

TITLE 3. FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. 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. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning June 8, 2012 and ending at 5 p.m., July 23, 2012. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 19227, 19315, 19380, 19381, 19382, 19383, 19384 and 19385 of the Food and Agricultural Code, and to implement, interpret or make specific sections 19227, 19228, 19240, 19260, 19280, 19300, 19300.5, 19303, 19310, 19310.5, 19312, 19313.1, 19315, 19316.5, 19320, 19321 and 19360 of said Code, the Department proposes to amend section 1180.1 of Article 37, amend section 1180.3.2 of Article 37.1, amend section 1180.20, and repeal and adopt section 1180.24 of Article 42, Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/BENEFITS

This proposal is necessary to clarify the requirements for transporters of inedible kitchen grease pursuant to sections 19310 and 19316.5 of the Food and Agricultural Code. Inedible kitchen grease is defined in Food and Agricultural Code section 19216 as meaning any fat or used cooking greases and oils obtained from any source. This proposal will establish a new manifest tracking system and procedure; designate the authorized facilities that may receive interceptor grease; set forth reporting time frames, establish records retention requirements and make technical changes as specified.

Existing law, Food and Agricultural Code section 19305 authorizes the Department of Food and Agriculture (Department) to inspect and investigate shipments and transactions of renderers, collection centers and transporters of inedible kitchen grease.

Food and Agricultural Code sections 19310 through 19317 sets forth the requirements for transporters of inedible kitchen grease that transport grease from restaurants and any food preparation, processing or handling establishment or facility.

Existing regulations specify the licensing and registration requirements for transporters of inedible kitchen grease; however, no regulations exist to establish a tracking system in accordance with Food and Agricultural Code section 19316.5. This proposal amends those requirements and establishes a new manifest tracking system under Articles 37, 37.1, and 42 of Subchapter 2, Chapter 4, Division 2 of Title 3 of the California Code of Regulations, and makes other technical changes as specified.

Based on an initial evaluation, the Department does not believe the proposed regulations are inconsistent or incompatible with existing state or federal regulations

The benefits of this proposal is that it is intended to enhance consumer protection by instituting a tracking system to record the proper and legal removal, transport and disposal of inedible kitchen grease. Inedible kitchen grease, if not properly disposed or recycled can cause blockages in public sewer systems or streams that could adversely affect human health, worker safety, and the environment.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 et seq. Require Reimbursement: None

Business Impact: The Department of Food and Agriculture (Department) has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation does not require the use of the Department's form to track the transport of grease waste. Transporters may use their own forms, or an electronic version providing it includes the same information as the Department's form. The intent of the form and procedures specified in this proposal is to track the transport of inedible kitchen grease and ensure proper and legal disposal of grease waste to avoid hazards to human health and the environment.

- There are approximately 393 registered transporters of inedible kitchen grease.
- Paperwork requirement: The Department is establishing a new form, MPES Form 79-120 (Est. 03/12) Manifest-Inedible Kitchen Grease Transport. The transporter of inedible kitchen grease may generate a form for their use, or an electronic version, as long as all the required information is included. The form requires verification of the content of the load when it is delivered to the receiver of the grease waste. This can be a weight or volume determined at the receiving facility or a weighmaster certificate from a scale.
- Record keeping requirement: Persons engaged in the rendering industry, including businesses that are registered to transport inedible kitchen grease are required to keep certain records as specified in existing statutes and regulations. This proposal requires the MPES Form 79-120 (Est. 03/12) or the transporter generated form to be kept for at least two years. The Department believes this requirement does not adversely affect businesses or small businesses engaged in transporting inedible kitchen grease in California because the two-year requirement is consistent with Food and Agricultural Code section 19303. This requirement is not anticipated to incur increased costs to businesses as record keeping is a standard business practice for persons engaged in the grease waste and/or rendering industry in California. The maintenance of records will

assist the Department in ensuring the legal, safe, sanitary disposal of grease waste in California.

- Reporting requirement: None. However, State investigators and law enforcement officials may review completed manifests and records in the course of investigations or periodic audits. Food and Agricultural Code sections 19303 and 19313.1 provide authority for IKG transporters, collection centers, and renderer record keeping requirements.

Estimated costs for a business to comply with specified provisions of this proposal		
If the IKG transporter uses the Department's manifest form	\$.50/form (printing/handling/shipping) 21-stop route requires 7 forms per day 35 forms per week @ \$.50	\$17.50
If the IKG transporter mails receipts to the generator (e.g., restaurant/food facility)	U.S. First Class postage rate @ \$0.45 21 receipts x 5 days per week = 105 receipts	\$47.25
Office clerical support to file the receipts	\$15.00 @ 2 hours per week	\$30.00
	Total estimated cost per week:	\$94.75
<p>Note: Transporters may not incur costs each week depending upon their business practices. Transporters may use their own form or an electronic form providing it contains the same information as the Department's form as specified in this proposal. The transporter may leave the receipt with the generator at the time of removal of the grease waste or mail the receipt to the generator.</p>		

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Representative Private Persons or Businesses: The Department of Food and Agriculture is aware of the cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The anticipated compliance requirements are as follows:

