

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

Division 4. Plant Industry  
Chapter 1. Chemistry  
Subchapter 1. Fertilizing Materials  
(Notice published May 13, 2016)

#### **NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to make changes to the California Code of Regulations (CCR), Title 3, Division 4, Subchapter 1, Sections 2300, 2300.1, 2303, 2304, 2307, 2308, 2312, 2315, 2319, 2320.1, 2320.2, 2320.5, 2322, 2323, and 2324.

#### **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 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. Comments may also be submitted via facsimile (FAX) at (916) 900-5349 or by e-mail to [Nick.Young@cdfa.ca.gov](mailto:Nick.Young@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on June 27, 2016**. The Department will only consider comments received at the Department by that time. Submit comments to:

Nick Young, Supervising Special Investigator II  
Feed, Fertilizer, and Livestock Drug Services Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

#### **AUTHORITY AND REFERENCE**

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by sections 407, 14502, 14591, 14601, 14631, 14641, 14642, 14645, 14646, and 14651.5 of the Food and Agricultural Code (FAC), and to implement, interpret, or make specific Sections 14501, 14502, 14531, 14550.5, 14591, 14594, 14601, 14631, 14641, 14642, 14643, 14645, 14651.5, 14653, 14655, 14681, 14682, Food and Agricultural Code.

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

The California Department of Food and Agriculture's (CDFA's) Fertilizing Materials Inspection Program (FMIP) is statutorily tasked with licensing and label registration, tonnage reports, field inspections, and administration of the Fertilizer Research and Education Program (FREP). The FMIP is responsible for reviewing and registering product labels, promoting agronomically sound and environmentally safe use of fertilizing materials through FREP, and ensuring fertilizing materials are safe, effective, and meet the nutrients guaranteed by the manufacturer. Producers of specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material (OIM), and packaged soil amendment are statutorily mandated to register with the FMIP.

The objective of the proposed regulations is to clarify the statutes in the Food and Agricultural Code (FAC) related to labeling, sampling, registration, inspection protocols, and reporting of fertilizing materials. The proposed changes provide improved clarity and uniformity, and correct outdated, ambiguous, or vague language using more applicable and precise terminology. Furthermore, many of the proposed changes provide improved transparency with fertilizer labeling and offer fuller disclosures for the end user. These changes would help the fertilizer industry and consumers to better understand the law, as well as the ingredients, directions for use, and safety of the products.

### **Documents Incorporated by Reference**

CDFA, Form 513-130 (Rev. 10/15), Experimental Fertilizing Material Research Notification

CDFA, Form 513-135 (Rev. 10/15), Experimental Fertilizing Material Field Trial Report

CDFA, Form 513-026 (Rev. 7/13), Organic Input Material Fertilizing Materials Registration Application

*Anticipated Benefits of the Proposed Action:* The Department anticipates regulations will provide improved clarity and uniformity to the fertilizer industry. These changes will be beneficial to consumers to assist them to better understand the context of the original regulations. Similarly, many of these regulations provide better transparency with fertilizer labeling and offer improved disclosures for the end user.

The proposed adoption to the regulations will clarify references in statute and provide guidance for label evaluation. The fertilizer industry will receive additional guidance through tangible labeling examples that can be applied when creating their own labeling, thereby assisting to expedite the registration process and permitting lawful sales of fertilizing products in California.

There is no existing, comparable federal regulation or statute regulating fertilizing

materials. The Department is the only agency which can implement regulations pertaining to fertilizing materials. As required by Government Code Section

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

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

The Department has made the following initial determinations:

Mandate on 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.

Cost impacts on a representative 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.

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

The Department has initially determined that the proposed regulatory action would not have an economic or fiscal impact to the fertilizer industry.

These regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within the State of California; or
- (3) Affect the expansion of businesses currently doing business within the State of California.
- (4) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: As stated under the Informative Digest/Policy Statement Overview above, the proposed regulations will provide improved clarity and uniformity to the fertilizer industry. Many of these regulations will provide better transparency with fertilizer labeling and offer improved disclosures for the end user. The proposed adoption to the regulations will clarify references in statute and provide guidance for label evaluation. The fertilizer industry will receive additional guidance through tangible labeling examples that can be applied when creating their own labeling, thereby assisting to expedite the registration process and permitting lawful sales of fertilizing products in California. These changes would help the fertilizer industry and

consumers to better understand the law, as well as the ingredients, directions for use, and safety of the products.

The proposed amendments and adoptions provide critical information that have been previously omitted from regulation and/or clarify previously unclear or confusing language. None of the proposed regulatory actions are inconsistent or incompatible with existing state regulations. For additional information on benefits, please see Anticipated Benefits under the Informative Digest/Policy Statement Overview.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

### **SMALL BUSINESS DETERMINATION**

The proposed regulations will not affect small businesses. For required label changes, licensees will not have to revise their labels until the next registration renewal cycle. This will allow the changes to be integrated into the normal business practices of reprinting labels with no additional costs. Firms may utilize their current labels until updated versions are created during their two-year renewal cycle, as a regular course of business.

### **CONSIDERATIONS OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative is considered or that has otherwise been identified and brought to the attention of the agency 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 or, if requested, at a scheduled hearing.

### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Nick Young, Supervising Special Investigator II  
Feed, Fertilizer, and Livestock Drug Services Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

The backup contact person for these inquiries is:

Maria Tenorio, Agriculture Program Supervisor I  
Feed, Fertilizer, and Livestock Drug Services Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Maria Tenorio.

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

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, forms incorporated by reference (CDFA Form 513-130 (Rev. 10/15), CDFA Form 513-135 (Rev. 10/15), CDFA Form 513-026 (Rev. 7-13)), Fertilizer Inspection Advisory Board Meeting Minutes dated September 17, 2015, and the Initial Statement of Reasons. Copies may be obtained by contacting Maria Tenorio, at 2800 Gateway Oaks Drive, Sacramento, California 95833, or at the phone number provided above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which 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 before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Maria Tenorio. The Department will accept written comments on the modified regulations for 15 days after

the date on which they are made available.

### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Maria Tenorio.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: <http://www.cdfa.ca.gov/is/regulations.html> .