

PROPOSED ACTION ON REGULATIONS

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TITLE 2. DEPARTMENT OF FINANCE

NOTICE OF INTENTION TO AMEND THE
CONFLICT-OF-INTEREST CODE OF THE
DEPARTMENT OF FINANCE

NOTICE IS HEREBY GIVEN that the Department of Finance pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on December 3, 2021 and closing on January 17, 2022. All inquiries should be directed to the contact listed below.

The Department of Finance proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include changes in assigned reporting categories. The changes will bring the conflict-of-interest code current with the existing organizational structure of the Department of Finance.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 17, 2022, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than January 2, 2022.

The Department of Finance has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under

Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Larissa Stockton, Chief of Administrative Services, 916-445-3368 x3402, larissa.stockton@dof.ca.gov.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION 3. ECONOMICS

CHAPTER 1. FRUIT AND VEGETABLE

STANDARDIZATION

SUBCHAPTER 3. EGGS

SECTION 1354. MARKING REQUIREMENTS

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before 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 regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5334 or by e-mail to michael.abbott@cdfa.ca.gov. The written comment period begins on December 3, 2021 and closes on January 17, 2022. The Department will consider only comments received at the Department by that time. Submit comments to:

Michael Abbott, Supervising Environmental Scientist
Meat Poultry and Eggs Safety Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5062; Fax: (916) 900-5334

AUTHORITY AND REFERENCE

Food and Agricultural Code (FAC) section 14 authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the FAC grants the Department Secretary the authority to amend or repeal rules and regulations.

FAC section 407 authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the FAC which the Secretary is directed or authorized to administer or enforce.

FAC section 27531 specifies, in part, that the director may adopt regulations relating to the preparation for market and marketing of shell eggs as they determine are reasonably necessary to carry out the purposes of the chapter including the requirements for marking containers, displays and advertising of eggs sold in California, or any other matter necessary to accomplish the purpose of this chapter

FAC section 27521 specifies, in part, that the purpose of the chapter is to ensure the orderly marketing of shell eggs in a uniform manner and to prevent the marketing of deceptive or mislabeled containers of eggs.

FAC section 27573 specifies the purposes of the Shell Egg Food Safety Committee which include the quality of shell eggs and uniformity of inspection.

FAC section 27631 provides that it is unlawful to violate any provision of the chapter or any regulation adopted pursuant to it.

FAC section 27637 provides, in part, that it is unlawful for any person to make any statement about the quality, size, weight, source, origin, or any other matter relating to eggs which is false, deceptive or misleading.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action proposed to amend the California Code of Regulations (CCR), Title 3, Division 3, section 1354. Specifically, this rulemaking action clarifies and makes specific the requirements to label consumer containers of eggs as “cage free”.

The Department’s Egg Safety and Quality Management (ESQM) Program is responsible for the regulatory authority for shell eggs and egg products

produced, shipped, or sold in California. This includes the marketing and truth in labeling of shell eggs or egg products.

Benefits of the Proposed Action: This proposed regulatory action will assure the Consumers of California that when they purchase eggs that are labeled “cage free” that they meet minimum standards outlined in the cage free definition. Producers will have a consistent standard applied equally across the industry for eggs sold to California consumers.

CONSISTENCY EVALUATION

The Department has determined that this proposed regulatory action is not inconsistent with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the marketing of shell eggs.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and 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 the Government Code section 17500 through 17630: None.

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

Cost or savings in federal funding to the state: 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: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This is more consistent with the Administrative Procedure Act (APA) language of Government Code section 11346.5(a)(9).

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is: (1) likely that the proposal will not create or eliminate jobs and not eliminate existing business; (2) likely that this proposal will not create new business or expand current business opportunities; (3) likely that this proposal will not lead to the expansion of businesses currently doing business within the state; (4) Also, enhanced

enforcement activities will protect consumers and the industry, and assure that they are provided an accurate and standardized definition of “cage free”. Finally, this proposed rulemaking will have no impact on the general public, protection of public health and safety, worker safety or the environment.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would have no significant impact directly affecting small businesses. These regulations do not require any additional costs or outputs for small businesses. These regulations do not establish any new limitations on small businesses. All egg producers would be operating under the same regulatory structure with regards to the regulatory changes.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The alternative to not pursue this regulatory action would result in deceptive or fraudulent labeling and an unfair marketing of the eggs. The adoption of a different definition from the one proposed here could cause conflict and confusion as this definition supports the most common understanding of cage free.

CONTACT PERSONS

Michael Abbott, Supervising Environmental Scientist
Department of Food and Agriculture
Animal Health & Food Safety Services Meat, Poultry, and Egg Safety Branch
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5103
E-mail: michael.abbott@cdfa.ca.gov

The backup contact person is:

Andrew Halbert, Staff Services Manager
Department of Food and Agriculture
Animal Health & Food Safety Services
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5372
E-mail: andrew.halbert@cdfa.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Michael Abbott at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Michael Abbott at the address or phone number listed previously.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After 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. Please send requests for copies of any modified regulations to the attention of Maria Tenorio at the address listed above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michael Abbott at the address listed previously.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the

regulations in underline and strikethrough can be accessed through the Department's website at: <http://www.cdfa.ca.gov/ahfss/regulations.html>

TITLE 4. ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

NOTICE IS HEREBY GIVEN that the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA" or the "Authority") proposes to amend Sections 10031 through 10036 of Article 2, Division 13, Title 4 of the California Code of Regulations concerning the implementation of the Sales and Use Tax Exclusion Program after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Authority has not scheduled a public hearing on this proposed action. However, a public hearing will be held if any interested person, or his or her duly authorized representative, requests a public hearing to be held relevant to the proposed action by submitting a written request to the Agency Contact Person identified in this notice no later than 5:00 p.m., fifteen (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 Authority. The written comment period for the proposed regulations ends on **January 18, 2022**. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Article 2, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AUTHORITY AND REFERENCE

Authority: Public Resources Code (PRC) Sections 26009 and 26011.8. Revenue and Taxation Code Section 6010.8. Public Resources Code Section 26009

authorizes CAEATFA to adopt necessary regulations relating to its authority established by the Act, and Public Resources Code Section 26011.8 provides the authority to develop the Sales and Use Tax Exclusion Program. Revenue and Taxation Code Section 6010.8 provides CAEATFA the ability to provide financial assistance in the form of a sales and use tax exclusion.

Reference: Section 26011.8 of the Public Resources Code. This regulation will implement, interpret, and make specific Section 26011.8 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") and requires CAEATFA to establish programs to provide Financial Assistance to Participating Parties for Projects related to alternative energy sources and advanced transportation.

Existing law authorizes CAEATFA to provide a sales and use tax exclusion ("STE") to certain types of manufacturers and recyclers to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. (PRC Section 26011.8(a).)

Existing law specifies criteria by which CAEATFA shall evaluate Project Applications, including the extent to which the Project will create new, permanent full-time jobs in California; the extent of unemployment in the area in which the Project is proposed to be located; and, to the extent feasible, the extent to which the Project, or the product produced by the Project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by federal or state law or regulation; and any other factors the Authority deems appropriate in accordance with Section 26011.8. (PRC Section 26011.8(d).)

In October 2019, Governor Newsom signed into law Assembly Bill 176 (Cervantes, Chapter 672, Statutes of 2019), which adds to the Application evaluation criteria the extent to which a Project will result in the loss of permanent, full-time jobs in California, including the average and minimum wage for each classification of full-time employees proposed to be hired or not retained. Existing law also limits the amount of STE CAEATFA may grant for each calendar year to \$100 million. (PRC Section 26011.8(h).)

Existing Program regulations establish eligibility and evaluation criteria by which Applications are re-