

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  
(Notice published June 25, 2021)

**NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to adopt or make changes to the California Code of Regulations (CCR), Title 3, Division 4, Chapter 1, Subchapter 1, Article 1, Sections 2300.1, 2304, 2306, 2308, and 2322.

**PUBLIC HEARING**

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before 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 regulatory action to the Department by mail, fax, or email. The written comment period closes on August 9, 2021. The Department will only consider comments received by that time.

Submit comments to:

Maria Tenorio Alfred, Research Data Specialist II (RDS)  
California Department of Food and Agriculture  
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch  
P.O. Box 942872  
Sacramento, CA 94271-2872  
(916) 900-5022  
FAX: (916) 900-5349  
[Maria.Tenorio@cdfa.ca.gov](mailto:Maria.Tenorio@cdfa.ca.gov)

Following the written comment period or public hearing, if one is requested, the Department, at its own motion or at the request of any interested person, may adopt the proposal substantially as set forth without further notice.

## **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, and 14631 of the Food and Agricultural Code (FAC), proposes to make changes to Title 3, Division 4, Chapter 1 of the CCR to implement, interpret, or make specific FAC Sections 14502, 14533, 14552, 14631, 14641, 14645, and 14646.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department's Fertilizing Materials Inspection Program (FMIP) is statutorily tasked with licensing, label registration, and field inspection of fertilizing materials in the State of California. FMIP is responsible for reviewing and registering product labels, and ensuring fertilizing materials are safe, effective, and meet the nutrients guaranteed by the manufacturer. Producers of agricultural minerals, auxiliary soil and plant substances, commercial fertilizers, soil amendments, specialty fertilizers, and organic input materials are statutorily mandated to register with the FMIP.

The proposed Section 2300.1(l) adds the term "tackifier" to the definitions to avoid industry confusion with the difference between "spreader stickers" and tackifiers.

The proposed amendment in Section 2304 ensures transparency to registrants for fertilizing material label claims relating to organisms, enzymes, or organism by-products when their products are evaluated by the Department.

The proposed action within Section 2306 repeals a regulation for fish emulsion that is not necessary as it is already stated in FAC Section 14534 and, in its place, adopts label requirements for biochar consistent with the requirements of the American Association of Plant Food Control Officials.

The proposed action within Section 2308 provides greater transparency with fertilizing material labeling for packaged soil amendments, specifically tackifiers.

### *Anticipated Benefits of the Proposed Regulations:*

The Department anticipates the proposed biotics and biochar regulations will provide greater transparency and consistency with fertilizing materials labeling requirements. The Department anticipates the proposed regulations will allow the Department to continue its focus on consumers receiving safe, effective fertilizing materials and meeting the quality and quantity guaranteed by the manufacturer, ensuring the protection of public health and safety in the agricultural community.

### *Determination of Inconsistency/Incompatibility with Existing Regulations:*

The Department evaluated the proposed regulations and made several determinations required by Government Code Section 11346.5(a)(3)(A) to 11346.5(a)(3)(D). The Department determined that there are no existing state laws or regulations related directly

to the proposed action and the effect of the proposed action; the proposed regulations are not inconsistent or incompatible with existing state regulations.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

Mandate of local agencies and school districts: None.

Cost or 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.

Other nondiscretionary cost or savings imposed on local agencies: 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: None.

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

Significant effect on housing costs: None.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Department has initially determined that the proposed regulatory actions will not have an economic or fiscal impact to the fertilizer industry. These proposed regulations will not:

- (1) Create or eliminate jobs within California
- (2) Create new businesses or eliminate existing businesses within the State of California
- (3) Affect the expansion of businesses currently doing business within the State of California
- (4) Affect the health and welfare of California residents, worker safety, and the state's environment

The proposed regulatory adoptions will benefit the regulated industry by providing greater transparency with fertilizing materials standards and labeling. For additional information on benefits, please see Anticipated Benefits under the Informative Digest/Policy Statement Overview.

**SMALL BUSINESS DETERMINATION**

The Department has initially determined that the proposed regulations will not have a significant adverse economic impact on small businesses. The proposed regulations make the existing requirements to register a fertilizing material product more clear to the applicant and the registration process more efficient to the benefit of both large and small businesses. The new requirement to submit a biochar carbon laboratory analysis using a standard lab protocol every five years is not deemed to adversely impact a small business as it is a policy already being practiced to verify the material initially. Firms routinely sample their materials as part of their own quality control protocols and already have these analyses available.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative is considered or that has otherwise been identified and brought to its attention 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.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

**CONTACT PERSONS**

Written comments and inquiries concerning the substance of the proposed regulation should be directed to:

Martin Burger, Senior Environmental Scientist (Supervisor)  
California Department of Food and Agriculture  
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch  
P.O. Box 942872  
Sacramento, CA 94271-2872  
Martin.Burger@cdfa.ca.gov

Written comments and inquiries about the initial statement of reasons, proposed actions, or location of the rulemaking files; or a request for a public hearing should be directed to:

Maria Tenorio Alfred, RDS II  
California Department of Food and Agriculture  
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch  
P.O. Box 942872  
Sacramento, CA 94271-2872  
(916) 900-5022

Notice of Proposed Rulemaking  
Fertilizing Materials – CCR 2300.1 – 2308

FAX: (916) 900-5349  
Maria.Tenorio@cdfa.ca.gov

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Department will have the entire rulemaking file available for inspection throughout the rulemaking process. A copy of this Notice, the Proposed Regulation Text, and the Initial Statement of Reasons may be obtained by contacting Brittne Sabalbro at the above address.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, and Proposed Regulation Text in underline and strikethrough can be accessed through the Department's website at <http://www.cdfa.ca.gov/is/regulations.html>.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received during the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which differ, but are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days prior to amendment. Please send requests for copies of any modified regulations to the attention of Brittne Sabalbro at the address, email, or phone number provided in the "Contact Persons" section. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Brittne Sabalbro at the information provided in the "Contact Persons" section.