

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Sections 3800.1. Acala and Pima Quality Standards.

3800.2. Referendum.

3802. Performance Testing of Nonapproved Cottons Developed Outside the San Joaquin Valley Quality Cotton District.

3803. Exemption.

3804. Seed Distribution.

3806. Ginning.

3808. Marketing.

3810. Nonapproved Cotton Breeding Programs.

3811. Nonapproved Cotton Performance Testing.

3815. Public Agency Nonapproved Cotton Agronomic Research.

3816. Private Agronomic Research on Nonapproved Cotton.

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3824. Nonapproved Cotton Lint Storage and Identification, Including California Upland, California Pima, and California Naturally Colored Cotton.

3825. Nonapproved Cottonseed Disposal.

3826. Nonapproved White Cottonseed Delinting, Including California Upland and California Pima Cotton.

3826.1. Nonapproved Colored Cottonseed Delinting. [Renumbered]

3830. Refusal of Applications.

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

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

This repeal of these regulations is intended to address the obligation of the Department of Food and Agriculture (Department) to regulate the agricultural industry in California.

Specific Purpose and Factual Basis

The specific purpose of Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and

3830 of the California Code of Regulations (CCR) is to regulate Acala, California Upland, nonapproved cotton, cotton outside the quality district, and Pima quality standard cotton in the San Joaquin Valley Quality Cotton District.

The factual basis for the determination by the Department that the repeal of these regulations is necessary is as follows:

The Food and Agricultural Code (FAC) Division 18. Field Crops, Seeds, Seed Potatoes, One-Variety Cotton Districts, and Nursery Stock Grades and Standards [52001 - 53564] (Division 18 Enacted By Stats. 1967, Ch. 15.) Chapter 4. San Joaquin Valley Quality Cotton District [52851 - 52993] established the San Joaquin Valley Quality Cotton District. The purpose of this district was to promote, encourage, aid, and protect the planting and growing of cotton in California. The powers of the San Joaquin Valley Quality Cotton Board included authority to establish quality standards and make recommendations to the Secretary of Food and Agriculture on all matters pertaining to the district. Existing law provides funding for the board and enforcement of the provisions through assessments and requires that all moneys received pursuant to these provisions, which are deposited in the continuously appropriated Department of Food and Agriculture Fund, be expended only for purposes of the provisions relating to the San Joaquin Valley Quality Cotton District.

Assembly Bill 1389, Chapter 383 (2) was approved by the Governor and filed with the Secretary of State on September 27, 2013. This Bill rendered FAC Division 18 Chapter 4 (San Joaquin Valley Quality Cotton District) and implementing regulations inoperative on January 1, 2014, except FAC Section 52893 as it relates to certified cottonseed, Section 59201 as it relates to certified cottonseed and color cotton, and 52981 as it relates to colored cotton.. Assembly Bill 1389 allowed for Chapter 4 and implementing regulations to remain in effect if the Secretary of the Department received a petition from members of the cotton industry in the San Joaquin Valley and made a determination that it was in the best interests of the cotton industry and the state to continue these provisions. No petition was made, and Chapter 4 and implementing regulations became inoperative. The Department no longer has authority to enforce Chapter 4 and the implementing regulations and is proposing that they be repealed.

Project Description

The effect of this repeal is to remove the following regulations:

3800.1. Acala and Pima Quality Standards.

This regulation defines the cotton varieties as District Acala and Pima quality standard as Acala Summit and Pima S-7. The authority was granted to the Department by FAC Sections 52891, 52901 and 52936. FAC Sections 52891 and 52936 are now inoperative. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3800.2. Referendum.

This regulation allows the Cotton Board to vote whenever the Board proposes that a variety other than Acala Summit or Pima S-7 embodies the Acala or Pima quality standard, but the Board is not required to do so. The authority was granted to the Department by FAC Sections 52891, 52901 and 52936. FAC Sections 52891 and 52936 are now inoperative and FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3802. Performance Testing of Nonapproved Cottons Developed Outside the San Joaquin Valley Quality Cotton District.

This regulation requires that a person who wants to evaluate a nonapproved cotton variety or strain that was not developed or evaluated in a breeding and testing program within the District could submit a request to the Board for performance testing. The authority was granted to the Department by FAC Section 52901 and the performance test was in accordance to FAC Section 52902. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply and FAC 52902 is now inoperative. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3803. Exemption.

