

**DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS**

CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 2. FIELD CROPS
SUBCHAPTER 2. COMMERCIAL FEED
ARTICLE 1. DEFINITIONS AND ARTICLE 9. MISBRANDING ADULTERATION

FINAL STATEMENT OF REASONS

**UPDATE OF INITIAL STATEMENT OF REASONS/PLAIN ENGLISH POLICY
STATEMENT OVERVIEW**

The Initial Statement of Reasons/Plain English Policy Statement Overview is still valid, except as discussed below. No public hearing was requested and none was held.

Please note that a review of the proposed text that was published in the notice, revealed that a reference in Section 2735, subsection (b) to Section 2735, subsection (e) was not a strike-through as it should have been. The proposed text included in this rulemaking file has been amended to reflect the added strike-through. The reference in Section 2735 subsection (b) of the proposed text is to a subsection that is repealed in the proposed text. There are several other such references shown as a strike-through; this would be another such strike-through of a reference to Section 2735, subsection (e).

The Initial Statement of Reasons under “Specific Purpose and Factual Basis” stated that the proposed regulatory changes would “Amend Section 2734(c) by removing the references to the revision date and the name of the specific form because it is no longer necessary to incorporate by reference.” The citation of “Section 2734(c)” should have been a citation to “Section 2735(a)(1),” and, as discussed below, the incorporation by reference of the form was restored in the final regulation text.

The Initial Statement of Reasons under the caption “Removing the Reference to the Revision Date” explained the Department’s original proposal to delete the incorporation by reference of the Certificate of Movement of Cottonseed Products, Rev. 5-97 form from regulation section 2735(a)(1). The primary rationale for this proposal was that section 2735(a)(1) specifies all the regulatory content that is required on the form and that therefore the form does not also need to be incorporated by reference. However, upon further evaluation of section 2735(a)(1), the Department has determined that all of the regulatory content of the form is not, in fact, specified in full in section 2735(a)(1). Consequently, the proposed deletion of the incorporation by reference of the Certificate of Movement of Cottonseed Products form has been dropped from this rulemaking. A new version of the form, Rev. 12-09, is now proposed for incorporation by reference in section 2735(a)(1). The new version of the form is in regulatory substance identical to the Rev. 5-97 version of the form which has been incorporated by reference, except that

two changes were made to the form solely to conform to the other fully noticed changes in this rulemaking. First, the new version of the form changes “Aflatoxin B1” to “Aflatoxins” consistent with the new definition for “aflatoxins” and related regulation amendments in this rulemaking. Second, the new version of the form removes the “Purpose of Entry” option for Feed Use: Beef Cattle Feedlots in Imperial County, as the exemption for feeding beef cattle cottonseed meal with up to 300 ppb Aflatoxin B1 in Imperial County is repealed in this rulemaking.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD

No comments or testimony were received during the noticed initial public comment period ending June 8, 2009.

AUTHORITY

Section 401 of the California Food and Agricultural Code declares that the California Department of Food and Agriculture shall promote and protect the agricultural industry of California. Section 407 declares that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce.

ALTERNATIVES

The Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

ESTIMATED COSTS OR SAVINGS TO PUBLIC AGENCIES OR AFFECTED PRIVATE INDIVIDUALS OR ENTITIES

The Department has determined that no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that the proposed changes in the regulations would result in no significant added costs to small businesses affected by these proposed changes because there no new or additional fees or taxes required. Any unforeseen

costs to small businesses would be offset by the savings from added safety to the food and feed supply that the proposed changes provide.

ECONOMIC IMPACT ON AFFECTED BUSINESSES

The Department has determined that the proposed regulations would result in no costs to private businesses or individuals affected by these proposed regulations. This is based on the fact stated in the "SMALL BUISNESSES IMPACT STATEMENT."