

DEPARTMENT OF FOOD AND AGRICULTURE  
Title 3 of the California Code of Regulations  
Section 4890 Definitions

**Notice of Proposed Rulemaking  
45 – Day Notice**

The California Department of Food and Agriculture (Department) proposes to make an amendment to Title 3 of the California Code of Regulations (CCR) Section 4890 Definitions to expand the definition of the word “harvest.”

**PUBLIC HEARING**

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on April 2, 2024. The Department will consider only comments received at the Department offices by that date or postmarked no later than April 2, 2024. Submit comments to:

Erin Lovig, Senior Environmental Scientist Supervisor California  
Department of Food and Agriculture 1220 N St,  
Sacramento, CA 95814  
Permits@cdfa.ca.gov  
916.403.6650  
916.651.2900 (FAX)

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Dean Kelch at (916) 261-9252 or dean.kelch@cdfa.ca.gov, FAX number (916) 651-2900.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**AUTHORITY**

The Department proposes to amend Section 4890 pursuant to the authority vested by Sections 407 and

## **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 81000, 81003, 81004, 81004.5, 81006, and 81013 of the Food and Agricultural Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The specific purpose of amending CCR Section 4890 is to amend the definition of the word “harvest” as recommended by the Industrial Hemp Advisory Board with consideration of requirements from federal regulations.

## **EXISTING LAWS & REGULATIONS**

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC 81003, provides that except for an established agricultural research institution subject to Section 81004.5 or a hemp breeder subject to Section 81004, and before cultivation, a grower of industrial hemp shall register with the commissioner of the county in which the grower intends to engage in industrial hemp cultivation.

Existing law, FAC 81004, provides that except when grown by an established agricultural research institution subject to Section 81004.5, and before cultivation, a hemp breeder shall register with the commissioner of the county in which the hemp breeder intends to engage in industrial hemp cultivation.

Existing law, FAC 81004.5, provides that before cultivating hemp for agricultural or academic research, an established agricultural research institution shall register with the commissioner of the county in which it intends to cultivate.

Existing law, FAC 81006, obligates the Secretary to adopt sampling procedures and approve laboratories and laboratory testing methods.

Existing law, FAC 81013, provides that any person convicted of a felony relating to a controlled substance under state or federal law before, on, or after January 1, 2020, shall be ineligible, during the 10-year period following the date of the conviction, to participate in the industrial hemp program.

## **ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT**

With these this amended definitions the industrial hemp harvest requirements will be clearer to the public. With this regulation, the State of California will be able to continue to regulate a growing industry with high quality industrial hemp production.

There are no existing, comparable federal regulations or statutes regulating the definition of “harvest” as it pertains to industrial hemp.

There are no known specific benefits to worker safety or the health of California residents.

### **EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

The Department considered any other possible regulations addressing the definition of harvest, and it found that the proposed amendment is the only regulation dealing with this subject, and the Department is the only State agency which can designate the definitions for industrial hemp cultivation. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 4890 and has determined that it is not inconsistent or incompatible with existing state regulations.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The proposed action provide clarity to a preexisting program. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of Section 4890. The amendment of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The proposed action provide clarity to a preexisting program and there are no known private sector cost impacts. The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The proposed action provide clarity to a preexisting program. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None

Small business determination: The proposed regulations may affect small business in terms of maintaining the high quality of hemp products sold.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT**

The Department has concluded that the amendment of Section 4890 1) will have no impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) as stated above under ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT, will provide clearer requirements to the industrial hemp industry, as well as maintain high quality of industrial hemp production, (5) will have no impact on the state's environment, and (6) is not expected to benefit workers' safety.

## **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present alternatives during the written comment period.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Department has prepared an initial statement of reasons for the proposed action and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.ca.gov/plant/Regulations.html)). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the comment period and considering all timely and relevant comments received, the Department may amend the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.