

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED REGULATIONS**

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

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§ 2300. Fertilizing Materials – General Provisions.

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(g) The statement "State of California Approved" or other indication of official approval is prohibited in labeling and advertising unless allowed for organic input material.

(1) Organic input material registered in accordance with Title 3, Section 2320.2 et seq. may reflect OR bear the following logos:



(2) The logo must replicate the form and design referenced in Section 2300(g)(1) and, if used, must be printed legibly and conspicuously.

Note: Authority cited: Sections 407, 14502 and 14631, Food and Agricultural Code.
Reference: Sections 14501(b), 14502, 14601, 14631, 14641, 14642 and 14643, Food and Agricultural Code.

§ 2300.1. Definitions.

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(d) The term “custom blend” means a fertilizing material blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet the specific consumer (end user) request(s) prior to blending.

(e) The term “blender” means any person or system engaged in the business of blending fertilizing material.

Note: Authority cited: Sections 407 and 14502, Food and Agricultural Code. Reference: Section 14533, Food and Agricultural Code.

§ 2302. Non-Nutritive Standards.

(a) Inorganic commercial fertilizer and agricultural mineral products shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead:

(1) For each percent iron, manganese or zinc, the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 13 parts per million; cadmium, 12 parts per million; lead, 140 parts per million.

(2) For each percent available phosphate (P₂O₅), the fertilizing material shall not exceed the following concentrations of non-nutrient metals:

~~(A) Effective January 1, 2002 through December 31, 2002: arsenic, 4 parts per million; cadmium, 6 parts per million; lead, 20 parts per million.~~

~~(B) Effective January 1, 2003 through December 31, 2003: arsenic, 3 parts per million; cadmium, 5 parts per million; lead, 20 parts per million.~~

~~(C) Effective January 1, 2004: Arsenic, 2 parts per million; cadmium, 4 parts per million; lead, 20 parts per million.~~

(3) The concentration limits are applied as follows:

(A) For micronutrient materials with guaranteed available iron, manganese or zinc, multiply the percentage of guaranteed micronutrient material (Minor Element) by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm). Example: A 12% Iron product will have the following limits: arsenic, 156 parts per million (13

ppm X 12); cadmium, 144 parts per million (12 ppm X 12); and lead, 1,680 parts per million (140 ppm X 12).

(B) For phosphate (P₂O₅) materials, multiply the guaranteed percentage of P₂O₅ by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm). Example: ~~from January 1, 2002 through December 31, 2002:~~ A guaranteed available 52% (P₂O₅) phosphate product will have the following limits: arsenic, 104 parts per million (2 ppm X 52); cadmium, 208 parts per million (4 ppm X 52); and lead, 1,040 parts per million (20 ppm X 52).

(4) For specialty fertilizers that guarantee less than 6% available phosphate (P₂O₅) but make no micronutrient claim, the maximum allowable concentrations of non-nutrient metals shall not exceed:

~~(A) Effective January 1, 2002 through December 31, 2002: specialty fertilizers shall not exceed: arsenic, 20 parts per million; cadmium, 30 parts per million; and lead, 100 parts per million.~~

~~(B) Effective January 1, 2003 through December 31, 2003: specialty fertilizers shall not exceed: arsenic, 15 parts per million; cadmium, 25 parts per million; and lead, 100 parts per million.~~

~~(C) Effective January 1, 2004: specialty fertilizers shall not exceed: Arsenic, 10 parts per million; cadmium, 20 parts per million; and lead, 100 parts per million.~~

(5) For specialty fertilizers that guarantee less than 6% available phosphate (P₂O₅) and make a micronutrient claim, multiply the guaranteed percentage of micronutrient by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm) and add the following values to that total:

~~(A) Effective January 1, 2002 through December 31, 2002, add: arsenic, 20 parts per million; cadmium, 30 parts per million; and lead, 100 parts per million.~~

~~(B) Effective January 1, 2003 through December 31, 2003, add: arsenic, 15 parts per million; cadmium, 25 parts per million; and lead, 100 parts per million.~~

~~(C) Effective January 1, 2004, add: Arsenic, 10 parts per million; cadmium, 20 parts per million; and lead, 100 parts per million.~~

(6) The concentration limits are applied as follows:

(A) A guaranteed available 3% (P₂O₅) phosphate product with 2% guaranteed zinc will have the following limits. Example: ~~from January 1, 2002 through December 31, 2002:~~ arsenic, 36 parts per million (13 ppm X 2 zinc = 26 ppm + 10 ppm); cadmium, 44 parts per million (12 ppm X 2 zinc = 24 ppm + 20 ppm); and lead, 380 parts per million (140 ppm X 2 zinc = 280 ppm + 100 ppm).

