

**DEPARTMENT OF FOOD AND AGRICULTURE
ANIMAL HEALTH AND FOOD SAFETY SERVICES
BUREAU OF LIVESTOCK IDENTIFICATION
INITIAL STATEMENT OF REASONS**

Subject Matter of Proposed Regulations

Modified Point of Origin Inspection Areas

Section(s) Affected

Amend Section 850 of Title 3 of the California Code of Regulations

Specific Purpose of Each Adoption, Amendment, or Repeal

Existing law, section 20017 of the Food and Agricultural Code, defines a modified point-of-origin (MPO) inspection area as meaning any area in the state designated by regulation, pursuant to section 21111.

Existing law, section 21051 of the Food and Agricultural Code, authorizes the Department of Food and Agriculture (Department), Bureau of Livestock Identification, to inspect all cattle sold, transferred, moved out of state, moved out of an MPO inspection area, moved into a registered feedlot, public auction yard or sales yard, public or private sales market, out of a full point-of-origin inspection area, or from areas designated as quarantine, restricted, or isolated areas, with limited exceptions.

Existing law, section 21111 of the Food and Agricultural Code, specifies that the Secretary, by regulation, shall establish and maintain an MPO inspection area whenever cattle producers owning cattle in the affected area requires the action by a two-thirds vote of those cattle producers, who are either property taxpayers, lessees, or residents of the affected area and who are present at a public hearing held at a central location in the area.

Existing law, section 21111.5 of the Food and Agricultural Code, specifies that cattle producers owning cattle in the affected area may, upon written request or petition signed by at least 25 cattle producers owning cattle in that area, request that the Secretary repeal regulations establishing an MPO inspection area pursuant to section 21111 in the manner prescribed by the Administrative Procedure Act (Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Existing law, section 21112 of the Food and Agricultural Code, specifies that an MPO inspection area may consist of one or more counties or geographical areas.

Existing law, section 21172.2 specifies that the Department may, by regulation, provide that any person who ships any cattle from an MPO inspection area for inspection at destination, is required to notify the local brand inspector prior to shipment of such cattle, if he finds, following a public hearing in the area, such requirement is needed to protect cattle owners from losses by theft or straying of their livestock.

Existing law, section 20021 of the Food and Agricultural Code, specifies that an MPO inspection area as provided in sections 21111 and 21112, pertains only to the inspection of cattle where there is no sale within a designated MPO inspection area prior to transportation for pasture-to-pasture purposes when crossing the area boundary.

Existing law, section 21288 of the Food and Agricultural Code, specifies that in a modified point-of-origin inspection area, as provided in section 21111, the fee for the inspection of cattle, other than suckling calves that are accompanying their mothers, is \$1.50 per head if the cattle are transported out of the area for purposes other than sale or slaughter and no change of ownership is involved.

To implement the above sections of law, the Department has in place regulations under Articles 1-4 of Chapter 3, Division 2, of Title 3 of the California Code of Regulations. This proposal pertains to section 850 of Article 1, Chapter 3, Division 2 of Title 3 of the California Code of Regulations, which describes the MPO inspection areas within California as designated by Areas 1 and 2. This proposal will remove Area #1 San Luis Obispo County from regulation section 850 because of a petition and vote from cattle producers in that county.

The Department has evaluated this proposal and believes it is neither inconsistent nor incompatible with existing regulations. It pertains to cattle brand inspections in the state.

Problems Intended to Address

The Department received a petition dated February 16, 2022, from the San Luis Obispo County Cattlemen's Association. The petition included the names of 27 active livestock producers in San Luis Obispo County requesting that it would no longer be designated as a modified point of origin (MPO) inspection area, but be an open county, meaning, no brand inspections would be required by the Department for moving cattle out of that county for purposes other than sale or slaughter with no change in ownership of the cattle.

On February 23, 2022, the Department accepted the petition and provided the petitioner with instructions on how to proceed with a vote to delete Area #1 San Luis Obispo County from section 850 of Title 3 of the California Code of Regulations.

The San Luis Obispo County Cattlemen's Association issued a notice for a meeting that took place on April 12, 2022, to vote whether producers wanted to delete the MPO inspection area currently in place for San Luis Obispo County, which would mean that no brand inspections would be required for moving cattle out of that county except as otherwise specified in statute or regulation. The voting was limited to only beef and dairy cattle producers that are property taxpayers, lessees, or residents of the MPO area in accordance with sections 21111 and 21112 of the Food and Agricultural Code. The results of the voting were 51 in favor of removing Area #1 as an MPO inspection area and 2 against.

