



# California Regulatory Notice Register

REGISTER 2020, NUMBER 46-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 13, 2020

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Multi-County: Orangeline Development Authority

#### ADOPTION

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*Petition by Daniel A. Raichel and Samuel D. Eisenberg on behalf of Natural Resources Defense Council, Californians for Pesticide Reform, Center for Biological Diversity, Friends of the Earth, Pesticide Action Network North American, the Xerces Society for Invertebrate Conservation, and California Members of these Organizations Concerning Amending Section 6400 and adding provisions in Article 5 of Subchapter 4 of Chapter 2 of Division 6 of Title 3 of the California Code of Regulations* ..... 1471

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

**STATE AGENCY:**

California Seismic Safety Commission

**MULTI-COUNTY:**

Orangeline Development Authority

**ADOPTION**

**MULTI-COUNTY:**

Gorman Learning Charter Network, Inc.

A written comment period has been established commencing on November 13, 2020 and closing on December 28, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to

Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than December 28, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

**AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

**REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

**CONTACT**

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street,

Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

INFORMATIVE DIGEST

AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 2. SECRETARY OF STATE**

DIGITAL SIGNATURES

NOTICE IS HEREBY GIVEN that the California Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than December 31, 2020.

**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 contact persons listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own motion or at the instance 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 will be available for 15 days prior to its adoption from the person designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**Public Comment Period:** November 13, 2020 through December 31, 2020.

AUTHORITY AND REFERENCE

Government Code section 16.5 requires the SOS to adopt regulations related to digital signatures.

Authority cited: Section 16.5, Government Code.

Reference cited: Section 16.5, Government Code.

As required by Government Code section 16.5, the SOS adopted regulations related to digital signatures. The SOS initially adopted these regulations in 1998. The SOS did not update those regulations until April 2020, when it filed emergency regulations to address concerns raised by stakeholders regarding the complexity of complying with these regulations and limited public understanding of valid digital certificate providers.

The SOS is proposing to make permanent the emergency regulations adopted in April 2020.

*Policy Statement Overview/Anticipated Benefits of Proposal*

Entities attempting to submit digital signatures according to existing regulations have found them to be confusing. Prior to the adoption of the emergency regulations, the SOS maintained an Approved List of Digital Signature Certification Authorities, which lists persons or entities that issue certificates related to digital signatures. This list was previously available on the SOS website. This list did not list providers of digital signature services, only certification authorities. However, those attempting to comply with these regulations have viewed this list as being an exclusive list of providers of digital signature services. This inhibits the use of other services. This has a chilling effect on the use of digital signatures to interact with state agencies.

The SOS is proposing, with these regulations, to make permanent the emergency regulations that removed the Approved List of Digital Signature Certification Authorities from existing regulations and from the SOS website. The emergency regulations replaced this list with the requirement that public entities shall only accept certificates from certificate authorities, as defined in current regulation, that are in good standing with one of three third-party certificate programs. The emergency regulations essentially shift the burden of members of the public identifying appropriate digital signature services to use to state entities in ensuring digital signatures were prepared consistent with these regulations.

These three Root Certificate Programs in the emergency regulations represent the vast majority of how operating systems and browsers obtain trusted lists. For a Certificate authority to be successful across Windows, Linux, Android, Chromium, Mac, iPhones, Firefox, and the like, they must obtain acceptance from these programs. The vast majority of the internet relies on these providers to upkeep the status of certificate authorities across the world. If a certificate authority were to be compromised for any reason, these three programs would have the greatest security impact on

the removal of trust to a certificate authority in order to quickly mitigate a security event.

These proposed regulations also make non-substantive formatting changes to the existing regulations for increased clarity to the reader.

The emergency regulations offer the following benefits:

- Clarifying the use of digital signatures for interactions with state agencies; and
- Reducing the chilling effect current regulations have on the use of digital signatures.

