DEPARTMENT OF FOOD AND AGRICULTURE

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 2. SAMPLES
ARTICLE 4. REGISTRATION
ARTICLE 6. ADMINISTRATIVE PENALTIES

INITIAL STATEMENT OF REASONS

The California Department of Food and Agriculture's (Department) 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 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 and effective, and meet the nutrients guaranteed by the manufacturer. Producers of specialty fertilizers, packaged agricultural minerals, beneficial substances, and organic input materials (OIM) are statutorily mandated to register fertilizing materials with the FMIP.

SECTIONS AFFECTED

California Code of Regulations (CCR), Title 3, Division 4, Chapter 1, Subchapter 1, Articles 1, 2, 4, and 6, Sections 2300, 2300.1, 2300.2, 2300.3, 2303, 2304, 2309, 2315, 2317.5, 2320.2, and 2322.

PROBLEM STATEMENT

A central objective is to align proposed rulemaking actions with adoption of new standards for plant micronutrients, including Soluble Silicon, by other state departments of agriculture through official recognition by the Association of American Plant Food Control Officials (AAPFCO), to ease labeling requirements for manufacturers and distributors. The proposed rulemaking replaces guarantees of Soluble Silicon as a beneficial substance with guarantees of Soluble Silicon as a plant micronutrient. It aligns California with all other US states in adopting this labeling standard for Soluble Silicon. This will prevent manufacturers from having to use different labels for the same product depending on which state they are distributing the product.

The proposed rulemaking provides for greater clarity and guidance in labeling and recordkeeping requirements that ensure label accuracy and inspection effectiveness. The

proposed revisions provide greater clarity and specificity in firm addresses on labels, provide greater clarity and specificity in requirements for sales of fertilizing materials and custom blends, provide greater clarity and specificity in the regulation of bulk totes, and update inspection procedures.

The proposed rulemaking addresses misnumbered references and misspellings. The proposed revisions also update an inadvertently missed reference to the previous OIM registration fee.

The proposed rulemaking provides both greater clarity and greater flexibility in labeling requirements. The proposed revisions provide clarification and specificity to the scope of labeling claims and efficacy data requirements, provide clarification and increased flexibility to allowed uses of the registered OIM logo, provide clarification and specificity by defining several fertilizing material ingredients for consistency with other states and AAFPCO, provides clarification and specificity in molybdenum warning labels for products with unintentional molybdenum content, restores flexibility in labeling for OIM bulk beneficial substances, provides greater clarity and flexibility in labeling for amino acid and amino acid complex products, provides greater clarity and specificity in labeling for enzyme guarantees, provides more specificity and clarity for total phosphoric acid claims, and enact matching regulatory text changes within the administrative penalty “Table A: Violations Matrix” to ensure consistency.

DOCUMENTS RELIED UPON

- The Association of American Plant Food Control Officials (AAPFCO) 2026 Official Publication, AAPFCO, No. 79, pages 95, 99, 104, 115.
- The Association of American Plant Food Control Officials (AAPFCO) 2025 Official Publication, AAPFCO, No. 78, pages 57 and 62.

BENEFITS

The proposed regulatory changes will provide necessary clarity and direction for the recently adopted change to guarantees of Soluble Silicon as a plant micronutrient. The rulemaking will provide label standardization and uniformity for Soluble Silicon label claims as the change to a plant micronutrient has been unanimously approved by other state departments of agriculture through official voting at AAPFCO. It is critical to provide uniformity for the fertilizer industry, so fertilizer manufacturers can use one label that would be compliant across all states thereby saving time, money, and labor. The proposed regulations meet the industry need for manufacturers to provide a compliant label that meets the requirements of all states and will promote production of soluble silicon products.

The proposed rulemaking provides for greater clarity and guidance in labeling and recordkeeping requirements that ensure label accuracy and inspection effectiveness. The proposed revisions provide greater clarity and specificity in firm addresses on labels, provide greater clarity and specificity in requirements for sales of fertilizing materials and custom blends, provide greater clarity and specificity in the regulation of bulk totes, and update inspection procedures.

The proposed rulemaking addresses misnumbered references and misspellings. The proposed revisions also update an inadvertently missed reference to the previous OIM registration fee.

The proposed rulemaking provides both greater clarity and greater flexibility in labeling requirements. The proposed revisions provide clarification and specificity to the scope of labeling claims and efficacy data requirements, provide clarification and increased flexibility to allowed uses of the registered OIM logo, provide clarification and specificity by defining several fertilizing material ingredients for consistency with other states and AAFPCO, provide clarification and specificity in molybdenum warning labels for products with unintentional molybdenum content, restore flexibility in labeling for OIM bulk beneficial substances, provide greater clarity and flexibility in labeling for amino acid and amino acid complex products, provide greater clarity and specificity in labeling for enzyme guarantees, provide additional clarity on the labeling of phosphorus materials, and ensures that the changes are consistent with the text within the administrative penalty "Table A: Violations Matrix."

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION, PER GOVERNMENT CODE SECTION 11346.2(b)(1):

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

ARTICLE 1. STANDARDS AND LABELING

Section 2300. Fertilizing Materials – General Provisions.

New Section 2300(b)(1) is being adopted to clarify that labeling claims must be consistent with registered or approved product labels and may require efficacy data to substantiate. This is necessary as labeling outside of the approved label (such as websites, advertisements, brochures, marketing or promotional material) occasionally contain false or misleading claims not found on the approved label. This regulation clarifies that such labeling is subject to the same labeling requirements as the approved or registered label. This regulation is also necessary to clarify that the scope of efficacy

data requirements extends to labeling claims even if those claims are not on a registered or approved label.

