

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information upon which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, and the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at http://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Lori Martinez
Address: 2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518–3100
Fax Number: (916) 574–8618
Email Address:
PharmacyRulemaking@dca.ca.gov

The backup contact person is:

Name: Julie Ansel
Address: 2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518–3100
Fax Number: (916) 574–8618
Email Address:
PharmacyRulemaking@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board of Pharmacy’s website at: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

PET FOOD LABELING AND LICENSING REVISIONS (DPH–18–016)

Notice is hereby given that the California Department of Public Health (Department) is proposing the regulation described below. This additional 45–day notice of proposed rulemaking commences a rulemaking to make the regulations permanent after considering all comments, objections, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

The Department is conducting an additional 45–day written public proceeding during which time any interested person or such person’s duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as

comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

To request copies of the regulatory proposal in an alternate format, please write or call: David Martin, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814, at (916) 440–7673, email to David.martin@CDPH.ca.gov or use the California Relay Service by dialing 711.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a public hearing if a written request for a public hearing is received from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

Assistive Services:

For individuals with disabilities, the Department will provide assistive services such as conversion of written materials into Braille, large print, audiocassette, and computer disk. For public hearings, assistive services can include sign–language interpretation, real–time captioning, note takers, reading, or writing assistance. To request these assistive services, please call (916) 558–1710 or (California Relay at 711 or 1–800–735–2929), email Regulations@cdph.ca.gov or write to the Office of Regulations at the address noted above. Note: The range of assistive services available may be limited if requests are received less than 10 business days prior to public hearing.

WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by Office of Regulations on April 11, 2024, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written Comments must be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH–18–016” in the subject line; to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636–6220;
3. By postal service or hand delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All comments, including email or fax transmissions, should include the regulation package identifier,

DPH–18–016 “Pet Food Labeling and Licensing Revisions ,” along with your name and your mailing address or email address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

AUTHORITY AND REFERENCE

The Department proposes this amendment under the authority provided in Sections 113115, 131000, 131050, 131051, 131052, and 131200 of the Health and Safety Code. The proposed regulations implement, interpret, and make specific Sections 113060, 113065, 113095, 113100, 113105, 113110, and 113115, of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Proposal

This proposal would amend the Labeling and Licensing Requirements of Sections 19025 and 19041 (respectively) of the regulations set forth in Title 17, of the California Code of Regulations (CCR) which relate to the Pure Pet Food Act of 1969 (Act). In regard to labeling, the amendment would permit pet food producers who meet the requirements set forth in Section 19025 to use the terms “human grade” and “natural” in describing their processed pet food products, delete unclear and non–specific language related to the term human grade. In regard to licensing, the amendment to Section 19041 would align the fees and license period noted in the regulations with the fees and license period set forth in the Health and Safety Code. Finally, non–substantive changes are also proposed.

Background

A valid Pet Food Processor License (if manufacturing in–state) or Registration Certificate (if manufacturing out–of–state for import into California), issued by the California Department of Public Health (Department) Food and Drug Branch, is required to manufacture or sell processed pet food in California. An individual or company seeking a license or registration certificate submits an application, a representative label from the product, and a license or registration certificate fee to the Department’s Food and Drug Branch.

The Department received a formal petition from a processed pet food producer regarding the labeling requirements set forth in Section 19025 (hereinafter processed pet food producers will be generically referred to as “producers” or a “producer”). The petitioner was sued for deceptive and misleading labeling as it had labeled its pet food as “natural.” The petition stated the petitioner is in compliance with the Association

of American Feed Control Officials, Inc. Official Publication (AAFCO OP) on the use of the term natural on the label and asked for clarification of Department regulations. Existing regulations set forth in Section 19025 do not address the use of the term “natural” on a processed pet food label.

Also, during the comment period on the petition, the Department received a request from a different producer regarding Section 19025, subsection (g), which prohibits producers from using the terms “fit for human food,” “fit for human consumption,” or “any similar terms” on their labels. The commenter previously submitted an application for a license to the Department. The application included a representative label from the products it wished to sell in California, which included the term human grade. The Department denied the application under subsection (g)’s prohibition of the terms “fit for human food,” “fit for human consumption,” or “any similar terms” (emphasis added) because human grade was a “similar” enough term to deny the application. The producer noted the AAFCO OP permits use of the term human grade on pet food labels, which appears to be inconsistent with this subsection of the regulations. In addition to this comment from the producer, the Department received a number of correspondences from consumers asking that producers be permitted to offer human grade pet food in California.

Considering the changing pet food market, the Department agrees an amendment is necessary to provide clarity and consistency for the nationwide industry and California consumers while continuing to ensure the quality and safety of processed pet food. Additionally, an amendment to the licensing section would align language in the CCR and the Act.

Existing Laws and Regulations: The Department evaluated this proposal and determined, if adopted, it will not be incompatible or duplicative with existing state or federal regulations. No statute or regulation conflicts with this proposed regulatory update. No other State regulation addresses the same subject matter, and this proposal is not inconsistent or incompatible with other state regulations.

Problem Statement

The Department recognizes the pet food market has changed from when these regulations were originally adopted. Today both producers and customers desire to sell and have access to a wider variety of options. Therefore, the Department proposes amending the regulations to permit producers to use the terms “human grade” and “natural” in labeling. This amendment change is necessary to keep in step with the changing pet food market, to provide clarity and consistency for the industry and consumers, and to ensure the quality and safety of processed pet food. In addition to the labeling sections noted above, existing reg-

ulations include unclear language related to a prohibition on labeling processed pet food. Specifically, the existing regulations include the ambiguous phrase “or any similar terms” as related to the prohibited terms “fit for human food” or “fit for human consumption.” The Department does not intend to permit a producer to state or imply processed pet food is meant to be eaten by a human; however, it proposes deleting this section’s prohibitions on use of “fit for human food,” “fit for human consumption,” and “any similar terms” to harmonize it with the addition of the human grade labeling language. Of note, the proposed amendment permitting using of the term human grade includes limitations and prohibitions, which would prohibit a producer from stating or implying its food is anything other than pet food.