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~~(g) By December 31, 2004, the department shall publish a report concerning results of research that evaluates the protectiveness of these regulations on both human health and the environment. Additionally, the report shall include an analysis of and recommendations for regulating cobalt, copper, mercury, molybdenum, nickel, selenium and dioxins.~~

Note: Authority: Sections 407, 14502 and 14682 of the Food and Agricultural Code.
Reference: Section 14682 of the Food and Agricultural Code.

§ 2303. Labeling Requirements.

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(l) The following format and guarantees, as applicable for the following products or ingredients, shall appear following the derivation statement of agricultural mineral and commercial fertilizer labels:

"ALSO CONTAINS NONPLANT FOOD INGREDIENT(S):"

X% Humic Acids (Derived from ... state the source of the humic acids)

X% Polymers (state the name of the specific polymer. (For auxiliary soil and plant substances only).

Wetting Agents (state the name of the specific wetting agent on ~~the application only~~ company letterhead and note if confidential - not required on the label)

...

(w) In adopting the labeling requirements, accepted definitions, and official fertilizer terms listed in the 2010 American Association of Plant Food Control Officials Publication, volume 63 may be considered.

Note: Authority: Sections 407, 14502 and 14631 of the Food and Agricultural Code.
Reference: Section 14631 of the Food and Agricultural Code.

§ 2320. Registration.

In addition to requirements found in Section 14601 of the Food and Agricultural Code, the following information is required. Each auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, ~~and specialty fertilizer,~~ and organic input material shall be registered in the name of the legal entity or person whose name appears on the label before being distributed in this state. These materials shall not be distributed or sold unless the product is registered.

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

§ 2320.1. Fee for Each Organic Input Material Product Label Submitted for Registration.

(a) The fee for each organic input material product label submitted for registration is five hundred dollars (\$500).

(b) Each product label registration shall be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-numbered year. The registration renewal fee for organic input material is five hundred dollars (\$500) per product label.

(c) If the Secretary returns an incomplete application for product registration to the applicant, the applicant has 180 days from the date the Secretary initially returned the application to resubmit a complete application without payment of a new registration fee. A new registration fee must accompany applications resubmitted after 180 days from the date the Secretary returned the application.

Note: Authority cited: Sections 407, 14502, 14601, and 14603 Food and Agricultural Code. Reference: Section 14601, Food and Agricultural Code.

§ 2320.2. Registration Application for Organic Input Material Product Label.

(a) Organic input materials submitted for registration shall comply with the requirements of the National Organic Program (NOP) standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.

(b) Product label registration for Organic Input Material shall be made on an application designated by the department. Applications must be accompanied by the appropriate fee and shall include:

(1) A copy of the label and labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use.

(2) The complete formula of the material including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.

(3) A complete description of the manufacturing process for the Organic Input Materials and as appropriate for each ingredient, including ingredient amounts, sequence and duration of events, temperature changes, reactions, and all steps taken to assure that OIM are not contaminated with USDA-NOP prohibited substances as well as a description of any composting, digestion, fermentation, extraction, or other processes and any methods used for removing extractants or growth media from the final product.

(4) The intended uses of the product.

(5) The source or supplier of all ingredients.

(6) Alternate formulation.

(7) Third party formulated ingredients.

(8) Any additional information deemed necessary by the Secretary.
~~that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.~~

Note: Authority cited: Sections 407, 14502 and 14601, Food and Agricultural Code.
Reference: Section 14601, 14550.5, and 14631 Food and Agricultural Code.

§ 2321. Tonnage Reporting.

In addition to the requirements found in Sections 14621, 14622 and 14623 of the Food and Agricultural Code, the following is required.

(a) The tonnage report shall be made semi-annually no later than July 31, and no later than January 31 of each year ~~for tonnage of one ton or greater~~. Zero reports are ~~not~~ required.