*Consistency/Compatibility with Existing State Regulations*

The SOS has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the SOS has concluded that these are the only regulations that concern digital signatures in California.

*Documents Incorporated by Reference:* None.

*Documents Relied Upon in Preparing the Regulations:* None.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Adverse Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations make complying with statutory requirements related to digital signatures more straightforward, which if anything will have a positive impact on businesses that provide digital signatures and businesses that use digital signatures to communicate with state agencies.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The SOS has made an initial determination that this regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: The SOS 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 Housing Costs: None.

Effect on Small Business: The SOS has made an initial determination that the proposed regulatory action will have no effect on small business. These regulations make complying with statutory requirements related to digital signatures more straightforward, which if anything will have a positive impact on small businesses that provide digital signatures and small businesses that use digital signatures to communicate with state agencies.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations make complying with statutory requirements related to digital signatures more straightforward.

CONSIDERATION OF ALTERNATIVES

The agency must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public

comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California Secretary of State  
Political Reform Division  
1500 11<sup>th</sup> Street, Room 495  
Sacramento, CA 95814

Due to restrictions related to COVID-19, the SOS's public counter is not open to the public. Please contact the contact persons below to arrange for public inspection of the rulemaking documents. Options for public inspection during COVID-19 may include having the rulemaking documents emailed to you or scheduling an in-person review.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

#### CONTACT PERSONS

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

Taylor Kayatta  
California Secretary of State  
1500 11<sup>th</sup> St., Room 495  
Sacramento, CA 95814  
(916) 695-1530  
[tkayatta@sos.ca.gov](mailto:tkayatta@sos.ca.gov)

The backup contact person is:

Ted Muhlhauser  
California Secretary of State  
1500 11<sup>th</sup> St., 6th Floor  
Sacramento, CA 95814  
(916) 695-1634  
[Ted.Muhlhauser@sos.ca.gov](mailto:Ted.Muhlhauser@sos.ca.gov)

Website Access: Materials regarding this proposal can be found at: <https://www.sos.ca.gov/administration/regulations/>.

## TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

### DEVICE ADMINISTRATION — INSPECTIONS AND FEES

The California Department of Food and Agriculture (Department) proposes to amend California Code of Regulations (CCR) Title 4, Sections 4070-4075 relating to inspection frequencies and administrative fees established for weighing and measuring devices used for commercial purposes.

#### 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 to the Department a written request for a public hearing no later than 15 days prior to the close of the public comment period. Address the written request for a public hearing to the primary contact person below.

#### WRITTEN COMMENT PERIOD

The Department invites any interested person or his or her authorized representative to submit to the Department written comments relevant to the proposed regulatory action by email, fax, or mail addressed to the primary contact person listed below. Please include "CCR Title 4, Sections 4070-4075 Device Administration" in the subject line of any email, fax, or letter regarding this rulemaking. The public comment period begins on Friday, November 13, 2020, and closes at 5:00 p.m. on Thursday, December 31, 2020.

#### AUTHORITY/REFERENCE

The Legislature has charged the Department in Business and Professions Code (BPC) Division 5, Section 12100 with the responsibility of supervising weights and measures activities in California. The secretary of the Department is granted authority in BPC Section 12027 to adopt such regulations as are reasonably necessary to carry out the provisions of Division 5. The Department's authority to promulgate this regulation is in BPC Section 12212 requiring the Department to establish in regulation the inspection frequencies of devices used for commercial and law enforcement purposes, and in BPC Section 12241 requiring the Department to establish in regulation an annual device administrative fee (administrative fee) for commercial devices registered in each county. The Department's administrative fee is part of the annual device registration fee, assessed per device, as specified in BPC Section 12240 (f). The

