

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 notice of the proposed regulation and will accept written comments on the regulation.

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

The California Department of Food and Agriculture (“Department”) proposes to adopt the regulation described below regarding grant administration as Chapter 5 of Division 1 in Title 3 of the California Code of Regulations.

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 regulation to the Department. Comments may be submitted by mail, facsimile (FAX), or email. The written comment period closes at 5:00 p.m. on July 28, 2016. The Department will consider only comments received at the Department office by that time. Submit comments to:

Crystal Myers
California Department of Food and Agriculture
Office of Grants Administration
1220 N Street, Room 120
Sacramento, CA 95814
916.653.0206 (FAX)
grants@cdfa.ca.gov

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department, at its own motion, may adopt the proposal as substantially set forth without further notice.

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

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

INFORMATIVE DIGEST/POLICY OVERVIEW

Federal regulations currently exist to govern the administration of federally-funded grants [Code of Federal Regulations Title 2, section 200 *et seq.*]. Currently there are no regulations to govern the administration of grants awarded by the Department that are funded by non-federal funds. Current practice is to model the federal regulations to administer grant programs funded with non-federal funds.

Food and Agricultural Code sections 401 and 401.5 state the Department shall promote and protect the agricultural industry of the state, and also seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber in a way that benefits the general welfare and economy of the state. Food and Agricultural Code sections 481-485 authorize the Department to enter into agreements with various types of entities for various purposes, all of which promote, protect, and/or enhance the agricultural industry in this state. In addition, Food and Agricultural Code section 485 states grant awards shall be made on a competitive basis whenever possible, and grants awarded on an alternative basis shall comply with all applicable state requirements, orders, and guidelines. Food and Agricultural Code section 201 authorizes the Department to expend in accordance with law all money which is made available for its use.

Revenue and Taxation Code section 18901.2(b) requires a competitive grant process for grants funded by the Prevention of Animal Cruelty and Homelessness Fund and awarded by the Department.

The Department has considered other possible related regulations in this area, both federal and state, and has determined no current regulations exist that could be utilized.

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and determined it is not inconsistent or incompatible with existing state regulations.

Anticipated Benefits of the Proposed Regulation:

This rulemaking action will ensure grants funded with non-federal monies are awarded and managed in an effective and efficient manner. In addition, this rulemaking action will promote 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 will 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.

DETERMINATION OF MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department has determined that the proposed regulation does not impose a new mandate on local agencies or school districts.

DISCLOSURES REGARDING THE PROPOSED ACTION

Cost 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

Discretionary costs or savings to local agencies or school districts: 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: The Department has determined that the proposed regulation will not have a significant adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation will affect only those choosing to apply for grant awards. In addition, the proposed regulation is modeled after procedures already in use for grants, so there will be no significant change from current practice. Therefore, 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.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

Effect on small business: The Department has determined the proposed regulation will not affect small business.

Significant effect on housing costs: None.

Results of the 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, or the expansion of businesses currently doing business within California.

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 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.

ALTERNATIVES CONSIDERED

The Department has determined that no reasonable alternative it considered to the regulation would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice. The Department will consider whether other reasonable alternatives brought to its attention as a result of public comment, or public hearing if requested, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

CONTACT PERSONS

The agency officer to whom written comments and inquiries about the initial statement of reasons, substance of the proposed regulation, location of the rulemaking file, and request for a public hearing may be directed to is:

Crystal Myers
California Department of Food and Agriculture
Office of Grants Administration
1220 N Street, Room 120
Sacramento, CA 95814
grants@cdfa.ca.gov
916.657.3231
916.653.0206 (FAX)

In Ms. Myers' absence, you may contact Stephen Tachiera at (916) 657-3231.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, CHANGED OR MODIFIED TEXT, AND RULEMAKING FILE

The Department has prepared an initial statement of reasons for the proposed actions, has available all 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 regulation 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, when completed, the Final Statement of Reasons will be available upon request.

If the regulation adopted by the Department differs from, but is sufficiently related to the action proposed, it will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption upon request.

All requests should be made to the contact named herein.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/Regulations.html).