Note: Authority: Sections 407, 14502, 14621, 14622 and 14623 of the Food and Agricultural Code. Reference: Sections 14621 and 14622 of the Food and Agricultural Code.

§ 2322. Civil Penalty Guidelines.

In applying Section 14651.5 of the California Food and Agricultural Code, the Secretary shall use the provisions of this section to determine the violation class and amount of the penalty.

(a) For the purposes of this section, violation classes are designated as "Serious," "Moderate," and "Minor" to establish maximum penalty amounts. Repeat violations may result in an escalation of violation class. Serious and moderate violations may be downgraded based upon the evidence, the factual circumstances, mitigating factors and the cooperation of the violator.

(1) "Serious." Violations that cause significant false, misleading or deceptive business practices that involve the misbranding, adulteration of fertilizing material products, movement of quarantined products without prior approval of the Secretary, refusal to submit records upon request; or repeated violations of sub-paragraph (2). Serious violations are punishable by a civil penalty of up to five thousand dollars (\$5,000).

(2) "Moderate." Violations in which there is a potential for intermediate level of consumer or competitive harm or repeated violations of sub-paragraph (3). Moderate violations are punishable by a civil penalty of up to one thousand dollars (\$1,000).

(3) "Minor." Violations that are unintentional and have minimal adverse effects on consumers or equitable competition in the market place. In lieu of civil penalty, the Secretary may issue a notice of warning for minor violations.

(b) Table "A" is to be used to establish the level of severity of a particular violation and the corresponding penalty range for "Serious," "Moderate," and "Minor" violation classes. Except where specific violation parameters are provided, the violation column in Table "A" is an abbreviated description of the corresponding section in the California Food and Agricultural Code, Division 4. Plant Industry, and Title 3, Article 10. Violations.

Table "A": Violations Matrix

<u>Section Code</u>	<u>Description of Violation</u>	<u>Min.</u>	<u>Mod.</u>	<u>Ser.</u>	<u>Penalty</u>	<u>Compliance Timeframe</u>
<u>1. FAC § 14591 –Unlicensed Manufacturer</u>	<u>Manufacturer is not licensed to sell fertilizing materials in California from this business location.</u>	<u>X</u>	<u>-</u>		<u>Notice of warning for first violation, \$250 for second violation, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.</u>	<u>30 days to comply.</u>

<p><u>2. FAC § 14601</u> <u>-Unregistered Product</u></p>	<p><u>Product is not registered for sale in California.</u></p>	<p>X</p>	<p>-</p>		<p><u>Notice of warning for first violation per product, \$250 for second violation per product, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>3. FAC § 14611</u> <u>- Mill Assessments</u></p>	<p><u>Any licensee whose name appears on the label who sells or distributes fertilizing materials to unlicensed purchasers shall pay to the Secretary an assessment not to exceed two mills (\$0.002) per dollar of sales for all fertilizing materials.</u></p>	<p>X</p>	<p>-</p>	<p>-</p>	<p><u>Notice of warning. Pending non-compliance, \$200 for non-submittal of each quarterly report.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>4. FAC § 14623</u> <u>- Tonnage</u></p>	<p><u>The tonnage report shall be submitted to the Secretary semiannually not later than January 31 and July 31 of each year. The Secretary shall impose a penalty in the amount of two hundred dollars (\$200) on any person who does not submit the report on or before those dates. Any tonnage report that is more than 90 days past due is a cause for revocation of the license.</u></p>	<p>-</p>	<p>-</p>	<p>X</p>	<p><u>\$200 for non-submittal for each semi-annual report.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>5. FAC § 14631</u> <u>Unlabeled Product (Label shall accompany each shipment)</u></p>	<p><u>Every lot, parcel or package of fertilizing material distributed into or within California shall be accompanied by a label.</u></p>	<p>X</p>	<p>-</p>		<p><u>Notice of warning for first violation per product, \$250 for second violation per product, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>6. FAC § 14641</u> <u>- Access to records and premises</u></p>	<p><u>The Secretary shall have free access at reasonable times to all records, premises, production processes, or conveyances that are used in the manufacture, transportation, importation, distribution, storage, or application of any fertilizing material.</u></p>			<p>X</p>	<p><u>Violations may be assessed up to \$5000.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>7. FAC § 14642</u> <u>- Sampling and access to facility</u></p>	<p><u>The Secretary shall, at the times and to the extent necessary for the enforcement of this chapter, do all of the following:</u> <u>(a) Take samples of any substance.</u> <u>(b) Make analyses or examinations of any substance.</u> <u>(c) Conduct investigations concerning the use, sale, adulteration, or misbranding of any substance.</u> <u>(d) Inspect the fertilizing material manufacturing facilities and take samples at various stages of production to verify label and labeling claims and production processes.</u></p>			<p>X</p>	<p><u>Violations may be assessed up to \$5000.</u></p>	<p><u>30 days to comply.</u></p>
<p><u>8. FAC § 14655</u> <u>- Movement of Quarantine</u></p>	<p><u>(a) Any lot of fertilizing material for which a hold order or notice is issued shall be held by the person having control of the material and shall not be distributed or</u></p>			<p>X</p>	<p><u>\$1000 for first instance. 14655 Part (b) applies after that (misdemeanors).</u></p>	<p><u>30 days to comply.</u></p>

