

TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY, CHAPTER 1. CHEMISTRY,
SUBCHAPTER 1. FERTILIZING MATERIALS,
ARTICLE 4. REGISTRATION
(Notice published April 7, 2017)

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, Section 2320.1.

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 Dale.Woods@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on May 22, 2017**. The Department will only consider comments received at the Department by that time. Submit comments to:

Dr. Dale Woods, Environmental Program Manager 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

AUTHORITY AND REFERENCE

Note: Authority cited: Sections 407, 14502, 14601, and 14604, Food and Agricultural Code. Reference: Sections 14601, 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 implement a revised fertilizing materials registration cycle, which will allow for the administrative processing of registrations to be spread throughout the two-year cycle, rather than all in a single push of activity every two years.

Anticipated Benefits of the Proposed Action: The Department anticipates these regulations will be beneficial to the fertilizer industry because it will expedite the registration review process, and permit lawful sales of fertilizing material products in California. These changes will benefit consumers by allowing access to the full range of fertilizing material products in a timely manner.

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 expedite the fertilizing material registration review process, and permit lawful sales of fertilizing material products in California. These changes will benefit consumers by allowing access to the full range of fertilizing material products in a timely manner.

The proposed amendments will implement a revised fertilizing materials registration cycle, which 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. 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. The implementation of this revised registration cycle will assist small businesses because there will be a quicker turnaround time for approving fertilizing material labels.

CONSIDERATIONS OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative 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:

Dr. Dale Woods, Environmental Program Manager 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

The backup contact person for these inquiries is:

Brittnie Sabalbro, Associate Governmental Program Analyst
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 Dr. Dale Woods.

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, and the Initial Statement of Reasons. Copies may be obtained by contacting Dr. Dale Woods, 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 Dr. Dale Woods. 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 Dr. Dale Woods.

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> .