Existing Sections 2300(g) and **(g)(1)** are being amended and **New Sections 2300(g)(2)(A)** and **(g)(3)** are being adopted to offer greater clarity and guidance on indicators of official approval, including the registered organic input material (OIM) logo.

Existing Section 2300(g) is amended to include "CDFA approved" as an additional example of indications of official approval that are prohibited. This is necessary as the current single example, "State of California approved," may be misread as the sole prohibited statement, instead of a single example of the general prohibition against indications of official approval. By including the additional example, the regulation is clearer in prohibiting indications of official approval as a category.

Existing Section 2300(g)(1) is amended to allow both registered OIM labels and labeling with specific reference to a registered OIM to reflect or bear the Registered OIM logo. This is necessary as the current regulation may be misunderstood to only allow the OIM logo to appear on registered labels, not on other labeling (such as marketing or promotional material) referencing a registered OIM product. It is in the interest of promoting the distribution of fertilizing materials that firms be able to include the OIM logo indicating OIM registration when referencing their products on labeling material, even if the complete registered label is not reproduced.

New Section 2300(g)(2)(A) is being adopted to clarify that the registered OIM logo is permitted to vary in size, and single-color logos may be printed in any alternate single-color. This is necessary as the preceding section stating that "the logo must replicate the form and design [of the OIM logo]," which may be misread as prohibiting changes in size and print color. This regulation provides clear guidance that firms may change the color of single-color OIM logos and the size of OIM logos, allowing firms greater freedom in the design of registered OIM labels and preventing firms from being required to use a specific color when printing labels bearing this logo.

New Section 2300(g)(3) is being adopted to clarify that the use of the registered OIM logo on unregistered labels or on labeling that is not in specific reference to a registered organic input material shall be considered false or misleading. Although it is discretionary in subsection (g)(1) that OIM registered "may" reflect or bear the OIM logo, subsection (g) is clear that the OIM logo cannot be used outside of what is allowed in subsections (g)(1) as the OIM logo would fall under "other indication of official approval" and therefore, would be prohibited in labeling and advertising unless allowed for organic input material. This is necessary because the new regulation will provide clear guidance that the OIM logo is false or misleading when appearing outside of the specific permitted circumstances.

Existing Section 2300(i) is being amended and **New Section 2300(i)(1)** adopted to offer clearer, more flexible labeling requirements for products containing the plant micronutrient, Molybdenum.

Existing Section 2300(i) is being amended to clarify that all fertilizing material products shall include a required statement when Molybdenum is present at elevated quantities. The revision specifies that this applies to all fertilizing materials, rather than to specify the typical product categories (commercial fertilizer and agricultural minerals) that guarantee Molybdenum on labeling. This amendment is necessary because any fertilizing material product type (including products that do not guarantee plant nutrients) may possess Molybdenum at quantities that merit the required WARNING, CAUTION, ATTENTION, or NOTICE statement.

New Section 2300(i)(1) is being adopted to require an alternate WARNING, CAUTION, ATTENTION, or NOTICE statement for products containing 0.001 percent or more by weight of molybdenum but are not intended as a source of guaranteed molybdenum, that includes the statement that this product contains unintentionally added molybdenum (Mo), and does not require a molybdenum nutrient guarantee. Molybdenum can often be unintentionally included because it is commonly found in as a by-product in sulfur, iron, or copper mining deposits. Molybdenum is rarely found in pure deposits and can unintentionally be included in fertilizing materials containing these other plant nutrients.

This rulemaking is necessary as the current regulations require that products with greater than 0.001 percent molybdenum in a heavy metals analysis include both a WARNING, CAUTION, ATTENTION, or NOTICE statement and a molybdenum nutrient guarantee. If the firm does not intend the product as a source of molybdenum, then revising the label to include a nutrient guarantee can be burdensome, and such a requirement is contrary to the intention of regulations such as 2303(h), which states that nutrients should only be guaranteed if claimed. It is also misleading, as a firm is now required to provide a minimum guarantee for an unintentional impurity or residue that the firm likely would prefer to minimize. With a minimum guarantee, the firm would also be responsible that this impurity is consistently maintained to meet this guaranteed amount with every lot or batch. This proposed regulation removes this burdensome requirement for firms. It also provides for an alternate statement, which includes verbiage that this product contains unintentionally added molybdenum (Mo), which accurately communicates to consumers the source of the molybdenum.

Existing Section 2300(*l*)(2) is amended to revise the inaccurate section reference (1)(1) to (*l*)(1). This is necessary to accurately communicate the applicable sections.

New Section 2300(n) will be adopted to provide direction and clarity that all sales must be accompanied by a bill of sale, invoice, or other transactional document. This is necessary

as firms are required to maintain accurate records of all transactions subject to assessment for not less than three years and subject to audit by the Secretary. This clarification about sales prevents transactions that are not appropriately recorded.

Section 2300.1. Definitions.

Existing Section 2300.1(a)(3) is amended to update the regulatory citation from Government Code Section 6254.7(d) to Sections 7924.510(c) and/or 7924.510(f) to be consistent with the updated Government Code. This is necessary to accurately communicate the applicable sections.