Therefore, the Department is now proceeding with a regulatory action to delete Area #1 San Luis Obispo County as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations, in accordance with sections 20017, 20021, 21111, 21111.5, and 21112 of the Food and Agricultural Code.

Statement of Factual Basis and Rationale

The Department's Bureau of Livestock Identification (Bureau) is a brand registration and inspection program protecting cattle owners in California against loss of animals by theft, straying or misappropriation. The program consists of registration of cattle, horse, burros, and sheep and permanent brand inspections of cattle for lawful possession prior to movement, sale, or slaughter, and recording of the information obtained by such inspections. The Bureau also assists local law enforcement with investigations and prosecutions involving cattle theft. The Bureau inspects nearly 3.3 million cattle annually and maintains more than 21,000 registered brands. The brand

registration and inspection program are financed, in its entirety, through brand registration and inspection fees paid by the cattle owners.

Under sections 21051 and 21053 of the Food and Agricultural Code, livestock brand inspections are required in California for the following:

- Whenever cattle are sold, or ownership is transferred.
- Prior to transportation out of any designated modified point-of-origin inspection area, for purposes other than sale or slaughter and no change of ownership is involved.
- Exception to above: If cattle are moved to a destination point (saleyard, slaughterhouse, or registered feedlot), they will be inspected at the destination point instead of point of origin.
- Prior to transportation out of state.
- Upon entry into a registered feedlot.
- Prior to slaughter.
- Prior to release or sale from a public saleyard or public or private cattle sales market.
- Prior to transportation or movement from premises designated as quarantine, restricted, or isolated areas.

Beef cattle in California are often transported from one region to another throughout the year for better grazing land and cooler temperatures. Multiple herds often coexist in optimal regions. When one herd leaves an area that is occupied by another herd or more, separation becomes a challenge.

To facilitate the separation process of cattle, regions have adopted modified point-of-origin inspection areas in the state so that the cattle brands can be inspected, and their proper owners are found. Then, the cattle can be shipped to another location, either back to the owner's property, sold, or transported out of state.

The modified point-of-origin (MPO) inspection was created through legislation and requires all cattle crossing out of a boundary to be inspected. It provides cattle producers with an additional level of protection from theft, a better return of strays, and helps with other problems associated with comingling cattle. Full point-of-origin inspections may also be established and require inspections for any movement within the full point of origin designated area. Currently, no counties have established full point-of-origin inspections.

This proposal will delete Area #1 San Luis Obispo County from section 850 of Title 3 of the California Code of Regulations in response to a petition and public vote of cattle producers in that county. The Department is also making conforming changes to the regulation for consistency and clarity purposes, to read as follows:

1) Section 850. Description of Modified Point of Origin Inspection Areas.

The Department is proposing to amend the heading to change the word 'areas' to singular instead of plural because there will be only one MPO inspection area in the state as a result of this proposal.

2) There ~~are two~~ (2) is one (1) modified point-of-origin inspection areas within the state, described as follows:

The Department is proposing to amend the text to specify that there will only be one MPO inspection area in the state instead of two with the proposed deletion of Area 1, San Luis

Obispo County. The word 'area' is also amended as singular instead of plural since there will only be one MPO inspection area because of this proposal.

3) ~~Area Number 1: San Luis Obispo County.~~

The Department is proposing to delete the text specifying "Area Number 1: San Luis Obispo County" as an MPO inspection area based on a petition and vote received from the San Luis Obispo County Cattlemen's Association in favor of deleting that county as an MPO inspection area.

4) Area Number ~~2~~ 1: All of Modoc County, and in addition all Bureau of Land Management allotments, Modoc National Forest, all other public and private property in Lassen County which lies east of Sears Flat, and Nelson Corral grazing allotments and private property adjacent to or north of, Tule Mountain, Hall Field, Selic-Alaska, and Tuledad grazing allotments, inclusive.

The Department is proposing to amend the text to specify that there will be only one MPO inspection area in the state instead of two because of this proposal.

Material Relied Upon in Formulating the Regulations

1. Petition dated February 16, 2022, from the San Luis Obispo County Cattlemen's Association.
2. Response to the petitioner dated February 23, 2022, from the Bureau of Livestock Identification, accepting the petition.
3. April 12, 2022, San Luis Obispo County Cattlemen's Association public meeting notice for the vote on whether to remove Area #1 San Luis Obispo County as an MPO inspection area.
4. April 12, 2022, tally and voting sheets showing 51 were in favor of removing Area #1, San Luis Obispo County as an MPO inspection area and 2 were against.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Reasonable Alternatives

No reasonable alternative that was considered or that has otherwise been identified and brought to the attention of the Department would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation. This proposal is a result of a petition and public vote from the cattle producers in San Luis Obispo County to delete their county as an MPO inspection area in accordance with section 21111.5 of the Food and Agricultural Code.

