

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 February 26, 2016 and ending at 5:00 p.m., April 11, 2016. 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, 20171, and 21111, Food and Agricultural Code, and to implement, interpret or make specific sections 20017, 20021 and 21111 of said Code, the Department is proposing to amend section 850 Article 1, Chapter 3, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/BENEFITS

Existing law, section 20017 of the Food and Agricultural Code, defines a modified point-of-origin (MPO) inspection area as meaning any area in the state designated by regulation, pursuant to section 21111.

Existing law, section 21051 of the Food and Agricultural Code, authorizes the Department's Bureau of Livestock Identification to inspect all cattle sold, transferred, moved out of state, moved out of an MPO inspection area, moved into a registered feedlot, public auction yard or sales yard, public or private sales market, out of a full point-of-origin inspection area, or from areas designated as quarantine, restricted, or isolated areas, with limited exceptions.

Existing law, section 21111 of the Food and Agricultural Code, specifies that the Secretary, by regulation, shall establish and maintain an MPO inspection area whenever cattle producers owning cattle in the affected area requires the action by a two-thirds vote of those cattle producers, who are either property taxpayers, lessees, or residents of the affected area and who are present at a public hearing held at a central location in the area.

Existing law, section 21111.5 of the Food and Agricultural Code, specifies that cattle producers owning cattle in the affected area may, upon written request or petition signed by at least 25 cattle producers owning cattle in that area, request that the Secretary repeal regulations establishing an MPO inspection area pursuant to section 21111 in the manner prescribed by the Administrative Procedure Act (Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Existing law, section 21112 of the Food and Agricultural Code, specifies that an MPO inspection area may consist of one or more counties or geographical areas.

Existing law, section 21172.2 specifies that the Department may, by regulation, provide that any person who ships any cattle from an MPO inspection area for inspection at destination, is required to notify the local brand inspector prior to shipment of such cattle, if he finds, following a public hearing in the area, such requirement is needed to protect cattle owners from losses by theft or straying of their livestock.

Existing law, section 20021 of the Food and Agricultural Code, specifies that an MPO inspection area as provided in sections 21111 and 21112, pertains only to the inspection of cattle where there is no sale within a designated MPO inspection area prior to transportation for pasture-to-pasture purposes when crossing the area boundary.

Existing law, section 21288 of the Food and Agricultural Code, specifies that in a modified point-of-origin inspection area, as provided in section 21111, the fee for the inspection of cattle, other than suckling calves that are accompanying their mothers, is \$1.25 per head if the cattle are transported out of the area for purposes other than sale or slaughter and no change of ownership is involved.

To implement the above sections of law, the Department has in place regulations under Articles 1-4 of Chapter 3, Division 2, of Title 3 of the California Code of Regulations. This proposal pertains to section 850 of Article 1, Chapter 3, Division 2 of Title 3 of the California Code of Regulations, which describes the MPO inspection areas within California as designated by area numbers 1, 2, and 3. This proposal will remove Area #1, Yolo County, from regulation section 850 as a result of a petition and vote from cattle producers in that county.

Anticipated Benefits of the Proposal: This proposal benefits the cattle producers in Yolo County as they have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations. This will eliminate the need for a brand inspector to be called to the county to conduct a brand inspection when commingled cattle are moved out of the area by the owner or manager of the cattle. The reason for this is that cattle producers in Yolo County have not been experiencing significant loss of cattle in their county and therefore, brand inspections to determine ownership is no longer needed except when otherwise specified by existing statutes or regulations. When the cattle producers in the area need to ship the cattle to another location, the delay and cost for waiting for a brand inspector is not warranted. The Department inspects approximately 10,400 head of cattle annually in Yolo County at a cost to cattle producers of \$1.25 per head. The cattle producers in the area will be saving over \$13,000 in brand inspection fees annually with the deletion of their county as an MPO inspection area.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and it is not inconsistent or incompatible with existing state regulations. It pertains to cattle brand inspections in the state.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing Regulations:

1. Petition dated March 5, 2015, from Scott Stone, Yolo Land & Cattle Company.
2. Department's response to the petitioner dated March 27, 2015.
3. Yolo County Cattlemen's Association public meeting notices for the October 22, 2015 public vote on whether to remove Area #1 Yolo County as an MPO inspection area.

4. Voting sheets showing 36 were in favor of removing Area #1 Yolo County as an MPO inspection area and 10 against.
5. Map of Area #1 Yolo County
6. Map of the Cattle Brand Inspection Regions for California with Area #1 Yolo County circled.

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 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 determination is based on the fact that the proposal is necessary because cattle producers in Yolo County have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations, in accordance with section 21111.5 of the Food and Agricultural Code

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action. The proposal is necessary because cattle producers in Yolo County have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations, in accordance with section 21111.5 of the Food and Agricultural Code.