Existing Section 2300.1(d) is amended to clarify that the request referenced in the definition of "custom blend" must be a written request. This is necessary to allow investigators to conduct investigations concerning the use, sale, adulteration, or misbranding of custom blends. A written record is necessary for investigators to confirm that a firm is producing and distributing a blended product in response to a consumer request, and that the blended product meets the requested specifications.

New Section 2300.1(n) is being adopted to add the definition of "bat guano" officially adopted by AAPFCO to regulations. This is necessary to clarify the definition of this ingredient. While the Department already gives due regard to many official fertilizer terms such as those prescribed by AAPFCO, memorializing this definition into regulations will provide clearer guidance to manufacturers and distributors of products with this ingredient. In addition, AAPFCO terms and definitions are widely accepted by most or all other states, and therefore adoption of this ingredient definition will improve consistency in labeling for interstate commerce.

New Section 2300.1(o) is being adopted to add the definition of "seabird guano" officially adopted by AAPFCO to regulations. This is necessary to clarify the definition of this ingredient. While the Department already gives due regard to many official fertilizer terms such as those prescribed by AAPFCO, memorializing this definition into regulations will provide clearer guidance to manufacturers and distributors of products with this ingredient. In addition, AAPFCO terms and definitions are widely accepted by most or all other states, and therefore adoption of this ingredient definition will improve consistency in labeling for interstate commerce.

New Section 2300.1(p) is being adopted to add the definition of "Ectomycorrhizal fungal propagule" officially adopted by AAPFCO to regulations. This is necessary to clarify the definition of this ingredient. While the Department already gives due regard to many official fertilizer terms such as those prescribed by AAPFCO, memorializing this definition into regulations will provide clearer guidance to manufacturers and distributors of products with this ingredient. In addition, AAPFCO terms and definitions are widely

accepted by most or all other states, and therefore adoption of this ingredient definition will improve consistency in labeling for interstate commerce.

New Section 2300.1(q) is being adopted to add the definition of "Endomycorrhizal fungal propagule" officially adopted by AAPFCO to regulations. This is necessary to clarify the definition of this ingredient. While the Department already gives due regard to many official fertilizer terms such as those prescribed by AAPFCO, memorializing this definition into regulations will provide clearer guidance to manufacturers and distributors of products with this ingredient. In addition, AAPFCO terms and definitions are widely accepted by most or all other states, and therefore adoption of this ingredient definition will improve consistency in labeling for interstate commerce.

New Section 2300.1(r) will adopt a definition of "labeling claim" as any written, printed, or graphic assertion that describes attributes, ingredients, or benefits, including statements of something as a fact or an assertion that may be subject to scientific review. This is necessary to provide clarity and guidance as to what labeling matter is considered a claim. Current references to labeling claims are open to multiple interpretations. This definition prevents ambiguity and informs firms which labeling elements are subject to review as a claim.

New Section 2300.1(s), **(s)(1)**, and **(s)(2)** will adopt a definition of "bulk tote" and specify the characteristics of liquid and dry bulk totes. This is necessary as many fertilizing material products are distributed in bulk totes and this regulation provides clarity and guidance that such distribution falls within the bulk category despite being distributed in individual containers. Fertilizing materials may be categorized as packaged and bulk, but the definition of bulk is determined by weight (greater than 50 kilograms or 110 pounds), not lack of a container. Providing a definition of bulk tote provides greater clarity to distributors of which products are considered bulk materials. This definition also allows inspectors to offer clearer communication and guidance to firms when determining whether their fertilizing materials are bulk or packaged, as well as their product registration requirements.

Section 2300.2. Procedures for Claiming Protection of Trade Secrets.

Existing section 2300.2, Note: Authority cited is amended to remove the authority cited reference of Government Code Section 6254.7(d) since the code section was changed and is no longer valid. Government Code Sections 7924.510(c) and 7924.510(f) were not added as a reference as the Department is not attempting to implement, interpret, or make these Government code sections specific.

Section 2300.3. Conditions of Confidentiality.

Existing section 2300.3, Note: Authority cited is amended to remove the authority cited reference of Government Code Section 6254.7(d) since the code section was changed and is no longer valid. Government Code Sections 7924.510(c) and 7924.510(f) were not added as a reference as the Department is not attempting to implement, interpret, or make these Government code sections specific.

Section 2303. Labeling Requirements.

Existing Section 2303(d) is amended to revise the label requirement for a licensed label guarantor's address to instead state a "current, valid" address. This is necessary for clarification and guidance, as an out-of-date or invalid address was not intended to fulfill this requirement. Under current regulations, a firm may change addresses, or an address may no longer be valid, and if labels are not updated in a timely manner, then such labels are being distributed to the public with inaccurate information and no longer fulfill this requirement.

New Section 2303(d)(2) is adopted to establish a requirement that a label guarantor provide a new, valid address within 30 days if the address appearing on a registered label has changed or is no longer valid. This is necessary as an outdated or incorrect address is misleading to consumers and prevents Department staff from conducting necessary inspections or disseminating important documentation by mail.

Existing Section 2303(e) is amended to exclude registered OIM Bulk Beneficial Substances distributed for conditioning soil through physical means from the label requirement to include a statement of product purpose. This is necessary as the inclusion of this requirement for the specified fertilizer category was an unintended oversight when the former Soil Amendment product category was replaced by the Beneficial Substance product category. Prior to that replacement, product labels for this specified fertilizer category were not required to include a statement of product purpose. Maintaining consistency in this labeling requirement will avoid unnecessary revisions of currently approved and future labels that were not the intended outcome of the Beneficial Substances product category adoption.