This regulation allows that district regulations that limited acreage do not apply as restrictions to the Board or the director. Also if a need is found or the Board recommends it, the director can waive the limitations of Sections 3815(a) and 3816(a). Finally, Section 3803 allows that, upon Board recommendation, the director could allow an applicant additional limited acreage for seed

increase. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3804. Seed Distribution.

This regulation requires seed companies, delinters, gins, and other entities distributing seed of California Upland and California Pima cotton directly to growers in the District to notify the department of the names, addresses, and telephone numbers of each entity to which they have distributed seed, and the volume of each variety distributed to such entity by June 1st of each year. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC Section 52901 and 52981 now only apply to certified cottonseed and color cotton, to which this regulation does not apply as it only applies to California Upland and California Pima cotton. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3806. Ginning.

This regulation requires that the ginning of California Upland and California Pima cotton shall be regulated by CCR Sections 3823 and 3824. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC 52901 and 52981 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3808. Marketing.

This regulation requires that the marketer shall maintain the identity of California Upland and California Pima cotton. To do this the records shall be made available by the marketer to the department, and upon request indicate the bale numbers of such cotton sold. These records shall be maintained for one year after the end of each cotton production season and the initial delivery of the cotton bales produced during that season. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC Sections 52901 and 52981 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3810. Nonapproved Cotton Breeding Programs.

This regulation outlines the requirements for nonapproved cotton breeding programs. It defines the locations the cotton can be grown at and how to submit an application to the director so the breeding program can be approved. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3811. Nonapproved Cotton Performance Testing.

This regulation outlines the requirements for nonapproved cotton performance testing. It defines the locations the cotton can be performance tested at and how to submit an application to the director so the performance tests can be approved. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3815. Public Agency Nonapproved Cotton Agronomic Research.

This regulation outlines the requirements for public agencies, including the U.S. Department of Agriculture and the University of California, to conduct nonapproved cotton agronomic research. It defines the locations the agronomic research can be conducted at and how to submit an application to the director so the research can be approved. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3816. Private Agronomic Research on Nonapproved Cotton.

This regulation outlines the requirements for private persons to conduct nonapproved cotton agronomic research. It defines the locations the agronomic research can be conducted at and how to submit an application to the director so the research can be approved. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce, this regulation the Department is repealing it.

3820. Board Review and Comment.

This regulation outlines the process annual applications for nonapproved cotton testing programs to be approved. The director will submit them to the Board, the Board will review and may ask the applicant to submit their plan in person, and after this and the Board comments the director may approve the program. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3821. Cottonseed Arriving from Outside the District.

This regulation outlines requirements for all cottonseed arriving from outside the San Joaquin Cotton District. The cottonseed must be free of angular leafspot, *Xanthomonas malvacearum*, conform to the requirements of the Federal Pink Bollworm Quarantine, and conform to those Sections applicable to cotton in Division 4 of this Title 3. The seed will be inspected and the applicant responsible for the costs of inspection. A representative seed sample of 1200 seeds will be sent to the Analysis and Identification Unit, Division of Plant Industry, Department of Food and Agriculture, for testing for angular leafspot, while seed lots of less than 1200 seeds are exempt from sampling requirements. If any lots are found to have angular leafspot they must be disposed of and the infected seed lot destroyed under the supervision of the director. If any new pest is discovered that is suspected or determined by the director to be of serious economic importance, the planting of cottonseed from outside the District for planting purposes shall be suspended until measures are in place that such nonapproved planting cottonseed is in compliance with all of the department's pest prevention requirements. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3821.1. Hold Used Cotton Machinery for Inspection in San Joaquin Valley Quality Cotton District.

This regulation outlines how cottonseed and seed cotton from “nonapproved cotton” can be introduced into the San Joaquin Valley Quality Cotton District on or associated with cotton machinery, equipment and appliances. It also requires that the County Agricultural Commissioner be notified when any cotton machinery, parts of machinery, equipment or

appliances which have been used or field tested outside of the San Joaquin Valley Quality Cotton District are brought in for inspection. The County Agricultural Commissioner may require that any cottonseed or seed cotton on, in, or associated with such articles be removed and destroyed under supervision at the expense of the owner or bailee. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3822. Planting and Harvesting Notification.

This regulation outlines the notifications needed to plant and harvest authorized nonapproved cotton. The director shall be notified 48 hours prior to the planting or harvesting, and the filed equipment used shall be cleaned to the director's satisfaction to ensure approved cotton won't be contaminated. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation it the Department is repealing it.