Finally, during the process of reviewing and updating the regulations, the Department found one additional area that would benefit from clarification. Specifically, the licensing regulations express the licensing fees are different than the Health and Safety Code 113065.

Objectives (Goals) of the Regulation

Broad objectives of this proposed regulatory action are to:

- Incorporate labeling language based upon guidelines from the AAFCO OP to increase consistency for producers and consumers.
- Clarify ambiguous language in the existing regulations.
- Clarify licensing fees for producers.

Anticipated Benefits

Anticipated benefits from this proposed regulatory action are:

- Increased clarity of terms regarding regulated producers who are permitted to describe processed pet food which provides consumers with a more complete understanding of what they are purchasing for their pets.
- Increased clarity in permissible language regulated producers can print on a processed pet food label to protect consumers from confusion as to the proper use of the processed pet food.
- Increased consistency for producers selling in more than one state.
- Updated labeling language for increased consistency with industry standards.
- Continued protection of the public health and safety.
- Protection of the public’s wellbeing through protection of the health of their pets.
- Updated, clear, and consistent regulations.

Evaluation as to Whether the Proposed Regulations Are Inconsistent or Incompatible with Existing State and Federal Regulations

The Department has determined these regulations are neither inconsistent nor incompatible with other state regulations. After conducting a review for any other related regulations, the Department has found that these are the only regulations concerning pet food labeling and licensing revisions.

FORMS INCORPORATED BY REFERENCE (IDENTIFIED IN THE INFORMATIVE DIGEST)

The Department is proposing to incorporate by reference Chapter X¹ (ten) of the AAFCO Pet Food and Specialty Food Labeling Guide: AAFCO Association of American Feed Control Officials, AAFCO Pet Food and Specialty Pet Food Labeling Guide (Revised May 2016).

MANDATED BY FEDERAL LAW OR REGULATIONS

The Department determined these regulations are not identical to previously adopted or amended federal regulations.

OTHER STATUTORY REQUIREMENTS

The Department has determined there are no other statutory requirements

LOCAL MANDATE

The Department has determined this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

- *Cost or Savings to Any Local Agency or School District:* None.
- *Cost or Savings to Any State Agency:* None.
- *Other Nondiscretionary Cost or Savings Imposed on Local Agencies:* None.
- *Cost or Savings in Federal Funding to the State:* None.

¹ The AAFCO Pet Food and Specialty Pet Food Labeling Guide designates chapters with Roman numerals.

HOUSING COSTS

The Department has determined this regulatory action will not have any significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The proposed regulations will not have any significant statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The Department has determined that the proposed regulations would not affect the following:

- A. The creation or elimination of jobs within the state.
- B. The creation of new businesses or the elimination of existing businesses within the state.
- C. The expansion of businesses currently doing business within the state.

Anticipated Benefits:

The Department anticipates a benefit to the health and welfare of California residents by the enhancement of the public's wellbeing through protection of the general health and diet of their pets, and a continued protection of the public health and safety. There are no anticipated benefits to worker safety or the state's environment.

COST IMPACTS ON REPRESENTATIVE 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.

Effect on Small Business

As this regulatory action permits a business to choose whether or not to produce or sell pet food under the new labeling guidelines it is permissive and not mandatory. The new regulations would affect all business including small businesses if they chose to label products based on the labeling guidelines.

ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative considered by the Department 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 (to align 17 CCR with 40 C.F.R. § 745.65 as required by 40 C.F.R. § 745.325(e)(1)), 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 intent of 17 CCR section 35035 or other provision of law.

**TECHNICAL, THEORETICAL, AND/
OR EMPIRICAL STUDIES, REPORTS OR
DOCUMENTS RELIED UPON**

None.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Melissa Vasquez of the Center for Environmental Health.

All other inquiries concerning the action described in this notice may be directed to David Martin, Office of Regulations, at (916) 440-7673.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-18-016.

AVAILABILITY STATEMENTS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814, will be the custodian of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (279) 217-0836 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk. The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

Final Statement of Reasons

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

INTERNET ACCESS

Materials regarding the action described in this notice (including this public notice, the text of the proposed regulations, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending & Opportunities for Public Participation, Proposed Regulations.

PETITION DECISIONS

**TITLE 14. FISH AND GAME
COMMISSION**

**NOTICE OF REGULATION
CHANGE PETITION DECISIONS,
CALENDAR YEAR 2023**

Pursuant to California Government Code, Section 11340.7, subdivision (d), the California Fish and Game Commission (CFG) hereby provides notice of its decisions for petitions from the public requesting CFGC to adopt, amend, or repeal a regulation under its authority, for the calendar year 2023. The reasons supporting CFGC's determination for each petition may be found in the meeting materials and video for each meeting at <https://fgc.ca.gov/Meetings/2023>; the meeting date when a final decision was made is provided for each petition. Note that petitions that were granted in part and denied in part are listed under granted petitions.

Information on CFGC's petition process, as well as copies of previous petitions, can be found at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. If you have any questions, contact the agency contact person, Melissa Miller-Henson, Executive Director, at fgc@fgc.ca.gov.

Notes: "CCR" refers to the California Code of Regulations, and "F&G Code" refers to the California Fish and Game Code

2023 Granted Regulation Change Petitions

Tracking Number: 2021-017

Party Submitting the Petition: Dan Ryan
Subject of Petition: Mammal hunting: Big game
CCR Title 14 Section(s) Requested to be Affected: