

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

**Notice of Proposed Rulemaking**

**45 – Day Notice**

The Department of Food and Agriculture proposes to adopt Section 4900 in the regulations in Title 3 of the California Code of Regulations pertaining to Industrial Hemp Cultivation Registration Fees.

**PUBLIC HEARING**

A public hearing is not scheduled. 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 regulation to the Department. Comments may be submitted by mail, FAX or email. The written comment period closes at 5:00 p.m. on December 24, 2018. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Dean Kelch  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[Dean.Kelch@cdfa.ca.gov](mailto:Dean.Kelch@cdfa.ca.gov)  
916.403.6650  
916.651.2900 (FAX)

Following the public hearing if one is requested or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW**

Existing law requires the Secretary to establish fees for registration for growers of industrial hemp for commercial purposes and seed breeders (Section 81005, Food and Agricultural Code).

The proposed adoption of Section 4900 pertaining to registration for growers of industrial hemp for commercial purposes and seed breeders will establish annual registration and

registration renewal fees as required in statute amended by SB 1409, effective January 1, 2019.

The Department considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and the only State agency which can implement this proposed regulation. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this proposed regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### Anticipated Benefits from This Regulatory Action

Establishment of a registration fee will allow commercial cultivation of industrial hemp to begin in California and allow the growth of the industrial hemp industry in California. The Hemp Business Journal estimated industrial hemp-based product sales in the United States are increasing and the United States has seen significant growth in acreage of industrial hemp cultivation: 9,770 acres of industrial hemp were grown in 2016; 25,713 acres were grown in 2017.

Currently, most hemp products processed and manufactured in the United States heavily rely on imported material, according to the Congressional Research Service. Without this regulation, California citizens are unable to participate in this emerging industry.

The proposed regulation also serves to provide the state and counties with funding to cover the actual costs of implementing, administering, and enforcing the provisions of FAC Division 24. It will help protect the public and the state's natural resources from illegal cultivation activities by providing resources to the county agricultural commissioner to provide regulatory oversight, ensuring that industrial hemp plantings meet statutory requirements.

#### **ADOPTED TEXT**

The adoption of this proposed regulation will establish registration and renewal fees to be charged by the county agricultural commissioner for industrial hemp cultivation as required in statute.

The proposed annual registration fee is \$900 per applicant for each county in which the applicant intends to cultivate industrial hemp as a commercial grower or seed breeder. The registration fee shall be submitted along with the registration application to the commissioner. Registration will be valid for one year from the date of issuance by the commissioner.

The proposed fee for renewal of an annual registration is \$900 per registrant for each county the applicant intends to continue to cultivate industrial hemp as a commercial grower or seed breeder. Renewals not paid in full within 30 days after expiration of

registration will result in forfeiture of registration. Restoration of forfeited registration will require payment of any unpaid fees and a penalty of 15% of the unpaid fee amount. The commissioner may waive the penalty upon receiving a signed statement from the registrant that he/she did not cultivate industrial hemp during the period in which the registration was expired unless there is substantial evidence otherwise. Renewed registration will be valid for one year from the date of issuance by the commissioner.

### **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: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

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

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: This regulation will require the payment of registration fees by industrial hemp growers and seed breeders, as required in statute. The direct cost that a registered grower or seed breeder will necessarily incur in reasonable compliance with the registration requirement is \$900.00 a year. The cost to register as a grower or seed breeder is reasonable and should be likely be offset by revenue collected by the grower or seed breeder over the registration period of one year.

Small Business Determination: The proposed regulation may affect small business.

Significant effect on housing costs: None.

### **ASSESSMENT**

The Department has made an assessment that the proposed regulation would not likely eliminate jobs or existing businesses within California. The Department has made an assessment that the proposed regulation would likely promote the creation new jobs and businesses, and affect the expansion of businesses currently doing business within

California.

The proposed regulation will establish a registration and renewal fee in order for prospective growers and/or seed breeders of industrial hemp to begin cultivation. The proposed regulation will help protect the public and the state's natural resources by allowing the Program to collect funds to fully administer a statewide registration program as well as provide oversight, training, and assistance to the county inspectors regarding regulatory enforcement activities, ensuring consistent implementation and enforcement of statutory requirements for industrial hemp cultivation throughout the state.

By discouraging illegal hemp cultivation and the related dangers that affect workers and the neighboring public from such unlawful activities, this proposed regulation will help protect the public safety of California residents or worker safety. Based upon the economic analysis, the Department believes this proposed regulation benefits the general welfare of California residents (GC Section 11346.3(b)).

### **ALTERNATIVES CONSIDERED**

The Department must determine that no reasonable alternative considered to the proposed regulation or that has otherwise been identified and brought to its attention would either 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this notice.

The Department considered taking no action. If no action is taken, registration for the cultivation of industrial hemp would not be available; and this would encourage illegal cultivation of this in-demand crop. The Department and counties will not have the resources for regulatory enforcement activities to address illegal cultivation.

### **AUTHORITY**

The Department proposes to adopt Section 4900 pursuant to the authority vested by Sections 407, 483, and 81005 of the Food and Agricultural Code of California.

### **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 81003, 81004, and 81005 of the Food and Agricultural Code.

### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is:

Dean Kelch  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[Dean.Kelch@cdfa.ca.gov](mailto:Dean.Kelch@cdfa.ca.gov)  
916.403.6650  
916.651.2900 (FAX)

In his absence, you may contact Rachel Avila at (916) 403-6813. Questions regarding the substance of the proposed regulation should be directed to Rachel Avila.

### **INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. 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.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.