

# **CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**

## **PROPOSED CHANGES IN THE REGULATIONS**

### **CALIFORNIA CODE OF REGULATIONS TITLE 3. FOOD AND AGRICULTURE DIVISION 4. PLANT INDUSTRY, CHAPTER 1. CHEMISTRY, SUBCHAPTER 1. FERTILIZING MATERIALS, ARTICLE 4. REGISTRATION**

#### **INITIAL STATEMENT OF REASONS**

The California Department of Food and Agriculture's (CDFA) 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). FMIP is responsible for the review and registration of 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 agricultural minerals, auxiliary soil and plant substances, packaged soil amendments, specialty fertilizers and organic input materials (OIM) are statutorily mandated to register with the FMIP. Commercial fertilizers do not require registration, but must follow labeling requirements.

#### **SECTIONS AFFECTED**

California Code of Regulations (CCR), Title 3, Division 4, Subchapter 1, Section 2320.1.

#### **PROBLEM STATEMENT**

The objective of the proposed regulations is to fulfill the statutes in the Food and Agricultural Code (FAC) related to registration periods for fertilizing material products. Assembly Bill 1811 was chaptered on September 22, 2016. The bill deleted the provisions for the current registration cycle, which required all fertilizer licensees to renew their product labels on January 1 of even numbered years; and authorized the Department of Food and Agriculture to develop a revised registration schedule. The proposed modified registration cycle will allow timely processing and approval of fertilizing material registrations. The proposal outlines a staggered registration cycle to evenly distribute the workload over a two-year period. A transition plan will be implemented to ensure an orderly transition from the existing registration cycle to the proposed staggered registration cycle. These changes will help the fertilizer industry and consumers by preventing delays in approval and registration of fertilizing materials for sale and distribution in California. Firm's registration renewal dates may shift, but the fee structure will be maintained. This revised registration cycle will be revenue neutral.

The impacted industry will not pay any additional fees

## **BENEFITS**

The proposed changes to the regulations will allow for the administrative processing of registrations to be spread throughout the year rather than all in a single push of activity every two years. These changes will be beneficial to the fertilizer industry by expediting the registration process and permitting lawful sales of fertilizing products in California. These changes will benefit consumers by allowing access to the full range of fertilizing products.

## **SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION, PER GOVERNMENT CODE 11346:**

The following paragraphs provide the specific purpose, rationale, and summaries of these proposed changes to the CCR's related to fertilizing materials.

### **ARTICLE 4. REGISTRATION**

**Section 2320.1(a)** is being amended to include the organic input material registration renewal fee per product label. This language was previously in Section 2320.1(b).

**Section 2320.1(b)** is being amended to revise the current registration cycle. The current registration cycle requires all product labels to be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-numbered year. The revised proposed registration cycle evenly distributes four registration cycles throughout a 2-year period. The registration periods will begin on January 1 of even numbered year, July 1 of even numbered years, January 1 of odd numbered year, and July 1 of odd numbered years. This is necessary to ensure that all fertilizing material classifications that require registration (OIMs, specialty fertilizers, packaged agricultural minerals, auxiliary soil and plant substances, and packaged soil amendments) share the same time frame for resubmitting registration applications. This amendment will also reduce the processing time of registrations, and ensure fertilizing materials being sold in California are approved by the Department.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The proposed regulatory changes are based upon feedback from the Fertilizer Inspection Advisory Board (FIAB) and Department staff. The Department relied upon the draft FIAB meeting minutes dated October 12, 2016, and the Registration Working Group notes from the August 2, 2016 meeting. These documents are included as part of the rulemaking record; no other documentation is included for the proposed amendments to the regulations.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The proposed regulatory actions are not expected to have an adverse economic or fiscal impact on the fertilizing materials industry, related businesses, or the general public.

Firm's registration renewal dates may shift, but the fee structure will be maintained. This revised registration cycle will be revenue neutral. The impacted industry will not pay any additional fees. The revised registration renewal cycle will become effective January 1, 2018. Firms will enter a transition registration period if they pay their registration fees, submit a complete application, and do not have any outstanding documents with Department staff; the Department can prorate firm's registration fees during the registration renewal cycle transition. After the initial transition, registration fees will be maintained at the current rates. There will be approximately 2,500 product labels renewed every six months, over a two-year period.

CDFA concludes that these regulations will not:

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

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

There would be no adverse economic impact. Firms will go through the same process to renew their fertilizing material product labels, but may have a different renewal date. The Department may issue provisional registrations, to ensure products in the channel of trade are registered in California, if firm's pay their renewal fees, submit a complete application, and do not have any outstanding documents with Department staff. The Department may prorate fees during the registration renewal transition period.

## **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES**

Two alternatives to the proposed regulation have been identified. The first alternative is maintain the current registration cycle. This is not beneficial to the industry as there are currently delays in approving labels, and is not beneficial to staff because there is one large push of renewals in January of even numbered years.

The second alternative is to adopt a "rolling" registration cycle, where a firm's registration would be valid for a two-year period from the approval date. This would be

confusing to industry and staff, as there is no way to control workflow, or send out renewal letters on a daily basis. Additionally, the current Department's database cannot accommodate a rolling fee schedule. A new or greatly modified database would be required at a substantial cost that would have to be passed on to the registrants.

**DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS**

The proposed regulations do not duplicate or conflict with federal regulations.