Department collects these fees to recover necessary and reasonable costs to administer the Department's Device Enforcement Program, supervise and enforce the weighing and measuring activities of each county, and perform the mandated duties of the Department's Metrology Laboratory (Laboratory). The Laboratory's primary work is to certify each county's standards of weights and measures pursuant to BPC Sections 12305 and 12310. The Laboratory is also responsible for maintaining and safekeeping the state's standards of weights and measures. Sections 12310 and 12241 of the BPC provide for a portion of the Department's annual administrative fees to be allocated to the Laboratory to perform its work.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulation in CCR Title 4, Section 4070 establishes the requirement to inspect devices used for commercial and law enforcement purposes in accordance with the table of inspection frequencies adopted in that section. The Department proposes to update the current table because it has not been modified since 1984. The table cites legacy regulation that has since been repealed and it does not specify all commercial devices commonly used in California's marketplace today.

Current regulation in CCR Sections 4071–4074 provides for a county sealer to request an alternative inspection frequency plan (alternative plan) specifying alternate inspection frequencies other than those adopted in CCR Section 4070. The Department proposes to make grammatical changes, reorganize, and clarify the requirements of county sealers to submit a written request to implement an alternative plan. Twenty-seven (27) counties have exercised the option to request an alternative plan. With this regulation, the Department proposes to add a 5-year term limit to the requirements of an alternative plan after which it will expire, and the county will revert to the inspection frequencies adopted in CCR Section 4070. After this term expires, a county sealer may submit a new written request detailing current information and justifications if that county believes an alternative plan continues to provide a valuable benefit.

Current regulation in CCR Section 4075 establishes the Department's administrative fees per device type. The administrative fees were first adopted in 2012 and have not been updated or amended. Revenue from administrative fees are insufficient to meet the necessary and reasonable costs incurred to administer the Device Enforcement Program, supervise and enforce the weights and measures activities of each county,

and provide funding for mandated Laboratory services. Advancement in technology and the introduction of new devices in the marketplace have created a continually increasing workload for both the Device Enforcement Program and the Laboratory. These increases in both workload and technical complexity require additional personnel, specialized training, and modern equipment to complete the required tasks. Increased fees will provide the means to hire and train additional personnel, acquire modern test equipment and purchase needed certified test standards. Trained staff will then be able to provide current training and guidance to county offices of weights and measures and reduce the growing backlog of work for both programs.

#### *Consistency and Compatibility with Existing State and Federal Regulations*

The Department determines that this regulation is consistent and compatible with other state regulations. No other state agency has been given authority to establish inspection frequencies or set annual administrative fees for weighing and measuring devices used for commercial purposes.

This regulation is not mandated by federal law or regulation. Moreover, the proposed changes to this regulation do not conflict with any federal regulations contained in the Code of Federal Regulations. The Department is not aware of any Federal laws or regulations relating to the administration of weighing and measuring devices used for commercial purposes in California.

#### *Anticipated Benefits of the Proposed Regulation*

This proposed regulation benefits each county sealer by specifying the inspection frequencies of commercial devices not currently listed in regulation, and further clarifies the requirements of a county sealer to request an alternative plan. The proposed regulation benefits the Department by providing necessary revenue to recover the Department's reasonable costs to supervise and enforce the weighing and measuring activities of each county and perform the mandated work of the Device Enforcement Program and the Laboratory.

This regulation promotes a marketplace where consumers and businesses can conduct their business in a fair, competitive, and transparent manner. Because of this regulation and the work performed by state and county sealers, consumers in California can be assured that devices used for commercial purposes, having been inspected and tested by a sealer, will perform correctly and accurately. Devices that do not comply are removed from service by a sealer until corrected. Likewise, California businesses are assured that all

commercial devices, including those of competing businesses, are compliant with California regulation.

**DOCUMENTS ADOPTED AND  
INCORPORATED BY REFERENCE**

This proposed regulation does not adopt or incorporate by reference the provisions of any other document.