	<u>moved except under the specific directions of the Secretary, pending final disposition pursuant to this chapter. This does not prevent the person who has control of the material from inspecting any seized material or from taking a reasonable sample for evidence while in the presence of a person designated by the Secretary.</u>					
9. FAC § 14681(a) - <u>Misbranded Product (Misleading Label)</u>	<u>A fertilizing material shall be deemed misbranded if its label is misleading in any particular manner.</u>			X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
10. FAC § 14681 (b) - <u>Misbranded Product (False Distribution)</u>	<u>A fertilizing material shall be deemed misbranded if it is distributed under the name of another fertilizing material.</u>			X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
11. FAC § 14681(c) - <u>Misbranded Product (Not Labeled as Required)</u>	<u>No person shall distribute misbranded fertilizing materials. A fertilizing material shall be deemed to be misbranded if it is not labeled as required by regulations.</u>			X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
12. FAC § 14682 (a) - <u>Adulterated Product (Harmful to Plants)</u>	<u>No person shall knowingly distribute an adulterated fertilizing material. A fertilizing material shall be deemed adulterated if it contains any deleterious or harmful ingredient in sufficient amounts to render it injurious to beneficial plant life when applied in accordance with direction for use.</u>			X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
13. FAC § 14682 (b) - <u>Adulterated Product (Composition)</u>	<u>No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed adulterated if its composition falls below or differs from that which it is purported to possess by its labeling (Composition variability associated with inherent properties of physical blending, feedstock, and sampling of fertilizing materials will be considered as minor violations).</u>			X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
14. FAC § 14682 (d) - <u>Adulterated Product (Threat to Public Health)</u>	<u>No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed to be adulterated if it is a threat to public safety.</u>	-	-	X	<u>Violations may be assessed up to \$5000.</u>	<u>30 days to comply.</u>
15. FAC § 14682 (e) – <u>Adulterated Product (Organic Input Material)</u>	<u>If organic input materials contains ingredients that do not comply with the requirements of the NOP standards (The term "ingredients" in the FAC Section 14682 (e) means any substance which is deliberately included in a fertilizing material).</u>			X	<u>Violations may be assessed up to \$5000 and may result in misdemeanor.</u>	<u>30 days to comply.</u>
16. CCR § 2300 (e) - <u>Zero Guarantees</u>	<u>"Zero" guarantees shall not appear in the guaranteed analysis statement.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>

