funds in an effective, efficient, and allowable manner.

Subsection 501 Prior approval required

Purpose: The purpose of this subsection is to establish what actions by the recipient require prior written approval from the Department, the timeframe in which a decision from the Department is required, and that failure to obtain prior approval may result in disallowance of costs incurred.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 502 Access

Purpose: The purpose of this subsection is to establish the requirement that the recipient shall allow access to the project and project site, records and documentation relevant to the grant award, and any employees who may have information related to the grant award, provide documents and information relevant to the grant award within a reasonable time after a request is made by the Department, and that failure to allow access or provide the requested documents and information may result in the Department pursuing remedies for non-compliance.

Necessity: This subsection is necessary to promote consistency, fairness and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure recipients expend grant funds in an effective, efficient, and allowable manner.

Subsection 503 Performance compliance

Purpose: The purpose of this subsection is to establish that grant awards are subject to a performance compliance review, the reasons for the review, the ability to utilize technology to conduct such a review, and completion or closeout of the grant award does not preclude a performance review.

Necessity: This subsection is necessary to promote consistency, fairness and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure recipients expend grant funds in an effective, efficient, and allowable manner.

Subsection 504 Financial compliance

Purpose: The purpose of this subsection is to establish that grant awards are subject to a financial compliance review, and completion or closeout of the grant award does not preclude a financial compliance review.

Necessity: This subsection is necessary to promote consistency, fairness and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure recipients expend grant funds in an effective, efficient, and allowable manner.

Subsection 505 Reports

Purpose: The purpose of this subsection is to establish the requirement that progress and final reports shall be submitted in accordance with the grant agreement terms and conditions, and extension of report due dates shall be approved by the Department in writing.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 506 Payment

Purpose: The purpose of this subsection is to establish procedures for payment.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 506.1 Advance payment

Purpose: The purpose of this subsection is to establish the requirements under which a recipient may obtain an advance payment.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 506.2 Invoices

Purpose: The purpose of this subsection is to establish that invoices for reimbursement shall be submitted in accordance with payment requirements in the grant agreement, and extension of invoice due dates shall be approved by the Department in writing.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 506.4 Delay of payment

Purpose: The purpose of this subsection is to establish the circumstances under which payment may be delayed, and payment of any undisputed portion of the invoice will not be delayed.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 508.6 Notification of delay of payment

Purpose: The purpose of this subsection is to establish the requirement to provide notification when delaying a payment, the information to be provided in the notification, including the process by which the recipient may appeal the delay of payment, and the requirement that delayed payment will be processed upon resolution of the reasons for delaying payment.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 507 Withhold ten percent pending closeout

Purpose: The purpose of this subsection is to establish the requirement of withholding ten percent of the grant award amount pending approval of the final invoice and final report, and resolution of any outstanding performance or financial compliance issues, that a notice is not required for a ten percent withhold, that the ten percent withhold may be reduced or waived by the Department, and such reduction or waiver shall be in writing.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure full payment is not made prior to completion of grant award requirements.

Subsection 508 Use of program income

Purpose: The purpose of this subsection is to establish the requirements for using program income, and that the program income requirements do not apply after the grant duration has expired unless otherwise provided by the grant program requirements or in the grant agreement.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 509 Procurement of goods or services

Purpose: The purpose of this subsection is to establish the requirements for procurement of goods or services.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 510 Contractors

Purpose: The purpose of this subsection is to establish the requirements under which a contractor's services may be obtained.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 510.1 Use of contractors; recipient responsibilities

Purpose: The purpose of this subsection is to establish the requirements under which a contractor's services may be obtained, and the recipient's responsibilities with regard to contractors.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 510.2 Written agreement required

Purpose: The purpose of this subsection is to establish that a written agreement with each contractor is required and the minimum information required for the written agreement.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure grant funds are utilized in an effective, efficient, and allowable manner.

Subsection 510.3 Contractor invoices

Purpose: The purpose of this subsection is to establish that contractor invoices shall contain sufficient detail and information to determine whether expenditures are necessary to the grant award, and that invoices lacking sufficient detail may be disallowed.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure grant funds are utilized in an effective, efficient, and allowable manner.

Subsection 511 Timekeeping requirements

Purpose: The purpose of this subsection is to establish the requirements for activity reports to support salary and wage, and fringe benefit expenditures charged to grant awards.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to ensure grant funds are utilized in an effective, efficient, and allowable manner.

Subsection 512 Travel

Purpose: The purpose of this subsection is to establish the requirements for travel and reimbursement for travel expenses.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 512.1 Choosing a method of transportation

Purpose: The purpose of this subsection is to establish the requirement to utilize the most economical method of transportation, the considerations when making such a determination, and establishes unallowable modes of transportation.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 512.2 Reimbursement of transportation expenses

Purpose: The purpose of this subsection is to establish the requirements for recipients to receive reimbursement for transportation under the grant award, and the maximum reimbursement allowable.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 512.3 Reimbursement for meals, incidentals, lodging expenses for travel within California, outside of California, and international travel.