Existing Section 2303(f) is amended to exclude registered OIM Bulk Beneficial Substances distributed for conditioning soil through physical means from the label requirement to include directions for use. This is necessary as the inclusion of this requirement for the specified fertilizer category was an unintended oversight when the former Soil Amendment product category was replaced by the Beneficial Substance product category. Prior to that replacement, product labels for this specified fertilizer category were not required to include directions for use. Maintaining consistency in this labeling requirement will avoid unnecessary revisions of currently approved and future

labels that were not the intended outcome of the Beneficial Substances product category adoption.

Existing Section 2303(h) is amended to include Soluble Silicon (Si) in the list of micronutrients that a firm may guarantee in the Guaranteed Analysis. This is necessary as fertilizing material products with Soluble Silicon as a plant nutrient are a rapidly growing product type within the fertilizing material industry, and it is in the interest of promoting the distribution of fertilizing materials within the State to adapt to this change in the marketplace. Soluble Silicon has been officially adopted by AAPFCO as a plant nutrient and this label requirement is universally recognized in all other states. This recognition includes a revised definition of micronutrients that include silicon. California plans to soon adopt this definition for consistency, standardization, and uniformity. Allowing this guarantee will improve consistency in labeling between states and improve interstate commerce.

Existing Section 2303(k) is amended to correct the misspelling of “BENFICIAL” to “BENEFICIAL.” This is necessary to accurately communicate the intended label requirement.

Existing Section 2303(m) is amended to correct the regulation reference of 2303(i)(1) to reference 2303(h)(1). This is necessary to accurately communicate the intended regulation reference. During the November 14, 2025 rulemaking revisions, the subsections of section 2303 were renumbered, and this reference was inadvertently not updated to refer to the correct, renumbered subsection.

Existing Section 2303(v) is amended to correct the regulation reference of 2303(s) to reference 2303(r). This is necessary to accurately communicate the intended regulation reference. During the November 14, 2025 rulemaking revisions, the subsections of section 2303 were renumbered and this reference was inadvertently not updated to refer to the correct, renumbered subsection.

Existing Section 2303(w) is amended to change the requirements for use of the terms “amino acid” or “amino” from applying to a specific product name to applying to reference on a product label. This is necessary to clarify that references to “amino acid” or “amino” were not intended to be limited exclusively to a product name. This change also clarifies that such a reference on a label outside of the product name is subject to the same requirements. This avoids false or misleading claims of amino acids when neither free amino acids nor proteins hydrolyzed to their constituent amino acids and short polypeptides are present.

Existing Section 2303(w)(1) is amended to specify that the proof of purchase submitted for each specific amino acid must be submitted to the Department in support of the claims.

This revision provides greater clarity and guidance that the proof of purchase is submitted to the Department, and the proof of purchase must support the specific amino acids claims. This is necessary as the previous instructions that “proof of purchase…is submitted” may be ambiguous and unclear.

Existing Section 2303(x) is amended to change the requirements for use of the terms “amino acid complex” or “(secondary nutrient or micronutrient) amino acid complex” from applying to a specific product name to applying to reference on a product label. This is necessary to clarify that references to “amino acid complex” or “(secondary nutrient or micronutrient) amino acid complex” were not intended to be limited exclusively to a product name. This change also clarifies that such a reference on a label outside of the product name is subject to the same requirements. This avoids false or misleading claims of amino acids complexes when such ingredients are not otherwise guaranteed on the label.

Section 2304. Biotics.

Existing Section 2304(a)(2)(B) is amended to specify that a label with enzyme guarantees must also include a definition of the enzyme unit. This is necessary as a variety of enzyme unit definitions exist, and the appearance of an enzyme unit guarantee may be misleading without a specific definition. Requiring an enzyme unit definition is necessary to accurately communicate to consumers the enzyme activity guaranteed for the fertilizing materials product.

Section 2309. Phosphorus Materials.

Existing Section 2309(a) is amended to combine three phosphorous acid disclosure statements (subsections (a)(1), (a)(2), and (a)(3)) into one larger section. The necessity of the amendment is because some labels place each disclosure statement in different, unrelated areas of the label which was not the intent of the disclosure for maximum transparency and disclosure to growers and the general public. It is important for the related disclosure statements to appear in successive text for transparency. These disclosure statements could previously be re-worded on a label, so the inclusion of quotations ensures that the disclosure statement will be communicated completely and with the original intent. It should be noted that this revision was originally intended to be included as part of the changes to Section 2309 within the November 14, 2025, rulemaking package, but was inadvertently omitted between the originally proposed text and the 15-day comment period revisions.

Existing Section 2309(b) is amended to correct the misspelling of “Ffor” to “For.” This is necessary to ensure the consistency and accuracy of the text.

ARTICLE 2. SAMPLES

Section 2315. Sampling Procedure.

Existing section 2315(d)(3) is amended to revise the text “other clear solutions” to “other solutions.” This is necessary as the current regulations do not allow sampling of non-clear solutions at outlets. This revision more accurately reflects that fertilizing material solutions are often opaque and that liquids other than clear solutions may be sampled at a container outlet. This revision provides greater flexibility to obtain samples and more accurately reflects existing practices.

Section 2317.5. Investigational Allowances.