17. CCR § 2300 (f) - Brand Names	Brand names, trade names, and trademarks are prohibited in the derivation statement.	X			Notice of warning. Pending non-compliance, FAC § 14681 (a) applies.	30 days to comply.
18. CCR § 2300 (g) - No State of California Endorsement	The statement "State of California approved" or other indication of official approval is prohibited in labeling and advertising.	X			Notice of warning for non-organic labels only. Need to include language in there for organic products.	"However, labeling for products to be used in the production of organic food and crops will contain the "CDFA EMIP - For Organic Food and Crop Production" logo is allowed to display CDFA's registered organic input material logo.
19. CCR § 2300 (h) - B Warning Statement	A warning statement shall appear on the label of any commercial fertilizer that contains 0.1 percent or more of Boron. This statement shall include the word "WARNING" or "CAUTION" conspicuously displayed and shall state the crop(s) for which the fertilizing materials is to be used and state the use on crops other than those recommended.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
20. CCR § 2300 (i) - Mo Warning Statement	A warning or caution statement shall appear on the label of any commercial fertilizer that contains 0.001 percent or more of molybdenum (Mo) may result in forage crops containing levels of molybdenum (Mo) which are toxic to ruminant animals.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
21. CCR § 2302 (a) - Heavy Metal (As, Cd, Pb) Violation	Inorganic commercial fertilizer and agricultural minerals percent iron, manganese, phosphates, or zinc shall not exceed the concentrations of non-nutrient metals according to the California Code of Regulations.		X		Violations may be assessed up to \$1000 per product.	30 days to comply.
22. CCR § 2302(a)(4)(5) - Heavy Metals Violation (Specialty Fertilizer)	Specialty fertilizers percent iron, manganese, phosphates, or zinc shall not exceed the concentrations of non-nutrient metals.	-	X	-	Violations may be assessed up to \$1000 per product.	30 days to comply.

23. CCR § 2303 (b) (1) - Net Weight (Dry)	<u>Net weight of dry materials shall appear on the label.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
24. CCR § 2303 (b) (2) - Volume (For PSAs & Specialty Fert) (Liquid)	<u>The label information shall include the volume for packaged soil amendments and liquid specialty fertilizer.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
25. CCR § 2303 (b) (3) - Density and Temperature (Liquid Bulk)	<u>The label shall include the density (pounds per gallon at 68 degrees Fahrenheit) for bulk liquid fertilizer.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
26. CCR § 2303 (c) - Grade (Commercial Fert)	<u>The label shall include the grade.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
27. CCR § 2303 (d) - Licensees Name and Address on Label	<u>The label shall include the licensee's name and address.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
28. CCR § 2303 (e) - Purpose Statement (For PSAs & Specialty Fert)	<u>Purpose of the product must be stated on the label.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
29. CCR § 2303 (f) - Directions for Use (For ASPs, PSAs & Specialty Fert)	<u>Directions for use (for auxiliary soil and plant substances, packaged soil amendments and specialty fertilizers only).</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
30. CCR § 2303 (g) - Non Plant Food Ingredient Statement (For ASPs)	<u>The statement "NONPLANT FOOD INGREDIENT" printed in capital letters (for auxiliary soil and plant substance products) must be included.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
31. CCR § 2303 (h) - Statement of Composition (For ASPs)	<u>A statement of composition showing the percent of each active ingredient, which is the agent in the product primarily responsible for the intended effects (for auxiliary soil and plant substances).</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
32. CCR § 2303 (i) - Guaranteed Analysis on Label	<u>A guaranteed analysis was not stated on the label or was in an incorrect format.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
33. CCR § 2303 (i) (1) - Forms of Nitrogen	<u>The forms of nitrogen are not stated on the label.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
34. CCR § 2303 (i) (2) - Secondary and Micronutrients	<u>Secondary or micronutrients, if claimed, must be guaranteed at or above the established minimum values.</u>	X			<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	<u>30 days to comply.</u>
35. CCR § 2303 (j) - Derivation Statement (For Commercial Fert & Aq Min)	<u>The label shall include a derivation statement.</u>	X	-	-	<u>Notice of warning. Pending non-compliance, FAC 14681 (a) applies.</u>	