Reasonable Alternatives the Department Has Identified That Would Lessen Any Adverse Impact on Small Businesses

The Department has not identified any reasonable alternatives to the proposed action and no adverse impacts on small businesses are expected because of this proposed action. This proposal represents a cost savings to the cattle producers in Area #1 San Luis Obispo County who voted to eliminate that area as an MPO inspection area. This means cattle producers will no longer be required to pay brand inspection fees to the Department for moving cattle in that county except as otherwise specified by statute or regulation. The San Luis Obispo County area has not

been experiencing any significant loss of cattle in their county and, therefore, voted to delete their county as an MPO inspection area.

Benefits of This Regulatory Action

This proposal benefits the cattle producers in San Luis Obispo County that have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations. This will eliminate the need for a brand inspector to be called to the county to conduct a brand inspection when commingled cattle are moved out of the area by the owner or manager of the cattle. The reason for this is that cattle producers in San Luis Obispo County have not been experiencing significant loss of cattle in their county and therefore, brand inspections to determine ownership is no longer needed except when otherwise specified by existing statutes or regulations. When the cattle producers in the area need to ship the cattle to another location, the delay and cost of waiting for a brand inspector is not warranted. The Department inspects approximately 6,738 head of cattle annually in San Luis Obispo County at a cost to cattle producers of \$1.50 per head. The cattle producers in the area will be saving over \$10,310 in brand inspection fees annually with the deletion of their county as an MPO inspection area.

Facts, Evidence, Documents, Testimony, or Other Evidence of No Significant Adverse Impact on Business

No facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business have been identified. This proposal benefits the cattle producers in San Luis Obispo County that have voted to remove their county as an MPO inspection area as specified in section 850 of Title 3 of the California Code of Regulations, in accordance with section 21111.5 of the Food and Agricultural Code

Duplication or Conflicts with Federal Regulation

This proposal does not duplicate or conflict with federal regulations. The Department of Food and Agriculture, Bureau of Livestock Identification, is the sole State authority to register and inspect cattle operations in accordance with Division 10 (commencing with section 20001) of the Food and Agricultural Code.

Economic Impact Assessment

The Department has made an initial determination that the proposed regulatory action:

- Will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services.
- Will not create or eliminate jobs or occupations.
- Does not affect the creation of new businesses or the elimination of existing businesses within the State of California and does not affect the expansion of businesses currently doing business within the State of California.
- Does not impact multiple industries.

- Does not directly impact or affect human health, worker safety, or the State's environment. It pertains to cattle brand inspections for the San Luis Obispo County MPO inspection area. Cattle may be moved out of that area without a brand inspection for purposes other than sale or slaughter and no change in ownership is involved as specified in Food and Agricultural Code section 21051.
- Affects cattle producers in San Luis Obispo County who have voted to delete their county as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations in accordance with section 21111.5 of the Food and Agricultural Code.
- Represents a cost savings to cattle producers in San Luis Obispo County of over \$10,310 in brand inspection fees annually with the deletion of their county as an MPO inspection area. The Department inspects approximately 6,738 head of cattle annually in San Luis Obispo County at a cost to cattle producers of \$1.50 per head. The Department would no longer need to send brand inspectors to that area and can be further utilized at saleyards and auctions, with continued efforts working with local law enforcement agencies to prevent and mitigate activities involving cattle theft and misappropriation throughout the state.

The above determinations are based on the fact that this regulatory proposal is necessary as a result of a petition and vote by cattle producers to delete Area #1 San Luis Obispo County as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations, in accordance with sections 20017, 20021, 21111, 21111.5, and 21112 of the Food and Agricultural Code.

Economic Impact Assessment Conclusion

The Department has made an initial determination that the proposed regulatory action will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. The proposal does not affect the creation of new businesses or the elimination of existing businesses within the State of California and does not affect the expansion of businesses currently doing business within the State of California. The proposed regulation does not directly impact human health, worker safety, and the environment as it pertains to cattle brand inspections for the San Luis Obispo County MPO inspection area. This regulatory proposal is necessary because of a petition and vote by cattle producers to delete Area #1 San Luis Obispo County as an MPO inspection area from section 850 of Title 3 of the California Code of Regulations, in accordance with sections 20017, 20021, 21111, 21111.5, and 21112 of the Food and Agricultural Code.