

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Division 4. Plant Industry
Chapter 1. Chemistry
Subchapter 1. Fertilizing Materials
Article 1. Standards and Labeling

SUPPLEMENTAL 15-DAY NOTICE OF MODIFICATIONS TO PROPOSED REGULATIONS

NOTICE IS HEREBY GIVEN that Pursuant to the requirements of Government Code Section 11436.8 (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 May 13, 2016 [Notice File No. Z2016–0428–01, Register 2016, No. 20-Z] relating to fertilizing material standards and labeling; and inspection protocol.

The Department is proposing to modify the originally proposed text for Sections 2303, 2315, 2319, and 2323 of Title 3, Division 4, Chapter 1, Subchapter 1, Article 1 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 May 13, 2016 and ended at 5:00 p.m. on June 27, 2016. Additionally, a public hearing was held on July 5, 2016. The Department published a notice of a 15-day comment period on revised proposed text on October 11, 2016 and ended at 5:00 p.m. on October 25, 2016. The Department is now publishing another notice of 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 **March 29, 2017 and ends at 5:00p.m on April 12, 2017.**

***Please note:** Any written comments are to be restricted to the recent modifications as indicated in underlined italics or ~~italic-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, 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.

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

Sections 2303, 2315, 2319, and 2323.

WRITTEN COMMENT PERIOD

The Department will accept written comments regarding the newly proposed changes between **March 29, 2017 and April 12, 2017**. Comments may also be submitted via facsimile (FAX) at (916) 900-5349 or by e-mail to Nick.Young@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on April 12, 2017**. 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

All written comments received by **April 12, 2017**, which pertain to the newly indicated changes, will be reviewed and responded to by the Department in the Final Statement of Reasons as part of the compilation of the rulemaking file.

DEPARTMENT OF FOOD AND AGRICULTURE

MODIFIED TEXT

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.

Newly proposed text is displayed in underlined italic type.

Proposed text for to be deleted is displayed with ~~italic strikethrough~~ type.

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 1. STANDARDS AND LABELING

§ 2303. Labeling Requirements.

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(wv) ~~In adopting the labeling requirements, The secretary may~~ accepted definitions and official fertilizer terms listed in the ~~2010~~ 2017 Association of American Association of Plant Food Control Officials *official publication, No. 70*. ~~Publication volume 63, may be considered.~~

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

§ 2315. Sampling Procedure.

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(c) When sampling gypsum, the following procedure is acceptable:

- (1) Scrape outer surface aside before inserting sampler.

(2) Take *approximately at least* 20 approximately equal cores from fairly evenly distributed parts of the quantity.

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Note: Authority cited: Sections 407, 14502 and 14591, Food and Agricultural Code.
Reference: Section 14591, Food and Agricultural Code.

ARTICLE 3. LICENSING

§ 2319. Experimental Use of a Fertilizing Material.

Experimental use of a fertilizing material for noncommercial value is exempt from registration, ~~licensing, only~~ when all of the following conditions have been satisfied:

~~(a) Experimental fertilizing. The material shall not be sold application is limited to 10 acres or less.~~

~~(b)(c)~~ The material shall be conspicuously identified on the display panel as "EXPERIMENTAL USE ONLY".

~~(b)(c) The user(s) or recipient(s) of the material shall be documented by the manufacturer. Records identifying recipient(s) of the material shall must be retained and available to the secretary upon request for three years. after the conclusion of the field trial.~~

(1) Documentation shall be retained and available to the secretary upon request for at least three years from date the material was provided.

Note: Authority cited: Sections 407, 14502 and 14591, Food and Agricultural Code.
Reference: Sections 14531 and 14591, Food and Agricultural Code.

§ 2323. On Site Inspection of Organic Input Material Manufacturers.

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~~(b) The Ssecretary shall may perform site inspections of organic input material manufacturers and manufacturing processes used to validate label nutrient guarantees, claims, and compliance with National Organic Program standards at least once per year.~~

~~(b)(c)~~ The Ssecretary may accept inspections performed by the following a third-party organizations recognized by the National Organic Program for out-of-state organic input material manufacturers-;

- (1) Organic material review organizations recognized by the USDA National Organic Program (NOP),
- (2) Firms accredited by the International Organization for Standardization,
- (3) Accredited certifying agents recognized under the USDA NOP,
- (4) Governmental agencies having responsibility in the enforcement of laws regulating the production, distribution, and labeling of fertilizing materials,
- (5) Or third-party organizations undergoing departmental training on fertilizing materials inspection protocol.

All inspection records ~~obtained~~ compiled by the third-party organization shall be made available to the ~~S~~secretary upon request. When a third-party organization is conducting a site inspection, the ~~organization's~~ inspection shall be consistent with the ~~S~~secretary's inspection protocol, which requires all locations manufacturing liquid organic input materials with a total nitrogen claim higher than 3% to have at least two inspections per year, one being unannounced. ~~and~~ The third-party organization shall notify the department of ~~when the date of the inspection is going to take place at least no less than 72 hours in advance of the inspection;~~ Ddepartment representatives may be present at the inspection.

Note: Authority cited: Sections 407, 14502, 14601, 14641 and 14642, Food and Agricultural Code. Reference: Section 14601, Food and Agricultural Code.