36. CCR § 2303 (k) - List of Ingredients (For PSAs)	Labels for packaged soil amendments shall include a list of ingredients in decreasing amounts present.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
37. CCR § 2303 (l) - Non Plant Food Ingredient Statement (For Commercial Fert & Ag Min)	The following format and guarantees, as applicable for the following products or ingredients, shall appear following the derivation statement of agricultural mineral and commercial fertilizer labels: "ALSO CONTAINS NONPLANT FOOD INGREDIENT(S):"	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
38. CCR § 2303 (n) - Forms of N adding to Total N	The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
39. CCR § 2303 (r) - Heavy Metal Statement (Base Ingredients)	The manufacturer of any base fertilizing material ingredient that claims iron, manganese, zinc or phosphates shall provide a guarantee statement that the product does not exceed standards established for arsenic, cadmium and lead.		X		Violations may be assessed up to \$1000 per product.	30 days to comply.
40. CCR § 2303 (s) - Heavy Metal Statement on the Label or provide a Website or Phone Number	In lieu of stating the metals on the label, provide either a licensee maintained website that contains no advertising or company specific information, direct link to a government website or provide a toll free number.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
41. CCR § 2304 (a) - Microbial Species	Name of each species and strains as part of the statement of composition and name of each by-product, if claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
42. CCR § 2304 (b) - Units for Microbial Guarantees	(1) The percentage or number of viable units of microorganisms per cubic centimeters. (2) The concentration in percentage of enzymes or other organism by-products claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
43. CCR § 2304 (c) - Date of Expiration	The expiration date for use.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
44. CCR § 2304 (d) - Storage Conditions	Storage conditions.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
45. CCR § 2305 (a) - Chelating Agents (Name)	Label chelation claims must include the name of the chelating agent.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
46. CCR § 2305 (b) - Chelating Agents (Analysis)	The percent of guaranteed chelated micronutrient content must be stated accurately within the guaranteed analysis.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
47. CCR § 2306 - Fish Emulsion	When a product is labeled as fish emulsion, it shall contain a minimum of 40 percent total solids.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
48. CCR § 2308 (a) - Packaged Soil Amendments (Volume)	Packaged soil amendments shall be measured by volume (quarts/cubic feet). If other measurement information is shown, it shall be in parentheses following the volume statement.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
49. CCR § 2308 (c) - Packaged Soil	When a packaged soil amendment is labeled as a specific material, such as peat moss or leaf mold, the product shall	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Amendments (Composition)	consist of not less than 95 percent of that material.				
50. CCR § 2309 (b) - Available Phosphoric Acid	Product containing phosphoric acid shall state on the label the percentage of "Available Phosphoric Acid." If, in addition, a percentage of "Total Phosphoric Acid" is stated, the percentage of "Insoluble Phosphoric Acid" must be stated immediately below.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies. 30 days to comply.
51. CCR § 2309 (a) - Phosphorous materials	Products that contain phosphorous acid shall state on the label the percentage of "Total Phosphoric Acid", upon conversion of phosphorous acid.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies. 30 days to comply.
52. CCR § 2311 (a) - Slow Release	The label shall not state or imply that a plant nutrient or micronutrient contained in a fertilizer is released slowly over a period of time, unless such nutrients or micronutrients are identified and guaranteed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies. 30 days to comply.
53. CCR § 2312 - Gypsum equivalent	Any of the following four compounds, Hydrated Calcium Sulfate, Anhydride Calcium Sulfate, Hydrated Calcium Sulfite, and Anhydride Calcium Sulfite singly or in combination, shall be expressed as a percent gypsum equivalent on the label.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies. 30 days to comply.

Note: Authority: Sections 407, 14502, 14651.5, and 14655 of the Food and Agricultural Code. Reference: Section 14651.5, 14652, 14653, 14655, 14681 and 14682 of the Food and Agricultural Code.

§ 2322.1. Scope of Coverage.

(a) Any person, or his or her duly authorized representative, may contest a notice of adverse determination and request an informal hearing as outlined in this article. Informal hearing proceedings may be initiated for a violation of any of the following Sections of the Food and Agricultural Code:

(1) License to sell or manufacture fertilizing materials in California pursuant to Section 14591.

(2) Product label registration requirement for sale in California pursuant Section 14601.

(3) Lot, parcel or package of fertilizing material distribution into or within California label requirement pursuant to Section 14631.

(4) Misbranding of fertilizing material pursuant to Section 14681.

(5) Distribution of an adulterated fertilizing material pursuant to Section 14682.

(6) Movement of Quarantined products pursuant to Section 14655.

Note: Authority: Sections 407, 14502, 14651.5, 14655, 14591, 14601, 14651.5, 14655, 14681, and 14682 of the Food and Agricultural Code. Reference: Section 14651.5 of the Food and Agricultural Code.

§ 2322.2. Filing Deadlines and Procedures.

(a) The respondent may contest a notice of adverse determination for any violation specified in Section 2322 and may request an informal hearing by written correspondence to the Secretary of the Department of Food and Agriculture, 1220 "N" Street, Room A-107, Sacramento, California 95814.

(b) The respondent must submit a request for an informal hearing to the Secretary in writing within 30 days from the date of the notice of adverse determination.

