

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations
Section 3867, Labeling of Seed Containers.

INITIAL STATEMENT OF REASONS/
POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Section 3867 to add references to Food and Agricultural Code (FAC) Section 58484 and Title 7 Code of Federal Regulations (CFR) 201.30c, Federal Seed Act Regulations.

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

This regulation is intended to address the obligations of the Department to label seeds in accordance with state and federal law.

Purpose and Factual Basis

The specific purpose of amending Section 3867 is outlining the correct procedures for labeling seed containers. Providing the number of noxious weed seeds on the label is important to maintain truth in labeling and to protect growers as well as public land. Harmonizing state regulations with the Federal Seed Act allows seed to move more easily within commerce and helps maintain the integrity of California seed law.

The factual basis for the determination by the Department that the amendment of Section 3867 is necessary is as follows:

The Department needs to make state regulations consistent with federal law to ensure that CA seed entering and leaving the state meets federal requirements. This consistency also protects the California seed industry and agriculture by minimizing the number of noxious weed seeds being introduced into the state.

The Department also corrects a FAC reference, it was listed as FAC 55424 instead of the correct 52454.

Project Description

The first paragraph is now labeled (a), as a second paragraph has been added and creating separation between the two allows for easier reading. FAC section 52484 has been add to the existing list of FACs that have labeling information requirements. FAC 52484 became effective January 2025 and is being added to the regulation requirements to comply with state laws.

Section (b) has been added, it incorporates by reference 7 CFR 201.30c, Revisions to the Federal Seed Act Regulations July 7, 2020 which apply to noxious-weed seeds of vegetable seed in containers of more than 1 pound. By incorporating this by reference, the Department is bringing the regulations into harmony with federal law.

Current 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 that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 52331, provides that the, by regulations, shall do all of the following:

- (a) Adopt germination standards for vegetable seed.
- (b) Adopt tolerances to be applied in all enforcement procedure required by this chapter.
- (c) Prescribe methods of procedure in the examination of lots of any agricultural or vegetable seed, and in securing samples of such lots.
- (d) Establish a reasonable schedule of fees for tests, examinations, and services except those which are required for quarantine or other purposes, not directly related to the enforcement of this chapter. The schedule shall be based upon the approximate cost of the

service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.

(e) Adopt such other regulations as will assist in carrying out the purposes of this chapter. Every standard or tolerance which is adopted pursuant to this chapter shall be as nearly as practicable to that which is established under the Federal Seed Act.

Existing law, FAC Section 52332, provides that

- (a) A list of the plants and crops that the secretary finds are or may be grown in this state.
- (b) A list of the plants and crops that the secretary finds are detrimental to agriculture if they occur incidentally in other crops, and which, therefore, are classed as weed seed except if sold alone or as a specific constituent of a definite seed mixture.
- (c) A list of noxious weed seed that the secretary finds are prohibited noxious weed seed, as defined in this chapter.
- (d) A list of those noxious weed seed that are not classified as prohibited noxious weed seed and are classified by this chapter as restricted noxious weed seed.
- (e) A list of substances that are likely to be used for treating grain or other crop seed that the secretary finds and determines are toxic to human beings or animals if used, and an appropriate warning or caution statement for each substance.

Also, subsection (g) requires that additional labeling requirements for coated, pelleted, encapsulated, mat, tape, or any other germination medium or device used on seed in order that the purchaser or consumer will be informed as to the actual amount of seed purchased.

Existing law, FAC Section 52451, provides that this section does not apply to any of the following:

- (a) Seed or grain that is not intended for sowing purposes.
- (b) Seed that is in storage in, or consigned to, a seed cleaning or conditioning establishment for cleaning or conditioning.
- (c) Seed or grain that is transported without transfer of title for sowing on land that is owned by the person by whom the seed or grain was produced.
- (d) Seed that is weighed and packaged in the presence of the purchaser from a bulk

container, if the container is properly and conspicuously labeled as provided by this chapter.

(e) Seed or grain that is transported from one warehouse to another without transfer of title or in storage in a warehouse, if each container is plainly marked or identified with a lot number or other lot identification and the label information that is required by this article is available at the request of an enforcing officer.

(f) Seed distributed or received by noncommercial seed sharing activity.

Existing law, FAC Section 52452, provides that:

(a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag the information listed within this FAC.

Existing law, FAC Section 52453, provides that except as otherwise provided in Section 52454, each container of vegetable seed that is for sale or sold within this state for sowing purposes shall bear upon it, or have attached to it, in a conspicuous place, a plainly written or printed label or tag in the English language, that gives all of the information listed within this FAC.