Existing Section 2317.5(b) is amended to revise the order and format the secondary and micronutrient investigational allowance list for consistency. Section 2303(h) lists each nutrient with its elemental symbol, and lists first the secondary nutrient and then the micronutrients, each in alphabetical order. The revision to the element investigational allowance list follows this identical order and format. This is necessary for greater consistency between regulatory sections and greater clarity and guidance for readers. This section is also amended to include Soluble Silicon (Si) in the list of micronutrient investigational allowances. This is necessary for consistency with the proposed regulation to include Soluble Silicon (Si) in the list of allowed micronutrients in the Guaranteed Analysis.

Existing Section 2317.5(c) is amended to remove the investigational allowance for Soluble Silicon (Si) from the Other Ingredient Guarantees or Claims table. This is necessary for the investigational allowance of Soluble Silicon (Si) to be consistent with the proposed change to move guarantees for this element from the Beneficial Substances statement of composition to the plant nutrient Guaranteed Analysis. This revised amount of the Soluble Silicon investigational allowance is necessary because the new value was officially adopted by AAPFCO and is applied across all states, so it is critical for standardization and consistency across the United States. Additionally, the investigational allowance for humic acid was increased from 10% to 20% to be more flexible and permissive. This is necessary because CDFA’s Center for Analytical Chemistry performed analysis on humic acid products with higher percentage claims, mid-percentage claims, and low-percentage claims and determined more analytical variance may occur at lower level of humic acid which necessitates the increase to ensure that no manufacturer receives an inaccurate violation.

ARTICLE 4. REGISTRATION

Section 2320.2 Registration Application for Organic Input Material Product Label.

Existing Section 2320.2(b) is amended to change the reference to the OIM registration fee from $500 to the correct amount of $1,000. This is necessary as the OIM registration fee was changed from $500 to $1,000 with the passage of revisions to FAC Section 14601(c) and Section 2320.1 of the CCR. The amount of $500 in 2320.2(b) was inadvertently omitted during past updates.

ARTICLE 6. ADMINISTRATIVE PENALTIES

Section 2322. Administrative Penalty Guidelines.

Existing Section 2322(a) is amended to correct a typo of the random number "7" which currently appears within the text. This is necessary to ensure the consistency and accuracy of the text.

Existing Section 2322(b), Table A: Violations Matrix is amended to ensure the Violations Matrix text communicates regulation text changes made to the other sections within this rulemaking. This is necessary for uniformity and to ensure that the violations matrix text matches the text in the regulation code sections.

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

The proposed regulatory changes are based upon feedback from the fertilizing materials industry, the Fertilizer Inspection Advisory Board, fertilizer control officials from other states, and FMIP staff. For Sections 2300.1(n-q), the Department relied upon AAPFCO 2026 Official Publication, No. 79, pages 95, 104, 115. For official recognition of Soluble Silicon as a plant nutrient, the Department relied upon AAPFCO 2026 Official Publication, No. 79, page 99. For Sections 2303(h), 2317.5(a), and 2317.5(b), the Department relied upon AAPFCO 2025 Official Publication, No. 78, pages 57 and 62.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulatory actions are technical in nature and will provide clarity to the regulated industry and end users of fertilizing materials regulations specified in statute. These clarifying changes will not have an economic or fiscal impact on the fertilizing materials industry, related businesses, or the general public.

The Department 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

Section 2300(b)(1) – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. The Secretary may already require proof of label statements and claims made for any fertilizing material under statute (FAC Sections 14601(f) and 14631) and regulation (CCR Section 2300(b)). This regulation will only provide more clarity and specificity regarding labeling claims that are inconsistent with approved or registered physical fertilizing material labels.

Section 2300(g), (g)(1), (g)(2)(A) and **(g)(3)** – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. Section 2300(g) is revised for clarity and guidance by providing an additional example of prohibited indications of official approve. Section 2300(g)(1) increases firm flexibility in labeling by allowing the use of the registered OIM logo on labeling with specific reference to a registered OIM in addition to registered labels. Section 2300(g)(2)(A) is added for clarity and guidance by specifying that firms have flexibility in the size and color of the registered OIM logo on labeling. Section 2300(g)(3) does not establish a new regulatory criteria as the use of the registered OIM logo remains limited to registered OIM product labeling.

Section 2300(i) and **(i)(1)** – There is no adverse economic impact as this regulation will prevent firms from being required to significantly alter labels with the inclusion of a molybdenum guarantee if the product contains unintentionally added molybdenum impurities. Instead, such product labels will bear a molybdenum warning or caution statement substantially similar to the existing statement in 2300(i), but with the addition of the statement that this product contains unintentionally added molybdenum. For any currently approved labels that fall under these criteria, firms may utilize their current labels until updated versions are created during their four-year renewal cycle as a regular course of business and label re-printing periods.

Section 2300(*l*)(2) – There is no economic impact as this section is merely correcting the section reference for accuracy and to maintain proper formatting of the regulations.

Section 2300(n) – There is no adverse economic impact as no new regulatory criteria have been established that would incur additional cost or possess an economic impact. This regulation only provides clarity and guidance that sales of fertilizing material must be formally recognized through billing or the issuing of invoices or receipts. Existing laws and

regulations already require that firms maintain accurate records of fertilizing material transactions, this section only provides additional clarity and direction.

Section 2300.1(a)(3) – There is no economic impact as this section is merely updating the section reference for accuracy and to maintain proper formatting of the regulations.

Section 2300.1(d) – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. This regulation only provides clarity and guidance that a customer request for a custom blend must be a written request. No new regulatory criteria have been established that would incur additional cost or possess an economic impact.