(c) The respondent may request a formal hearing in lieu of an informal one. The respondent must do so within the filing deadlines for requesting an informal hearing set forth in subsection (b). Any request must be accompanied by a written statement in support of it. The hearing officer shall determine whether to proceed with an informal hearing or whether a formal hearing or other appropriate administrative proceeding may be required by statute pursuant to Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code. The respondent will be expected to waive the time constraints of this article on the record if any administrative proceeding other than an informal hearing is requested by respondent or required by the Department.

(d) Failure to present a timely request for a hearing constitutes a waiver of the respondent's right to contest the notice of an adverse determination.

(e) If the notice of adverse determination places a hold on a fertilizing material product, or requires a person to cease operations, the notice of adverse determination shall remain in effect pending the outcome of the informal hearing.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Chapter 4.5 (commencing with Section 11400), Part 1, Division 3, Title 2, Government Code; and Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code.

§ 2322.3. Hearing Schedule and Notification.

(a) Supplemental to any procedures set forth in Chapter 4.5 (commencing with Section 11400), Part 1, Division 3, Title 2, of the Government Code, the Department shall schedule an informal hearing within 30 days from the receipt of a written request from the respondent.

(b) Formal hearings shall be scheduled by the Department consistent with the

provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and any applicable regulations enacted pursuant to these provisions.

(c) The Department shall provide a notice of the informal hearing to the respondent containing the following information:

(1) Date, location, and time of the informal hearing;

(2) Departmental contact information including applicable telephone and facsimile numbers;

(3) Subject matter of the adverse determination; and,

(4) Any other information or documentation relative to the adverse determination.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Chapter 4.5 (commencing with Section 11400), Part 1, Division 3, Title 2, Government Code; and Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code.

§ 2322.4. Hearing Procedures.

(a) Hearings shall be presided over and conducted by a Hearing Officer designated by the Secretary.

(b) The standard of proof to be applied by the Hearing Officer shall be the preponderance of the evidence.

(c) The burden of proof shall be on the respondent.

(d) Hearings may be conducted by telephone, at the discretion of the Hearing Officer.

(e) The decision of the Hearing Officer shall be in writing. The decision shall be in minute order form, containing only a brief statement of the conclusion and findings to support the conclusion. It may be handwritten.

(f) The decision shall be issued within 24 hours after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.

(g) The written decision shall be served on the respondent either by personal service or, if available, by facsimile transmission.

(h) The Hearing Officer's decision shall be effective immediately upon first articulation under subsection (f) and shall be final and not appealable to the Secretary or any other officer of the Department.

(i) The owner may challenge the Hearing Officer's decision by filing a writ of administrative mandamus in the appropriate court pursuant to Code of Civil Procedure Section 1094.5.

(j) Hearings shall be recorded by audio tape.

Note: Authority cited: Sections 407, 14502, 14601, 14651, 14651.5, Food and Agricultural Code. Reference: Sections 14601, 14652, 14653, 14655, 14681, and 14682, Food and Agricultural Code; and Sections 11425.50 and 11445.10, Government Code.

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

(a) The Secretary shall have free access at reasonable times to all records, premises, production processes, storage facilities, inventories or conveyances that are used in the manufacture, transportation, importation, distribution, storage, or application of any organic input material.

(b) The Secretary shall 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.

(c) The Secretary may accept inspections performed by a third-party organization recognized by the National Organic Program for out-of-state organic input material manufacturers. All inspection records obtained by the third-party organization shall be made available to the Secretary upon request. When a third-party organization is conducting a site inspection, the organization's inspection shall be consistent with the Secretary's inspection protocol and shall notify the department of when the inspection is going to take place no less than 72 hours in advance of the inspection. Department representatives may be present at the inspection.

(d) Organic input materials manufacturers shall maintain all the records demonstrating compliance with the NOP standards and submit complete documentation describing all ingredients, manufacturing processes, process control information, laboratory analysis of incoming ingredients and finished products, and other information as required by the Secretary.

(e) For the purpose of determining compliance, the Secretary ~~shall~~ may do all of the following:

(1) Take samples of any raw ingredients, finished products, and substances.

(2) Take samples at various stages of the manufacturing process.

(3) Make analysis or examinations of any raw ingredients, substances, and organic input material.

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