**LOCAL MANDATE, FISCAL  
IMPACT, AND HOUSING COSTS**

Although this regulation affects local agencies, it does not establish or impose a mandate on them. Also, this regulation does not apply to school districts. The Department determines that this proposed regulation:

1. Does not impose a mandate on local agencies or school districts;
2. Does not incur costs to any local agency or school district requiring reimbursement pursuant to Government Code Sections 17500 et seq.;
3. Does not incur costs or savings to any state agency;
4. Does not incur other non-discretionary costs or savings imposed on local agencies;
5. Does not incur costs or savings in federal funding to the state; and
6. Does not have a significant effect on housing costs.

**STATEWIDE ADVERSE ECONOMIC IMPACT**

This proposed regulation will have an economic impact on small and large businesses that operate weighing and measuring devices used for commercial purposes. All businesses that own electric submeters, hydrocarbon vapor submeters, and domestic water submeters will be assessed forty cents (\$0.40) more per device. For most other businesses, the economic impact is twice what they are currently paying per device. In only a few cases, businesses will be assessed \$14.90 more per device because those device types are being reassigned to a different fee category. The Initial Statement of Reasons explains in detail which businesses and device types are affected by the proposed changes of this regulation. Despite the administrative fee increases, the Department determines that the economic impact to all affected businesses does not create a significant, statewide adverse economic impact directly affecting large and small California businesses, including the ability of California businesses to compete with businesses in other states.

**RESULTS OF ECONOMIC  
IMPACT ASSESSMENT**

The Department determines that the proposed regulation:

1. Does not create or eliminate jobs in California;
2. Does not create new businesses in California, does not eliminate existing businesses in California; and
3. Does not affect the expansion of businesses in California.

*Other Anticipated Benefits of this Regulation*

In addition to the anticipated benefits mentioned above, the Department determines there will be no other significant benefits to the health and welfare of California residents, worker safety, and the state's environment due to the adoption of this regulation.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

The Department is aware of cost impacts to a representative private person or business who operate a weighing or measuring device used for commercial purposes. Private persons or businesses who operate commercial devices are required to comply with the applicable inspection timeframes established in this proposed regulation and are required to pay the Department's administrative fees on an annual basis.

**EFFECT ON SMALL BUSINESS**

This proposed regulation will affect small businesses that operate commercial weighing and measuring devices in the state. The Department is aware that these small businesses will be required to pay a higher administrative fee per commercial device. The cost impacts of this regulation are proportional to the number and types of devices a small business operates, not necessarily the size of the business. The Department is also aware that small businesses will be required to comply with the established inspection frequencies for their commercial devices.

**REPORTING REQUIREMENTS**

This proposed regulation does not mandate reporting requirements for regulated businesses. The counties' reporting requirements associated with this regulation are not part of the changes proposed with this regulation.

**CONSIDERATION OF ALTERNATIVES**

Government Code Section 11346.5 (a)(13) requires that the Department must determine that no reason-



able alternative it considered or that has otherwise been identified and brought to its attention 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.

#### CONTACT INFORMATION

Samuel Ferris, Senior Environmental Scientist  
(Specialist)  
Kevin Schnepf, Environmental Program  
Manager I

California Department of Food and Agriculture  
Division of Measurement Standards  
6790 Florin Perkins Road, Suite 100  
Sacramento, CA 95828-1812  
Main: (916) 229-3000  
Fax: (916) 229-3055  
Email: [dms@cdfa.ca.gov](mailto:dms@cdfa.ca.gov)

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will make the entire rulemaking file available at the above address for inspection and copying throughout the rulemaking process. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the Initial Statement of Reasons, and all supporting documents and information relied upon in the development of this proposed regulation. Please submit a request to the above address to receive a copy of the rulemaking file.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After receiving and considering all timely and relevant comments, the Department may adopt the proposed regulation substantially as described in this notice. If, however, the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Department adopts the modified regulation. Please submit a request to the above address for a copy of the modified text of the regulation. Include "Device Administration" in the subject line of any email, fax, or letter regarding this rulemaking.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by submitting a request to the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Department posts electronic copies of this rulemaking file on its website at: <https://www.cdfa.ca.gov/dms/regulations.html>.

