

DEPARTMENT OF FOOD AND AGRICULTURE

CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 1. CHEMISTRY
SUBCHAPTER 1. FERTILIZING MATERIALS
ARTICLE 1. STANDARDS AND LABELING
ARTICLE 4. REGISTRATION
ARTICLE 6. ADMINISTRATIVE PENALTIES

**15-DAY NOTICE OF MODIFICATIONS
TO PROPOSED REGULATIONS**

NOTICE IS HEREBY GIVEN that Pursuant to the requirements of Government Code Section 11346.8 (c), and Section 44 of Title 1 of the California Code of Regulations (CCR), the California Department of Food and Agriculture (Department) is providing notice of changes made to the action described in the Informative Digest published in the California Regulatory Notice Register on August 18, 2023 [Notice File No. Z-2023-0808-02] relating to fertilizing material labeling, registration, and administrative hearings.

The Department is proposing to modify the originally proposed text for Sections 2300, 2300.1, 2302, 2303, 2311, 2320.1, 2320.2, 2322.2, and 2322.3 of Title 3, Division 4, Chapter 1, Subchapter 1, Articles 1, 4, and 6 of the CCR. The Department will continue the regulation process with the previously proposed regulation text, unless noted within the newly modified text.

The 45-day public comment period on the originally proposed text for this proposal began August 18, 2023 and ended on October 3, 2024. The Department is now publishing a 15-day comment period on the revised proposed text. The purpose is to allow interested persons time to review the modifications to the proposed text and submit written comments. The supplemental 15-day public comment period begins **April 10, 2024 and ends at 5:00p.m on April 25, 2024.**

Please note: Any written public comments are to be restricted to the recent modifications as indicated in double underline or ~~double strikethrough~~ within the enclosed language. The California Department of Food and Agriculture is not required to respond to comments received in response to this notice on other aspects of the proposed regulation.

AUTHORITY AND REFERENCE

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by sections 407, 14502, 14601, 14604 14631, 14643, 14651, 14651.5, and 14682 of the Food and Agricultural Code (FAC) and Section 11400.20 of the Government Code, proposes to make changes to Title 3, Division 4, Chapter 1 of the CCR to implement, interpret, or make specific FAC Sections 14501, 14502, 14550.5, 14601, 14631, 14641,

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14642, 14643, 14653, 14655, 14681, and 14682, as well as Sections 11501, 11502, 11503, 11425.50, and 11445.10 of the Government Code.

AFFECTED SECTIONS OF CALIFORNIA CODE OF REGULATIONS, ARTICLES 1, 4, AND 6, SUBCHAPTER 1, CHAPTER 1, DIVISION 4, OF TITLE 3, DEPARTMENT OF FOOD AND AGRICULTURE:

Sections 2300, 2300.1, 2302, 2303, 2311, 2320.1, 2320.2, 2322.2, and 2322.3.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department by mail, fax, or email. The written comment period closes at 5:00 p.m. on April 25, 2024. The Department will only consider comments received by that time.

Submit comments to:

Brittnie Williams, Associate Governmental Program Analyst
California Department of Food and Agriculture
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch
1220 N Street Sacramento, CA 95814
(916) 900-5022
brittnie.williams@cdfa.ca.gov

~~~~~

Original proposed text is displayed in underline type.  
Original proposed text to be deleted is displayed in ~~strikethrough~~ type.  
Proposed additions after the 45-day comment period are illustrated by double underline.  
Proposed text after the 45-day comment period to be deleted is displayed in ~~double strikethrough~~ type.

## PROPOSED REGULATION TEXT

### ARTICLE 1. STANDARDS AND LABELING

#### § 2300. Fertilizing Materials – General Provisions.

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(c) All guarantees shall be ~~based on~~ will be analyzed by a laboratory method determined by the secretary to address the validity of the guarantee. The following criteria to determine an analytical method for fertilizing materials include, but are not limited to: ~~and may include an Association of Official Analytical Chemists (AOAC) laboratory method or when no AOAC method is available, a method developed for specific analyses by the Department shall be used other referenced method. Methods shall be published at~~ <https://www.cdfa.ca.gov/is/cac/CAC-Methods-Publications.html>.

- (1) Calibration standard for accurate quantitation of instrumentation;
- (2) Limit of detection and limit of quantitation to ensure a robust level of accuracy, repeatability, and precision;
- (3) Reproducibility to ensure consistency in measurement;
- (4) Analysis time to ensure feasibility within typical regulatory laboratory conditions;
- (5) Method history to provide reliability;
- (6) Fitness of purpose to determine the appropriateness of the method;
- (7) Method ruggedness as a measure of reproducibility of analytical results under varying laboratory environments and conditions; and
- (8) Other necessary indicators to validate the guarantee.

...

(g) The statement “State of California approved” or other indication of official approval is prohibited in labeling and advertising unless allowed for organic input material.

(1) Organic input material registered in accordance with Title 3, Section 2320.2 et seq. may reflect OR bear the following logos:



...

Note: Authority cited: Sections 407, 14502, 14643, and 14631, Food and Agricultural Code. Reference: Sections 14501(b), 14502, 14601, 14631, 14641, 14642 and 14643, Food and Agricultural Code.

### **§ 2300.1. Definitions.**

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(m) The term “Protein Hydrolysate” means the organic material obtained by the hydrolysis of proteins to their constituent amino acids and short polypeptides. They are a source of nitrogen. The definition is used by prefixing the term with the name of the protein from which the hydrolysate is derived. Examples include Fish Protein Hydrolysate or Soy Protein Hydrolysate.

Note: Authority cited: Sections 407 and 14502, Food and Agricultural Code.  
Reference: Sections 14601 and 14631, Food and Agricultural Code; ~~and Section 6254.7, Government Code.~~

### **§ 2302. Non-Nutritive Standards.**

(a) Inorganic commercial fertilizer and agricultural mineral products shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead:

- (1) For each guaranteed percent iron, manganese or zinc, the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 13 parts per million; cadmium, 12 parts per million; lead, 140 parts per million.
- (2) For each guaranteed percent available phosphate (P<sub>2</sub>O<sub>5</sub>) the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 2 parts per million; cadmium, 4 parts per million; lead, 20 parts per million.

...

Note: Authority cited: Sections 407, 14502 and 14682, Food and Agricultural Code.  
Reference: Section 14682, Food and Agricultural Code.

### **§ 2303. Label Requirements.**

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(d) The licensed label guarantor’s name and address.

(1) For bulk commercial fertilizers and bulk agricultural minerals, (excluding organic input materials), the last licensee distributing the fertilizing material is required to be represented as the label guarantor.

...

(x) The term “amino acid” or “amino” may be used as part of a product name under the following conditions:

(1) Specific amino acids are represented in the derivation statement and proof of purchase of each specific amino acid is submitted.

(2) Protein hydrolysate is represented in the derivation statement.

(A) Labeling claims are limited to statements within the definition provided in § 2300.1(m).

(y) The term “amino acid complex” or “(secondary nutrient or micronutrient) amino acid complex” may be used as part of a product name under the following conditions:

(1) “(Secondary nutrient or micronutrient) amino acid complex” is represented in the derivation statement.

(2) Only complexing agent claims appear on the label.

Note: Authority cited: Sections 407, 14502, 14601 and 14631, Food and Agricultural Code. Reference: Section 14631, Food and Agricultural Code.

### **§ 2311. Slow Released Plant Nutrients.**

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(b) The types of slow released products recognized are:

(1) Water insoluble (N products only), such as but not limited to, natural organics, urea formaldehyde, isobutylidene diurea and oxamide.

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Note: Authority cited: Sections 407, 14502 and 14631, Food and Agricultural Code. Reference: Section 14631, Food and Agricultural Code.

## ARTICLE 4. REGISTRATION

### § 2320.1. Fertilizing Materials Product Labels Submitted for Registration.

...

(d) For approved product label registrations, any revision to a registered fertilizing material label requires updated re-review and approval prior to distribution of the revised label. Per Section 14601 of the Food and Agricultural Code, changes in the guaranteed analysis, derivation statement, or anything that implies a different product, requires a new registration for specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material, and packaged soil amendment. There is no fee for updated re-review, unless a new registration is determined to be required. Product label registration update requests require the following:

- (1) A copy of the updated product label.
- (2) For Organic Input Material, documentation for any change in formula, ingredient suppliers, and/or manufacturing processes.
- (3) Additional supporting documentation may be required for any new label claims.

Note: Authority cited: Sections 407, 14502, 14601, and 14604, Food and Agricultural Code. Reference: Section 14601, Food and Agricultural Code.

### § 2320.2. Registration Application for Organic Input Material Product Label.

(a) Organic input materials submitted for registration shall comply with the requirements of the National Organic Program (NOP) standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.

(b) ~~Product label registration for Organic Input Material shall be made on an application designated by the department's, Organic Input Material (OIM), Fertilizing Materials Registration Application, 513-026 (Rev. 07/13), which is hereby incorporated by reference. A person attempting to obtain a product label registration for Organic Input Material shall submit a completed aApplications either online through the department's online database or as a paper application mailed to the department and submit a \$500-per-product fee must be accompanied by the appropriate fee and shall include:.~~ A completed application shall contain the following:

- (1) An affirmation whether or not the person possesses a fertilizing materials license;

(A) If the person does not possess a fertilizing materials license, they must submit a fertilizing materials license application pursuant to FAC section 14591 prior to submitting the registration application.

(2) The firm name as it appears on their fertilizing materials license;

(A) The product label being registered shall display the firm name as it appears on the firm's fertilizing materials license.

(3) The full name of the applicant;

(4) The type(s) of Organic Input Material as listed in FAC section 14550.5, if known;

(5) For each product to be registered, the product name and an affirmation whether or not it is a liquid product; and

(6) A certification by the applicant that the information contained in the registration application is true and correct.

(A) To complete the certification, the applicant shall:

1. Type or clearly print their name and job title; and

2. Either sign and date the application or check the appropriate online agreement box.

(B) By completing the certification, the person acknowledges that the following information from the registration is be placed in the public domain: licensed firm name, license identification, product name, whether or not the product is an OIM, NOP annotations, registration identification, registration status, label nutrient guarantees, non-nutritive metal content, and OIM product type(s).

(c) A person shall also submit the following documentation with their Organic Input Material registration application:

(1) A signed declaration that the person agrees to comply with the Department's laws and regulations for Organic Input Materials;

(2) A signed method and ingredient declaration stating that the product is not subject to or produced with excluded organic methods, such as using genetically modified organisms, ionizing radiation, or sewage sludge;

(3) The complete formula of the product including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives;

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(4) A complete description of the manufacturing process for the product, including ingredient amounts, sequence and duration of events, temperature changes, reactions, and all steps taken to assure that the product is not contaminated with USDA-NOP prohibited substances as well as a description of any composting, digestion, fermentation, extraction, or other processes and any methods used for removing extractants or growth media from the final product;

(5) The intended uses of the product;

(6) The source or supplier of all ingredients;

(7) Alternate formulation;

(8) Third-party formulated ingredients;

(9) Proof of purchase for each ingredient used in the product, such as an invoice or weight certificate;

(10) A copy of laboratory results when analysis is required by NOP standards or Department regulations, such as Sections 2303(w) and 2304(b)(2);

~~(4)~~(11) A complete, legible copy of the product label accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use.;

~~(2) The complete formula of the material including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.~~

~~(3) A complete description of the manufacturing process for the Organic Input Materials (OIM), including ingredient amounts, sequence and duration of events, temperature changes, reactions, and all steps taken to assure that OIM are not contaminated with USDA-NOP prohibited substances as well as a description of any composting, digestion, fermentation, extraction, or other processes and any methods used for removing extractants or growth media from the final product.~~

~~(4) The intended uses of the product.~~

~~(5) The source or supplier of all ingredients.~~

~~(6) Alternate formulation.~~

~~(7) Third party formulated ingredients.~~

~~(8)~~(12) An organic input material inspection report for manufacturers that produce liquid OIMs with a nitrogen guarantee labeled greater than 3%.; and



(9)(13) Any additional information deemed necessary by the secretary to support compliance with NOP standards or Department regulations.

(d) The application fee is not refundable and shall not be prorated.

(1) The submission of the information and documentation required by subsections (b) and (c) is mandatory. Failure to submit complete information and documentation may result in a delay of processing an application.

(A) The Department shall return an incomplete application. Per section 2320.1(c), the applicant has 180 days from the date the Secretary initially returned the application to resubmit a complete application without payment of a new registration fee.

(e) If a person mails an application, they shall submit the completed and signed application with the required fee and all documentation required pursuant to subsection (c) to:

CDFA, ISD, FFLDRS, OIM  
P.O. Box 942875  
Sacramento, CA 94271-2875

Note: Authority cited: Sections 407, 14502 and 14601, Food and Agricultural Code.  
Reference: Sections 14550.5, 14601 and 14631, Food and Agricultural Code.

## **ARTICLE 6. ADMINISTRATIVE PENALTIES**

### **§ 2322.2. Hearing Schedule and Notification.**

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(c) The Legal Office of Hearing and Appeals shall determine, based upon the convenience of the Department and respondent, the location of the informal hearing or if it may be held virtually through Internet video conferencing. The Department shall provide a notice of the informal hearing to the respondent containing the following information:

(1) Date, location, and time of the informal hearing;

(2) Departmental contact information including applicable telephone ~~and~~ facsimile numbers;

(3) Subject matter of the adverse determination; ~~and~~,

(4) An Internet link to video conferencing, if the informal hearing is to be held virtually; and

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(4)(5) Any other information or documentation relative to the adverse determination.

...

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code.

Reference: Sections 11501, 11502 and 11503, Government Code.

**§ 2322.3. Hearing Procedures.**

...

(g) The Hearing Officer's decision shall be effective immediately upon first articulation under subsection (e) and shall be final and not appealable to the secretary or any other officer of the Department.

(1) Any penalty shall be due in full 30 days from the date of the written decision. If the respondent has a financial hardship and inability to pay the penalty in full within 30 days, the respondent may provide the Department with a written request for ~~unless the Department and respondent agree to~~ a payment plan in writing prior to the 30-day payment deadline. The Department may agree to a payment plan upon balancing the interests of the Department to secure prompt payment and the respondent's demonstrated hardship.

...

Note: Authority cited: Sections 407, 14502, 14651 and 14651.5, Food and Agricultural Code; and Section 11400.20, Government Code.

Reference: Sections 14653, 14655, 14681 and 14682, Food and Agricultural Code; and Sections 11425.50 and 11445.10, Government Code.