Section 2300.1(n-q) – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. These definitions are widely accepted by other states after official adoption by AAPFCO, therefore increasing consistency in labeling between states and improving interstate commerce. The Department presently gives due regard to these official fertilizer terms prescribed by AAPFCO, these regulations only provide additional clarity and guidance.

Section 2300.1(r) – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. This regulation only provides clarity and guidance by specifying what label elements are considered labeling claims.

Section 2300.1(s), (s)(1), and **(s)(2)** – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. This regulation only provides clarity and guidance that fertilizing material stored in bulk tote containers are considered bulk fertilizing materials. No new regulatory criteria have been established that would incur additional cost or possess an economic impact.

Section 2300.1, Note: Authority cited – There is no economic impact as this section is merely updating the Authority cited reference for accuracy and to maintain proper formatting of the regulations.

Section 2300.2, Note: Authority cited – There is no economic impact as this section is merely updating the Authority cited reference for accuracy and to maintain proper formatting of the regulations.

Section 2300.3, Note: Authority cited – There is no economic impact as this section is merely updating the Authority cited reference for accuracy and to maintain proper formatting of the regulations.

Section 2303(d) – There is no adverse economic impact as there are no new additions to fertilizing material labeling requirements. This regulation only clarifies that the licensed label guarantor's address on a product label should be current and valid. Most firms already label their products according to the proposed regulations. Per the proposed **Section 2303(d)(2)**, firms will have up to 30 days to notify the Secretary and provide a new, valid address if the address appearing on a label is no longer valid or current. For any currently approved labels with an outdated address, firms may utilize their current labels until updated versions are created during their product registration cycle as a regular course of business and label re-printing periods.

Section 2303(e) – There is no adverse economic impact as there are no new additions to fertilizing material labeling requirements. This regulation removes a labeling requirement for the specified product category of fertilizing materials. This corrects an oversight that occurred when the previous Soil Amendment product category was replaced by the Beneficial Substances product category, restoring the previous labeling requirement exclusion and restoring consistency with already approved labels.

Section 2303(f) – There is no adverse economic impact as there are no new additions to fertilizing material labeling requirements. This regulation removes a labeling requirement for the specified category of fertilizing materials. This corrects an oversight that occurred when the previous Soil Amendment product category was replaced by the Beneficial Substances product category, restoring the previous labeling requirement exclusion and restoring consistency with already approved labels.

Section 2303(h) – There is no adverse economic impact as allowing Soluble Silicon (Si) to be guaranteed as a micronutrient in the Guaranteed Analysis has been highly sought after by industry. This change has also been widely adopted by other states, thus increasing consistency in labeling between states and improving interstate commerce. For any currently approved labels with Soluble Silicon (Si) guaranteed as a beneficial substance, firms may utilize their current labels until updated versions are created during their four-year renewal cycle as a regular course of business and label re-printing periods.

Section 2303(k) – There is no economic impact as this section is merely correcting a spelling error.

Section 2303(m) – There is no economic impact as this section is merely correcting the section reference for accuracy and to maintain proper formatting of the regulations.

Section 2303(v) – There is no economic impact as this section is merely correcting the section reference for accuracy and to maintain proper formatting of the regulations.

Section 2303(w) – There is no adverse economic impact as there are no new additions to fertilizing material labeling requirements. This revision provides specification and guidance that the terms “amino acid” or “amino” may be referenced on a product label and not only appear in a specific product name, clarifying that firms have greater flexibility in labeling when using these terms.

Section 2303(w)(1) – There is no adverse economic impact as there are no new additions or changes to fertilizing material labeling requirements. This revision only provides clarity and guidance, specifying that the submission of proof of purchase of each specific amino acid must be to the Department and in support of the claims. No new regulatory criteria have been established that would incur additional cost or possess an economic impact.

Section 2303(x) – There is no adverse economic impact as there are no new additions to fertilizing material labeling requirements. This revision provides specification and guidance that the terms “amino acid complex” or “(second nutrient or micronutrient) amino acid complex” may be referenced on a product label and not only appear in a specific product name, clarifying that firms have greater flexibility in labeling when using these terms.

Section 2304(a)(2)(B) – There is no adverse economic impact as the changes do not introduce any new label requirement that would incur costs for fertilizing material manufacturers. For labels that display the current format, they are not required to immediately revise or reprint labels. Manufacturers may utilize their current labels until updated versions are created during their next subsequent four-year registration renewal cycle as a regular course of business or label re-printing periods.

Section 2309(a)(1) and **(a)(1)(A)** – There is no adverse economic impact to these proposed revisions as they are primarily non-substantive changes. The changes merely include combining three disclosure statements into one larger disclosure statement to ensure that the statements are included in succession on applicable labels. For any firm who has separated the three disclosure statements on a label, they may continue to utilize their current labels until updated versions are created during their next subsequent four-year renewal cycle as a regular course of business or label re-printing periods.

Section 2309(b) – There is no economic impact as this section is merely correcting a spelling error.

Section 2315(d)(3) – There is no economic impact as this section is clarifying sampling procedures by Department inspection staff. No new regulatory criteria have been established that would incur additional cost or possess an economic impact.

Section 2317.5(b) – There is no economic impact as this section only revises the Secondary and Micronutrient investigational allowance table for clarity in the order and format of the nutrients list, including moving the Soluble Silicon (Si) investigational allowance into the list of micronutrients. No new regulatory criteria have been established that would incur additional cost or possess an economic impact.