## RULEMAKING PETITION DECISION

#### DEPARTMENT OF PESTICIDE REGULATION

This is the written decision required by Government Code section 11340.7 on a petition requesting the adoption, amendment or repeal of a regulation.

#### AGENCY

The Department of Pesticide Regulation (DPR) received a petition for rulemaking under Government Code section 11340.6 on September 23, 2020.

#### PARTY SUBMITTING THE PETITION

Petitioners are Daniel A. Raichel and Samuel D. Eisenberg on behalf of Natural Resources Defense Council, Californians for Pesticide Reform, Center for Biological Diversity, Friends of the Earth, Pesticide Action Network North America, the Xerces Society for Invertebrate Conservation, and California members of these organizations.

#### PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS REQUESTED TO BE AFFECTED

Petitioners request that DPR amend section 6400 of title 3 of the California Code of Regulations to add neonicotinoid-treated seeds to the state's list of restricted materials, and to add provisions in Article 5 of Subchapter 4 of Chapter 2 of Division 6 of Title 3 of the California Code of Regulations to provide any additional restrictions DPR deems appropriate to protect human health and the environment from the effects of neonicotinoid-treated seeds.

REFERENCE TO AUTHORITY TO TAKE THE ACTION REQUESTED

Petitioners cite Food and Agricultural Code sections 14001, 14004.5, and 14005 as DPR’s authority to designate and regulate pesticides as restricted materials.

REASONS SUPPORTING THE AGENCY DETERMINATION

**Summary of Petition**

Petitioners request that DPR take three actions:

- (1) Require registration and reporting of all seeds treated with neonicotinoids and other systemic pesticides.
- (2) List neonicotinoid-treated seeds as restricted materials.
- (3) Promote non-chemical pest control alternatives.

**Summary of Agency’s Determination**

In the petition, petitioners state that the first and third actions do not require rulemaking activity. Therefore, DPR does not address these requested actions in this decision. As to the second action, DPR is denying petitioners’ request that DPR list neonicotinoid-treated seeds as restricted materials.

**DPR can regulate only “pesticides” as restricted materials**

DPR must register a pesticide product before the product can be sold or offered for sale in California. (Food & Agr. Code, § 12993.) To the extent that neonicotinoid-treated seeds are treated with neonicotinoids to protect the seed itself, DPR does not consider them to be “pesticides” under Food and Agricultural Code section 12753, as they are not “intended to be used” to control any pests. Because DPR does not regulate these products as “pesticides,” they are not registered. DPR cannot regulate as a “restricted material” a product that is not a “pesticide,” making the petition’s request outside DPR’s jurisdiction unless and until DPR first regulates the product as a “pesticide.”

**DPR lacks sufficient information at this time to regulate neonicotinoid-treated seeds as restricted materials**

As explained above, DPR must first regulate neonicotinoid-treated seeds as pesticides to regulate them as restricted materials. Even then, DPR must undertake additional review before it would consider designating neonicotinoid-treated seeds as a restricted material.

First, neonicotinoid-treated seeds would undergo a registration review by DPR. This involves extensive data review to verify all claims on the pesticide product label and to ensure the product does not have a significant adverse environmental or human health

impact. For conventional insecticides, this includes a review of acute and chronic toxicology, product chemistry, environmental fate, product performance, phytotoxicity (if appropriate), ecotoxicology, and human exposure. If, during the course of its review, DPR determines the data does not support product registration, the registrant may voluntarily amend the label to mitigate the identified concerns or DPR may refuse to register the product. DPR would need to identify whether seed labels were sufficiently protective of human health and the environment as part of this registration review prior to designating neonicotinoid-treated seeds as restricted materials.