Purpose: The purpose of this subsection is to establish the requirements for recipients to receive reimbursement for meals, incidentals, and lodging expenses under the grant award, and the maximum reimbursement allowable.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 513 Rights to intellectual property; Department use

Purpose: The purpose of this subsection is to establish the process by which a recipient retains rights to intellectual property, and the circumstances under which the Department may use intellectual property.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 513.1 Rights to intellectual property

Purpose: The purpose of this subsection is to establish the requirements with which a recipient must comply to retain the rights to intellectual property developed as a result of a grant award, the requirement that the recipient notify the Department of applications to protect intellectual property, bear the costs associated with such applications, and establish such costs as unallowable to charge to the grant award.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards and intellectual property.

Subsection 513.2 Department use

Purpose: The purpose of this subsection is to establish the requirements that a recipient must grant the Department limited use license to inventions and royalty-free, non-exclusive license to copyrighted material developed as a result of a grant award.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards and intellectual property.

Subsection 514 Property management and disposition

Purpose: The purpose of this subsection is to establish the requirements for managing property and the process for disposition of equipment and supplies.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the property management and disposition procedures and requirements, and the process and requirements with regard to managing grant awards.

Subsection 514.1 Property records

Purpose: The purpose of this subsection is to establish the requirements for maintaining property records for equipment.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the procedures and requirements with regard to property records, and the process and requirements with regard to managing grant awards.

Subsection 514.2 Disposition of equipment and supplies

Purpose: The purpose of this subsection is to establish the requirements and process for disposition of equipment and supplies.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the procedures and requirements with regard to disposition of equipment and supplies, and the process and requirements with regard to managing grant awards.

Subsection 515 Records retention; access

Purpose: The purpose of this subsection is to establish the requirement to maintain records, the records that must be maintained, the period for which the records must be maintained, and the requirement to provide access to the records.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards.

Subsection 516 Remedies for noncompliance

Purpose: The purpose of this subsection is to establish the remedies the Department may take against a recipient for failure to comply with grant program requirements, grant agreement terms and conditions, the grant management procedure manual, or applicable state laws and requirements.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, and to allow the Department to impose remedies for noncompliance.

Subsection 517 Additional conditions

Purpose: The purpose of this subsection is to establish the additional conditions the Department may impose as a remedy, the reasons for imposing additional conditions, the requirement to notify the recipient of additional conditions imposed, the reasons for imposing additional conditions, the date the additional conditions are effective, the actions required to remove the additional conditions, the timeframe in which the required actions must be completed, the consequences of continued noncompliance, a statement that the action may be considered for future awards, and the method for appealing the additional conditions imposed.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the

process and requirements with regard to managing grant awards, to allow the Department to impose additional conditions on the grant award as a remedy for noncompliance, and to provide the recipient due process.

Subsection 518 Termination

Purpose: The purpose of this subsection is to establish the requirement to notify the recipient of termination, the reasons for termination, the date the termination is effective, a statement that the action may be considered for future awards, and the method for appealing the termination.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, to ensure potential recipients have a clear understanding of the process and requirements with regard to managing grant awards, to allow the Department to terminate a grant award for noncompliance, and to provide the recipient due process.

Subsection 519 Closeout

Purpose: The purpose of this subsection is to establish the closeout procedures.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in managing grant funds, and to ensure potential recipients have a clear understanding of the closeout procedures, and the process and requirements with regard to managing grant awards.

Subsection 600 Allowable and Unallowable Costs

Purpose: The purpose of this subsection is to establish a framework for determining allowable and unallowable costs as applied to grant awards, and provide guidance on specific costs that are allowable or unallowable.

Necessity: This subsection is necessary to provide a framework for determining allowable and unallowable costs to ensure applicants and recipients have a clear understanding of allowable and unallowable costs to meet requirements, effectively and efficiently manage grant awards, and administer grant funds in a manner consistent with program objectives and requirements, as well as the terms and conditions of grant awards.

Subsection 600.1 Allowability of costs; reasonable costs; allocable costs

Purpose: The purpose of this subsection is establish general criteria to determine allowability, and whether costs are reasonable and allocable to a grant award.

Necessity: This subsection is necessary to provide applicants and recipients with a framework for determining allowability and whether costs are reasonable and allocable to a grant award, to ensure applicants and recipients have a clear understanding of allowable and unallowable costs to meet application requirements, effectively and efficiently manage grant awards, and administer grant funds in a manner consistent with program objectives and requirements, as well as the terms and conditions of grant awards.

Subsection 600.2 Guidance

Purpose: The purpose of this subsection is establish the requirement for the Department to maintain on its website a list of allowable and unallowable costs as guidance for applicants and recipients, that failure to mention a particular item in the guidance is not intended to imply the cost is allowable or unallowable,

and that final determination of allowability is made by the Department, taking into consideration section 600.1.

Necessity: This subsection is necessary to provide applicants and recipients with basic guidance regarding allowable and unallowable costs, ensure consistency to the extent possible with regard to allowable and unallowable costs, and establish that the Department shall make the final determination with regard to allowability.

Subsection 700 Appeals

Purpose: The purpose of this subsection is to establish the process to appeal certain actions taken by the Department pursuant to this Chapter.