Existing law, FAC Section 52454, provides that any lot of more than one container of seed which is transported to a dealer for resale, or any lot of more than five containers of seed which is sold to a consumer, is exempt from the requirements which are prescribed by Section 52452 or 52453 if both of the following requirements are complied with:

(a) Each container is plainly marked or identified with a lot number or other lot identification.

(b) The invoice and one or more of the containers bears the tag or label which is required by such sections.

Existing law, FAC Section 52455, provides that in addition to the labeling requirements of this section all seed at the time of sale by a retail merchant for nonfarm usage, shall conspicuously bear upon the labeling of the seed a viability assurance statement

information listed within this FAC.

Existing law, FAC Section 52456, provides that in addition to the labeling requirements of this article, all seed, except seed at the time of sale by a retail merchant for nonfarm use, shall conspicuously bear upon the label adequate notice of the requirement to follow the conciliation, mediation, or arbitration procedures governing disputes between labelers and any person, as authorized in FAC and the consequences of failing to follow those procedures.

Existing law, FAC Section 52484, provides that:

(a) Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell agricultural or vegetable seed that is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals unless there is conspicuously shown on the analysis tag or label, on a separate tag or label attached to each container, or on each container all of the information within the FAC.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Department is the only agency that can implement plant labeling. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

Anticipated Benefits from This Regulatory Action

This amendment brings the existing seed labeling regulation into harmony with state and federal requirements. This is important for the seed industry to allow clear and comprehensive requirements as seed moves across state borders and provides for the testing of noxious weed seeds in vegetables, which is important for growers and the environment to prevent the introduction of noxious weed seed.

California Environmental Quality Act

Prior to conducting any action authorized by this regulation, the Department shall comply

with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et. seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et. seq.).

Mandate on Local Agencies or School Districts

The Department has determined that this regulation does not impose a mandate on local agencies or school districts.

Economic Impact Analysis (Government Code 11346.3(b))

The proposed amendment of Section 3867 would bring seed labeling into compliance with other state and federal regulations. This economically benefits:

- the general public
- the State's general fund
- The environment

This amendment benefits seed consumers and the environment to prevent the introduction of noxious weed seeds.

The Creation or Elimination of Jobs within the State

The amendment is designed to bring seed labeling into compliance with state and federal regulations. No additional staff positions will be created or eliminated by this amendment. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

The Creation or Elimination of Businesses in California

The amendment is designed to bring seed labeling into compliance with state and federal regulations. No new businesses will be required, and current activities do not eliminate existing business. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or elimination of new businesses in California.

The Expansion of Businesses in California

The amendment is designed to bring seed labeling into compliance with state and federal regulations. No new businesses will be required, and current activities do not expand existing businesses. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the expansion of businesses currently doing business in California.

Significance Adverse Impact on Business

The amendment is designed to bring seed labeling into compliance with state and federal regulations. No businesses are currently adversely affected by these activities. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on businesses currently doing business in California.

Worker Safety

This regulation is not expected to have an effect on worker safety.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department has determined that Sections 3867 does not impose a mandate on local agencies or school districts. Therefore, no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts, will result from the amendment of Section 3867.

There are no reimbursable costs or savings under Part 7 (commencing with section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts anticipated from the amendment of this amendment.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states.

Potential Impact to Homeowners and Community Gardens

The amendment is designed to bring seed labeling into compliance with state and federal regulations. Current activities do not have an impact on homeowners and community gardens. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on homeowners and community gardens in California.

Potential Impacts to General Fund and Welfare

The amendment is designed to bring seed labeling into compliance with state and federal regulations. Current activities do not have an impact on homeowners and community gardens. Therefore, the Department has determined that this regulatory proposal will not have any significant adverse impacts on the general fund or welfare in California but will have a positive impact.

Assessment

The amendment of Section 3867 is designed to bring seed labeling into compliance with state and federal regulations. The Department has made an assessment that the amendment to this regulation would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, and (4) is not expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

By preventing the introduction of noxious weed seeds there will be a positive impact to the environment, which will benefit from reduced competition between native plants and introduced weeds.

This amendment brings CCR 3867 into compliance with existing state and federal requirements. There are no existing comparable federal regulations or statutes.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

California Code, Food and Agricultural Code (Formerly Agricultural Code) - FAC § 52484, Amended by Stats. 2024, Ch. 348, Sec. 1 (AB 1042) Effective January 1, 2025

Department of Agriculture, 7 CFR § 201.30c Noxious-weed seeds of vegetable seed in containers of more than 1 pound., July 7, 2020