Section 2317.5(c) – There is no economic impact as this section only revises the Other Ingredient Guarantees or Claims investigational allowance table for consistency with other proposed revisions by moving the Soluble Silicon (Si) investigational allowance into the list of micronutrients. This Soluble Silicon investigational allowance amount was revised to reflect the new value that was officially adopted by AAPFCO and is applied across all states, but this will not have an economic impact. Similarly, the increased investigational allowance percentage for humic acid will have no economic impact as it is more flexible and permissive. These changes won't affect manufacturer formulations or labeling.

Section 2320.2(b) – There is no adverse economic impact as the change to a $1,000 OIM registration fee for a four-year registration cycle is already in effect. This section only corrects an inadvertent omission from the previous regulation update.

Section 2322(a) and **(b), Table A: Violations Matrix** – There is no economic impact as the amended text in Section 2320(a) simply corrects a typographical error within existing text. There is no economic impact to Section 2320(b) as the amended text communicates regulation text changes made to the other sections within this rulemaking. The changes made within this section are to ensure the consistency and accuracy of the text.

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

Section 2300(b)(1) – The alternative is to retain the existing language. This may lead to an interpretation of regulations that proof is not required for "labeling statements and other claims" other than those that appear on approved or registered labels, which is inconsistent with FAC Sections 14601(f) and 14542. The proposed regulation provides clarity and guidance by specifying that efficacy data requirements apply to all labeling claims.

Section 2300(g), (g)(1), (g)(2)(A) and **(g)(3)** – The alternative is to retain the existing language, which as written may be subject to misinterpretation and reduced flexibility in labeling. The proposed amendment to 2300(g) provides an additional example of prohibited indications of official approval, which currently may be misinterpreted as limited to only "State of California Approved." The proposed amendment to 2300(g)(1) increases the flexibility of firms to include the registered OIM logo on labeling in addition to

registered labels. The proposed adoption of 2300(g)(2)(A) increases the flexibility of firms to determine the color and size of the registered OIM logo on labeling. This may also have an economic benefit to firms, as it provides specificity that firms are not required to use certain colors of ink when printing. While section 2300(g)(1) as written states that the registered OIM logo may only be used on a registered OIM, the proposed adoption of 2300(g)(3) provides clarity and guidance that the use of the registered OIM logo on any other labels is false and misleading.

Section 2300(i) and **(i)(1)** – The alternative is to retain the existing language. The current text only requires the warning or caution statement for commercial fertilizer and agricultural minerals, whereas any product in a different category could possess high levels of molybdenum. Leaving the existing text in Section 2300(i) would mean that the public is not alerted on a product label if a product in another category contains high levels of molybdenum. Section 2300(i), as currently written, the molybdenum warning or caution statement regulation may also trigger a requirement that molybdenum be represented in the guaranteed analysis statement and have a minimum guarantee. This creates a requirement for firms to significantly alter their labels, and is possibly misleading, as the firm is required to provide a minimum guarantee for what may be an unintentional contaminant that the firm wishes to minimize. With a minimum guarantee, the firm would also be responsible that this impurity is consistently maintained to meet this guaranteed amount with every lot or batch. The proposed regulation allows a far less burdensome modified warning or caution statement to appear on products with unintentional residues of molybdenum.

Section 2300(*l*)(2) – No alternatives were considered as the section reference is merely being corrected for accuracy and to maintain proper formatting of the regulations.

Section 2300(n) – The alternative is to not provide any clarifying language that sales required transactional documentation. This may lead to an interpretation of regulations that allows for transactions without accurate recordkeeping, in violation of FAC Section 14612.

Section 2300.1(a)(3) – No alternatives were considered as the section reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2300.1(d) – The alternative is to retain the existing language which does not specify the form of the request. Without a written request, Department investigators could not confirm that a custom blend is made according to customer specifications.

Section 2300.1(n-q) – The Department considered several alternatives for the definitions of these commonly used fertilizing material ingredient terms. The first alternative was to refer to commonly accepted scientific definitions of these fertilizing material ingredients and to evaluate claims referencing them on a case-by-case basis. This alternative does

not provide sufficient clarity and guidance for firms and is too open to subjective interpretation. The second alternative was to continue to give due regard to official fertilizer terms prescribed by AAPFCO without codifying these definitions into regulations. While less subjective, this alternative still does not offer any guidance for firms unless those firms already know to consult the official AAPFCO publication. Adopting the definitions already used by AAPFCO into regulations offers the greatest clarity to firms wishing to claim these ingredients. As these definitions are also widely adopted by most or all other states, doing so increases consistency in labeling between states and enhances interstate commerce.

Section 2300.1(r) – The alternative is to retain the existing language which does not provide a definition of "labeling claim." Department staff have encountered significant confusion by industry as to the exact meaning and scope of labeling statements and other claims for which the Department may require proof (FAC Sections 14601(f) and 14631). The proposed regulation provides clarity and guidance by defining this term.

Section 2300.1(s), (s)(1), and **(s)(2)** – The alternative is to retain the existing language which does not provide a definition of "bulk tote." Department staff have encountered significant confusion by industry as to whether products contained in bulk totes are considered packaged or bulk fertilizing materials. The proposed regulation provides clarity and guidance by defining this term.