- There are approximately 393 registered transporters of inedible kitchen grease.
- Paperwork requirement: The Department is establishing a new form, MPES Form 79-120 (Est. 03/12) Manifest-Inedible Kitchen Grease Transport. The transporter of inedible kitchen grease may generate a form for their use, or an electronic version, as long as all the required information is included. The form requires verification of the content of the load when it is delivered to the receiver of the grease waste. This can be a weight or volume determined at the receiving facility or a weighmaster certificate from a scale.
- Record keeping requirement: Persons engaged in the rendering industry, including businesses that are registered to transport inedible kitchen grease are required to keep certain records as specified in existing statutes and regulations. This proposal requires the MPES Form 79-120 (Est. 03/12) or the transporter generated form to be kept for at least two years. The Department believes this requirement does not adversely affect businesses or small businesses engaged in transporting inedible kitchen grease in California because the two-year requirement is consistent with Food and Agricultural Code section 19303. This requirement is not anticipated to incur increased costs to businesses as record keeping is a standard business practice for persons engaged in the grease waste and/or rendering industry in California. The maintenance of records will assist the Department in ensuring the legal, safe, sanitary disposal of grease waste in California.

- Reporting requirement: None. However, State investigators and law enforcement officials may review completed manifests and records in the course of investigations or periodic audits. Food and Agricultural Code sections 19303 and 19313.1 provide authority for IKG transporters, collection centers, and renderer record keeping requirements.

Estimated costs for a business to comply with specified provisions of this proposal		
If the IKG transporter uses the Department's manifest form	\$.50/form (printing/handling/shipping) 21-stop route requires 7 forms per day 35 forms per week @ \$.50	\$17.50
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Office clerical support to file the receipts	\$15.00 @ 2 hours per week	\$30.00
	Total estimated cost per week:	\$94.75
<p>Note: Transporters may not incur costs each week depending upon their business practices. Transporters may use their own form or an electronic form providing it contains the same information as the Department's form as specified in this proposal. The transporter may leave the receipt with the generator at the time of removal of the grease waste or mail the receipt to the generator.</p>		

In making these determinations the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department of Food and Agriculture (Department) has prepared an economic impact assessment that is included in this filing. The Department has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation does not require the use of the Department's form to track the transport of grease waste. Transporters may use their own forms, or an electronic version providing it includes the same information as the Department's form. The intent of the form and procedures specified in this proposal is to track the transport of inedible kitchen grease and ensure proper and legal disposal of grease waste to avoid hazards to human health and the environment.

As part of its economic impact assessment, the Department has determined that its proposal will not affect the ability of California businesses to compete with other states by

making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. The Department's proposal does not impact multiple industries.

Small Businesses: This proposal may affect small businesses.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will have no significant impact on the creation of new or elimination of existing jobs, businesses or the expansion of businesses in the State.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact registered transporters of inedible kitchen grease (IKG). There are approximately 393 registered transporters of IKG.

Business Reporting Requirement: The regulation does not require a report, which shall apply to businesses. However, State investigators and law enforcement officials may review completed manifests and records in the course of investigations or periodic audits. Food and Agricultural Code sections 19303 and 19313.1 provide authority for transporters of inedible kitchen grease, collection centers, and renderer record keeping requirements.

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations.

Document(s) Incorporated by Reference: MPES Form 79-120 (Est. 03/12) Manifest-Inedible Kitchen Grease Transport.

Documents Relied Upon in Preparing Regulations:

1. "Notice of an upcoming Interested Persons Meeting" held on March 29, 2011, in Sacramento, California, related to transporters of inedible kitchen grease, published in the *California Regulatory Notice Register*, March 25, 2011 (Register 2011, No. 12-Z).
2. "Inedible Kitchen Grease Workshop" agenda, California Department of Food and Agriculture, March 29, 2011.
3. "What's gooey, smelly and very, very valuable?" *Capitol Weekly*, August 25, 2011, [www.capitolweekly.net].
4. "CDFA Teams with law enforcement to stop thefts of inedible kitchen grease" *San Diego Newscape*, October 27, 2011 [www.sandiegonewscap.com].
5. "Grease Theft Battle Continues in the Golden State" *Render Magazine*, April 2012 [rendermagazine.com].
6. Proposed new form, MPES Form 79-120 (Est. 03/12) Manifest-Inedible Kitchen Grease Transport
7. Informational diagram showing interceptor and grease traps
8. "Collecting Recycled Cooking Oils or Greases for Biofuels" *National Renderers Association*, October 2008 [informational document].
9. "Survey Says: A Snapshot of Rendering" *Render Magazine*, April 2011, Tech Topics [informational document].
10. Informational document showing fats, oils, and grease removed from a food service establishment, *City of Roseville*, California [www.roseville.ca.us].
11. Economic Impact Assessment

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture (Department) must determine that no reasonable alternative considered or that has otherwise been identified and brought the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or 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.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department of Food and Agriculture's website as indicated below in this Notice.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Written comments concerning this proposal are to be addressed to the following:

Dr. Douglas Hepper, Branch Chief
Department of Food and Agriculture
Meat, Poultry, and Egg Safety Branch
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5004; E-mail: douglas.hepper@cdfa.ca.gov

The backup contact person is:

Nancy Grillo, Associate Analyst
Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5033; E-mail: nancy.grillo@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>