Persons/Businesses affected by the proposal:

- Affects cattle producers in Yolo County who have voted to delete their county as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations in accordance with section 21111.5 of the Food and Agricultural Code.
- The Department inspects approximately 10,400 head of cattle annually in Yolo County at a cost to cattle producers of \$1.25 per head. The cattle producers in the area will be saving over \$13,000 in brand inspection fees annually with the deletion of their county as an MPO inspection area.

Anticipated compliance requirements as a result of this proposal:

- None. No paperwork or reporting requirements are needed and no brand inspection fees would be required in Yolo County as a result of this proposal unless as otherwise specified by existing statutes or regulations.

Effect on Housing Costs: None

Effect on Small Businesses: The Department's proposal may affect small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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.

The Department has made a determination that this regulatory proposal:

- Will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services.
- Will not create or eliminate jobs or occupations.
- Does not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California.
- Does not impact multiple industries.
- Does not directly impact or affect human health, worker safety, or the State's environment. It pertains to cattle brand inspections for the Yolo County MPO inspection area. Cattle may be moved out of that area without a brand inspection for purposes other than sale or slaughter and no change in ownership is involved as specified in Food and Agricultural Code section 21051.
- Affects cattle producers in Yolo County who have voted to delete their county as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations in accordance with section 21111.5 of the Food and Agricultural Code.
- Represents a cost savings to cattle producers in Yolo County of over \$13,000 in brand inspection fees annually, with the deletion of their county as an MPO inspection area. The Department inspects approximately 10,400 head of cattle annually in Yolo County at a cost to cattle producers of \$1.25 per head. The Department would no longer need to send brand inspectors to that area and can be further utilized at saleyards and auctions, with continued efforts working with local law enforcement agencies to prevent and mitigate activities involving cattle theft and misappropriation throughout the state.

Benefits of the proposed regulation to the health and welfare of California residents, worker safety, and the State's environment: The proposed regulation does not directly impact or affect human health, worker safety, or the State's environment. It pertains to cattle brand inspections for the Yolo County MPO inspection area. Cattle may be moved out of that area without a brand inspection for purposes other than sale or slaughter and no change in ownership is involved as specified in Food and Agricultural Code section 21051. The proposal is necessary because cattle producers in Yolo County have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations, in accordance with section 21111.5 of the Food and Agricultural Code.

The above determinations are based on the fact that this regulatory proposal is necessary as a result of a petition and vote by cattle producers to delete Area #1 Yolo County as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations, in accordance with sections 20017, 20021, 21111, 21111.5, and 21112 of the Food and Agricultural Code.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact cattle producers in Yolo County who have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations, in accordance with section 21111.5 of the Food and Agricultural Code. No brand inspections would be required to move cattle out of that county unless otherwise specified by existing statutes or regulations.

Business Reporting Requirement: The regulation does not require a report, which shall apply to businesses.

Comparable Federal Regulations: There are no comparable federal regulations. The Department of Food and Agriculture, Bureau of Livestock Identification, is the sole State authority to register and inspect cattle operations in accordance with Division 10 (commencing with section 20001) of the Food and Agricultural Code.

CONSIDERATION OF ALTERNATIVES

The 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. This proposal is a result of a petition and public vote from the cattle producers in Yolo County to delete their county as an MPO inspection area in accordance with section 21111.5 of the Food and Agricultural Code.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Department 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

Inquiries concerning the substance of the proposed regulations, or any written comments concerning this proposal are to be addressed to the following:

John Suther, Branch Chief
Department of Food and Agriculture
Bureau of Livestock Identification
1220 N Street
Sacramento, CA 95814
Telephone (916) 900-5006
E-mail: john.suther@cdfa.ca.gov

The backup contact person is:

Nancy Grillo, Regulation Coordinator
Department of Food and Agriculture
Animal Health & 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>

**DEPARTMENT OF FOOD AND AGRICULTURE
BUREAU OF LIVESTOCK IDENTIFICATION
PROPOSED REGULATIONS – MODIFIED POINT OF ORIGIN INSPECTION AREAS**

The Department of Food and Agriculture, Bureau of Livestock Identification, proposes to amend section 850 of Article 1, Chapter 3, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 850. Description of Modified Point of Origin Inspection Areas.

There are ~~three (3)~~ two (2) modified point-of-origin inspection areas within the state, described as follows:

~~Area Number 1: Yolo County.~~

Area Number ~~2~~ 1: San Luis Obispo County.

Area Number ~~3~~ 2: All of Modoc County, and in addition all Bureau of Land Management allotments, Modoc National Forest, all other public and private property in Lassen County which lies east of Sears Flat, and Nelson Corral grazing allotments and private property adjacent to or north of, Tule Mountain, Hall Field, Selic-Alaska, and Tuledad grazing allotments, inclusive.

NOTE: Authority cited: Sections 407, 20171 and 21111, Food and Agricultural Code.
Reference: Sections 20017, 20021 and 21111, Food and Agricultural Code.