Section 2300.1, Note: Authority cited – No alternatives were considered as the Authority cited reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2300.2, Note: Authority cited – No alternatives were considered as the Authority cited reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2300.3, Note: Authority cited – No alternatives were considered as the Authority cited reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2303(d) and **(d)(2)** – The alternative is to retain the existing language. Without a requirement to provide a current, valid address, firms may maintain product labels with addresses that are inaccurate or out-of-date. Such information may be misleading to consumers and prevent Department staff from making necessary inspections or from disseminating important documentation by mail.

Section 2303(e) – The alternative is to retain the existing language and therefore require a statement of product purpose on the label of OIM Bulk Beneficial Substances intended

for the purpose of conditioning the soil by physical means. This was not a label requirement on previous versions of regulations, and was introduced inadvertently when the Soil Amendment product category of fertilizing materials was replaced by the Beneficial Substance product category. The proposed amendment would maintain consistency in labeling requirements for currently approved or registered labels, correct the unintentional new requirement, and retain greater flexibility in labeling for manufacturers and distributes of this product type.

Section 2303(f) – The alternative is to retain the existing language and therefore require directions for use on the label of OIM Bulk Beneficial Substances intended for the purpose of conditioning the soil by physical means. This was not a label requirement on previous versions of regulations, and was introduced inadvertently when the Soil Amendment product category of fertilizing materials was replaced by the Beneficial Substance product category. The proposed revision would maintain consistency in labeling requirements for currently approved or registered labels, correct the unintentional new requirement, and retain greater flexibility in labeling for manufacturers and distributes of this product type.

Section 2303(h) – The alternative is to retain the existing language and continue to require Soluble Silicon (Si) to be guaranteed as a beneficial substance rather than a plant micronutrient. This alternative would be contrary to the extensive requests by the fertilizing material industry for the change. In addition, this change has been officially adopted by AAPFCO and widely accepted by other states. Therefore, retaining the current language would require firms to use different labels for the same product depending on which state they are distributing the product.

Section 2303(k) – No alternatives were considered as this section is merely correcting a misspelling.

Section 2303(m) – No alternatives were considered as the section reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2303(v) – No alternatives were considered as the section reference is merely being updated for accuracy and to maintain proper formatting of the regulations.

Section 2303(w) – The alternative is to retain the existing language. The regulations currently may be incorrectly interpreted to limit use of these terms to only the specific product name. The proposed amendments would provide clarity and guidance for the use of these terms elsewhere on the label.

Section 2303(w)(1) – The alternative is to retain the existing language. As written, the requirement that the proof of purchase be “submitted” may be ambiguous. The proposed amendments would provide clarity and guidance to the submission requirement.

Section 2303(x) – The alternative is to retain the existing language. The regulations currently may be incorrectly interpreted to limit use of these terms to only the specific product name. The proposed amendments would provide clarity and guidance for the use of these terms elsewhere on the label.

Section 2304(a)(2)(B) – The alternative is to continue to allow labels with enzyme guarantees given in enzyme units without a definition for the unit. The exact meaning of an enzyme unit varies based on the methodology used, which is distinct from most other units found on a fertilizing material label, such as gram, liter, or colony-forming units (CFU) in the case of microbes. Therefore, defining the enzyme unit on the label offers greater clarity and guidance to consumers.

Section 2309(a)(1) and **(a)(1)(A)** – The alternative is to continue to allow the three disclosure statements to appear in separate subsections, (a)(1), (a)(2), and (a)(3). However, the proposed regulation is as a direct result of the Department observing labels that place each disclosure statement on different, unrelated areas of the label which was not the intent for maximum transparency and disclosure to growers and the general public. Additionally, the disclosure statements could previously be re-worded on a label, so the inclusion of quotations ensures that the disclosure statement will be communicated completely and with the original intent.

Section 2309(b) – No alternatives were considered as this section is merely correcting a misspelling.

Section 2315(d)(3) – The alternative is to retain the existing language and limit this sample procedure to clear solutions only. This would be unnecessarily restrictive and does not accurately reflect existing sampling practices.

Section 2317.5(b) – No alternatives were considered for adding Soluble Silicon (Si) to this table, as it is necessary for consistency with other sections if Soluble Silicon (Si) is changed from being guaranteed as a beneficial substance to a plant micronutrient. The investigational allowance value for Soluble Silicon (Si) is the officially recognized standard by AAPFCO and all other states.

The alternative to revising the other elements on this table is to leave them in their current order and format. However, revising the elements on this table to the format and order given in section 2303(h) increases the clarity and consistency of the regulations.

Section 2317.5(c) – No alternatives were considered regarding Soluble Silicon (Si) as this revision is necessary for consistency with other sections if Soluble Silicon (Si) is changed from being guaranteed as a beneficial substance ingredient to a plant

micronutrient. The alternative for the proposed increase from 10% to 20% investigational allowance for humic acid is to leave the existing 10% amount in place. However, CDFA's Center for Analytical Chemistry performed analysis on humic acid products with higher percentage claims, mid-percentage claims, and low-percentage claims and determined more analytical variance may occur at lower level of humic acid which necessitates the increase to ensure that no manufacturer receives an inaccurate violation.

Section 2320.2(b) – No alternatives were considered as the change to the OIM registration fee has already gone into effect and this section is an inadvertent oversight that requires correction.

Section 2322(a) and **(b), Table A: Violations Matrix** – No alternatives were considered as this section's amended text simply corrects a typographical error and communicates the regulation text changes made to the other sections within this rulemaking to ensure consistency and accuracy.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

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