Necessity: This subsection is necessary to promote consistency, fairness, and equity and prevent discrimination in awarding grant funds and managing grant funds, and to ensure potential applicants and recipients have a clear understanding of the processes and requirements with regard to applying for and managing grant awards.

Authority and Reference Sections for Regulation

Authority: Sections 407 and 485 of the Food and Agricultural Code.

Reference: Sections 201, 401, 401.5, 404, 485 of the Food and Agricultural Code, and Revenue and Taxation Code 18901.2.

Economic Impact Assessment

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses within California, the expansion of businesses currently doing business within California, or the ability of California businesses to compete with businesses in other states. The current grant programs are already modeling the proposed regulation, so there will be no significant change from current practice. Therefore, the proposed regulation will not create new requirements that would impact persons or entities choosing to apply for grant awards. Similarly, the proposed regulation will not create new requirements that would impact the creation, elimination, or expansion of businesses in California, or the ability of California businesses to compete with businesses in other states.

There are no known specific benefits to the worker safety or the health of California residents. The Department is not aware of any specific benefits the adoption of this regulation will have to the protection of public safety of California residents or worker safety.

The Department does not anticipate any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department does not anticipate any cost savings to any state agency, or any cost or savings in federal funding to the state.

The Department does not anticipate any cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630, or any discretionary costs or savings to local agencies or school districts.

The Department does not anticipate any significant effect on housing costs.

Information on Which the Department Relied for the Proposed Regulation

1. Prevention of Animal Homelessness and Cruelty Fund, Cal. Assemb. B. 485, Chapter 557 (Stats. 2015) (http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB485)
2. California Department of Food and Agriculture Planting Seeds blog dated January 8, 2016, “Governor Brown’s budget invests in Climate Smart Agriculture” (<https://plantingseedsblog.cdfa.ca.gov/wordpress/?p=10095>)
3. California Department of Food and Agriculture press release dated January 8, 2016, “CDFA awards more than \$240 thousand to support agricultural education through the California Agricultural License Plate Program” (https://www.cdfa.ca.gov/egov/Press_Releases/Press_Release.asp?PRnum=16-002)
4. 2016 State Water Efficiency and Enhancement Program Request for Grant Applications (Nov 20, 2015) (https://www.cdfa.ca.gov/EnvironmentalStewardship/pdfs/2016SWEEP_RequestforGrantApplications_RoundI.pdf)
5. State Water Efficiency and Enhancement Program Grant Award Procedures Manual (2015)
6. Dairy Digester Research and Development Program Request for Research Proposals Phase I (Jan 12, 2015) (https://www.cdfa.ca.gov/EnvironmentalStewardship/pdfs/DDRDP-Grant_Application_Request_CDFa_2015.pdf)
7. Dairy Digester Research and Development Program Request for Research Proposals Phase II (Apr 9, 2015) (<https://www.cdfa.ca.gov/EnvironmentalStewardship/pdfs/2015DDRDP-PhaseII-RFP.pdf>)
8. 2015 Dairy Digester Research and Development Program (Phase I) Grant Award Procedures Manual (https://www.cdfa.ca.gov/EnvironmentalStewardship/PDFs/2015GrantAwardProcedures_MASTER.pdf)
9. 2015 CalAgPlate Grant Program Request for Grant Proposals (Sep 15, 2015)
10. California Special Interest License Plate 2015 “CalAgPlate” Grant Program Grant Procedures Manual (<https://www.cdfa.ca.gov/egov/calagplate/docs/2015CalAgPlateGrantProcedureManual.pdf>)
11. Fertilizer Research and Education Program Request for Proposals (2016) (<https://www.cdfa.ca.gov/is/fldrs/frep/CompetitiveGrantProgram.html>)
12. Fertilizer Research and Education Program Full Proposal Submittal Requirements (<https://www.cdfa.ca.gov/is/fldrs/frep/CompetitiveGrantProgram.html>)
13. Fertilizer Research and Education Program Grant Procedures Manual (<https://www.cdfa.ca.gov/is/fldrs/frep/CompetitiveGrantProgram.html>)
14. PDCP Request for Research Proposals released December 1, 2015 (<http://fps.ucdavis.edu/vit/>)
15. Search of California Code of Regulations website using term “grant application” returning 149 responses, January 6, 2016 (<https://govt.westlaw.com/calregs>)
16. Search of California Code of Regulations website using term “grant administration” returning 26 responses, January 6, 2016 (<https://govt.westlaw.com/calregs>)

Consideration of Alternatives

The Department has considered other possible related regulations in this area, and has determined no current federal or state regulations exist that could be utilized that will be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to the

affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Consideration was given to adopting Title 2 of the Federal Code of Regulations section 200 et seq., but the Department determined that large portions of the federal regulations cannot be made applicable to non-federally funded grants, and will not be as effective as or less burdensome than the proposed regulation. While grant administration regulations for other departments exist, several were evaluated and the determination was made that none may be utilized by the Department as the subject matter is too specific for the Department's use.

Duplication or Conflict with Existing Regulations

The Department has evaluated and determined the adoption of this regulation is not inconsistent with existing federal or state regulations. There are no other comparable existing federal or state regulations.