3823. Nonapproved White Cotton Ginning, Including California Upland and California Pima Cotton.

This regulation outlines the process for ginning nonapproved white cotton. Notification of the ginning will be given to the Department at least 48 hours prior. The Department will supervise the ginning and clean up. The ginning will be done in a manner that prevents the mixing of nonapproved and approved lint. Nonapproved Pima seed cotton shall only be roller ginned and nonapproved Upland seed cotton shall only be saw ginned. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC Sections 52901 and 52981 now only apply to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3823.1. Nonapproved Colored Cotton Ginning.

The text of this regulation was moved when the Section was renumbered. As there is only a title, it can be removed entirely by repealing it.

3824. Nonapproved Cotton Lint Storage and Identification, Including California Upland, California Pima, and California Naturally Colored Cotton.

This regulation outlines nonapproved cotton lint storage and identifications requirements. It must be identified with the listed labels at all time and identification tags and decals are to be affixed to bales under the supervision of the department. Identification may not be removed without permission of the department. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC Sections 52901 and 52981 now only apply to certified and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3825. Nonapproved Cottonseed Disposal.

This regulation requires that the director shall supervise the disposal of nonapproved cottonseed. To prevent nonapproved cottonseed from commingled with any approved planting cottonseed the nonapproved cottonseed saved for use by the applicant shall be identified. The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3826. Nonapproved White Cottonseed Delinting, Including California Upland and California Pima Cotton.

This regulation outlines the delinting process for nonapproved white cottonseed. The delinter shall notify the Department at least 48 hours prior to the delinting of any nonapproved white cottonseed. The delinting shall be done in a manner that assures the Secretary that proper identification of nonapproved cottonseed, equipment cleanup, and separation from approved planting cottonseed has been maintained. The authority was granted to the Department by FAC Sections 52901 and 52981. FAC Sections 52901 and 52981 now only apply to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, the Department is repealing it.

3826.1. Nonapproved Colored Cottonseed Delinting. [Renumbered]

The text of this regulation was moved when the Section was renumbered. As there is only a title it can be removed entirely..

3830. Refusal of Applications.

This regulation outlines when the director shall refuse an application or revoke an authorization granted under these regulations. The circumstances under which an application can be refused or revoked are:

- If the proposed location does not meet the isolation requirements under Sections 3810(a), 3811(a), and 3815(a) or 3816(a);
- The applicant or his cooperators fail to comply with the regulations applicable to cotton in this subchapter, or state or federal quarantines;
- Finally, if after review and comment by the Board, the program proposed is determined not to be in the best interests of the cotton industry in the District

The authority was granted to the Department by FAC Section 52901. FAC Section 52901 now only applies to certified cottonseed and color cotton, to which this regulation does not apply. As the Department no longer has legislative authority to enforce this regulation, we are repealing it.

Economic Impact Analysis

There will not be economic losses due to the repeal of these regulations as the industry these regulations were supporting no longer exists.

Anticipated Benefits from This Regulatory Action

While there are no monetary benefits with the repeal of these regulations, it is the Department's responsibility to repeal regulations that the Department no longer has authority to enforce.

Assessment

Based upon the Economic Impact Analysis, the Department has made an assessment that the repeal of these regulations would not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

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

The Department of Food and Agriculture has determined that the repeal of CCR Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830 does not impose a mandate on local

agencies or school districts and no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Government Code Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the repeal of CCR Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830.

The cost impact of the changes of the regulation on private persons and businesses are expected to be insignificant.

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. The Department's determination that the action will not have a significant statewide adverse economic impact on business was based on the following:

There are no costs for compliance as repeal of the regulations will remove the necessity of compliance, and the regulations to be repealed are not currently enforced.

Based on the preceding information, the Department determined that the repeal of CCR Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830 do not have a Statewide adverse economic impact on a representative business or private party.

Alternatives Considered

The Department must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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. Alternative approaches would not be authorized under current statute. It is the Department's responsibility to repeal regulations that the Department no longer has authority to enforce.

Information Relied Upon

The Department relied upon the following studies, reports, and documents in the proposed repeal of CCR Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830:

Assembly Bill No. 1389, chapter 383, (2), Approved by Governor September 27, 2013. Filed with Secretary of State September 27, 2013.

Email from Brenda Lanini, March 23, 2021, RE: Cotton SJV Repeals