Assuming, for purposes of responding to this petition, that neonicotinoid-treated seeds meet the definition of “pesticide” in Food and Agricultural Code section 12753 and have been registered as pesticide products, DPR does not have sufficient information at this time — including pesticide use information, risk assessment evaluation, or adverse effect reports — to designate neonicotinoid-treated seeds as a restricted material under Food and Agricultural Code section 14004.5. Under section 14004.5, DPR shall designate a pesticide as a restricted material based upon:

- (a) Danger of impairment of public health;
- (b) Hazards to applicators and farmworkers;
- (c) Hazards to domestic animals, including honeybees, or to crops from direct application or drift;
- (d) Hazard to the environment from drift onto streams, lakes, and wildlife sanctuaries;
- (e) Hazards related to persistent residues in the soil resulting ultimately in contamination of the air, waterways, estuaries or lakes, with consequent damage to fish, wild birds, and other wildlife; or
- (f) Hazards to subsequent crops through persistent soil residues.

A restricted materials designation is one of several tools available to DPR to mitigate adverse effects identified through the risk assessment, registration, continuous evaluation, or reevaluation process. Other tools may include working with the registrant to revise label language in conformance with federal law, establishing additional regulatory controls, or denying or cancelling product registration. Without having performed the additional analysis on neonicotinoid-treated seeds described above, it is premature for DPR to consider which tools, if any, are appropriate to regulate these products to protect human health and the environment.

**Petitioners did not submit substantial evidence to support regulating neonicotinoid-treated seeds as restricted materials**

Petitioners submit citations and a report to support their argument for listing neonicotinoid-treated

seeds as restricted materials. DPR reviewed this information and found it was too generalized to support the product-specific findings necessary to support a restricted materials designation, especially in the absence of use information, efficacy data, and monitoring studies for neonicotinoid-treated seeds, information that typically accompanies the active ingredients and products that DPR registers.

Because an action to list neonicotinoid-treated seeds as a restricted material is premature and without substantial evidence at this time, DPR is denying the petition.

**AGENCY CONTACT PERSON**

Jeannie Alloway, Legal Assistant  
 Department of Pesticide Regulation  
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**RIGHT OF INTERESTED PERSONS TO  
 OBTAIN A COPY OF THE PETITION**

Any interested persons may obtain a copy of the petition by contacting the contact person named above.

**SUSPENSION OF ACTION  
 REGARDING UNDERGROUND  
 REGULATIONS**

**BOARD OF VOCATIONAL NURSING  
 AND PSYCHIATRIC TECHNICIANS**

**OFFICE OF ADMINISTRATIVE LAW**

**(Pursuant to Title 1, section 280, of the  
 California Code of Regulations)**

On September 4, 2020, the Office of Administrative Law (“OAL”) received a petition from the California Association of Private Postsecondary Schools challenging a purported restriction to the percentage of hours a vocational nursing student may spend in simulated clinical settings (the “challenged rule”) issued by the Board of Vocational Nursing and Psychiatric Technicians (the “Board”) as an alleged underground regulation. The challenged rule was in a letter dated April 30, 2020, and stated the following:

...In light of the approach taken with respect to registered nursing students, [the Board] encourage[s]

programs to consider the following as they evaluate possible adjustments to the programs:

- Place a cap of 50% on the hours completed in simulated environments and skills labs for the traditional first term, where so many of the fundamentals are taught and essential psychomotor skills must be developed.
- Place a cap of 50% for each term on the number of simulation and skills lab hours, to ensure that the students have some active, hands-on experience before proceeding to the next term.

On October 30, 2020, the Board certified to OAL that they would not use, issue, enforce, or attempt to enforce the challenged rule. Therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**SUMMARY OF REGULATORY  
 ACTIONS**

**REGULATIONS FILED WITH THE  
 SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

Board of Parole Hearings  
 File # 2020-0922-02  
 Term Calculations and Setting a Parole Date

In this action without regulatory effect the Board of Parole Hearings is deleting all regulatory language pertaining to selecting base terms, calculating adjusted base terms, awarding post-conviction credits, and calculating final release dates for inmates because they no longer have authority to establish these pursuant to statutory change (Stats. 2013, c. 312) and *In re Butler* (2018) 4 Cal.5th 728, 747.

**Title 15**

Amend: 2000, 2029, 2043, 2239, 2268, 2269.1, 2270, 2272, 2273, 2280, 2292, 2304, 2306, 2308, 2309, 2310, 2315, 2343, 2369, 2400, 2401, 2420, 2421, 2430, 2431

Repeal: 2269, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2305, 2317, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2328, 2329, 2342, 2371, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2429.1, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2439.1

Filed 10/28/2020

Agency Contact: Tracy Young (916) 322-6729

**Bureau for Private Postsecondary Education**

File # 2020-0922-01

Change of Address and Phone Number

In this change without regulatory effect, the Bureau amends its regulation to update its mailing address to 1747 North Market Blvd., Suite 225, Sacramento, California, 95834. It is also updating its telephone number to (916) 574-8900.

**Title 05**

Amend: 76215

Filed 10/29/2020

Agency Contact: Yvette Johnson (916) 574-8901

**Bureau of Household Goods and Services**

File # 2020-0928-02

Amendments Without Regulatory Effect

The Bureau of Household Goods and Services (Bureau) submitted this action as one without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to make comprehensive nonregulatory changes to regulations. The changes remove regulations that expired on January 1, 2015, remove statements in duplicate regulations that state the regulations are effective January 1, 2015, update a reference made to the Bureau's name, update section cross references and cross-referenced section titles, and make spelling corrections.

**Title 04**

Amend: 1101, 1126 (effective 1/1/2015), 1373.2 (effective 1/1/2015), 1374 (effective 1/1/2015), 1374.3 (effective 1/1/2015), 1383.2

Repeal: 1126 (expired 1/1/2015), 1373.2 (expired 1/1/2015), 1374 (expired 1/1/2015), 1374.3 (expired 1/1/2015)

Filed 11/02/2020

Agency Contact: Diana Godines (916) 999-2068

**California Alternative Energy and Advanced**

**Transportation Financing Authority**

File # 2020-1026-02

Sales and Tax Exclusion Program

This emergency rulemaking by the California Alternative Energy and Advanced Transportation Financing Authority amends the Sales and Use Tax Exclusion Program to revise definitions, application requirements, eligibility requirements, compliance deadlines, and update cross-references and numbering.

**Title 04**

Amend: 10031, 10032, 10033, 10034, 10035, 10036

Filed 11/04/2020

Effective 11/04/2020

Agency Contact: Ashley Emery (916) 651-5100

**California School Finance Authority**

File # 2020-1020-01

Charter School Facility Grant Program

In this emergency action, the Authority amends its regulations to allow late applications and late facility invoice expenditures to be eligible for the appeals process when a State of Emergency has been officially declared by local, state, or federal officials.

**Title 04**

Amend: 10170.5

Filed 10/30/2020

Effective 10/30/2020

Agency Contact:

Ryan Storey [Ryan.Storey@treasurer.ca.gov](mailto:Ryan.Storey@treasurer.ca.gov)

**Commission on Peace Officer Standards and Training**

File # 2020-0921-01

Requirements for Self-Paced Training Course Certification

This action sets the minimum time increment for certified self-paced courses to one hour.

**Title 11**

Amend: 1053

Filed 11/02/2020

Effective 01/01/2021

Agency Contact: Brad NewMyer (916) 227-3893

**Department of Food and Agriculture**

File # 2020-1026-01

Oak Mortality Disease Control

This emergency rulemaking action adds Del Norte county to the regulated area for Oak Mortality Disease.

Title 03  
 Amend: 3700  
 Filed 11/03/2020  
 Effective 11/03/2020  
 Agency Contact: Rachel Avila (916) 403-6813

Department of Resources Recycling and Recovery  
 File # 2020-1007-01  
 Short-lived Climate Pollutants

This action establishes policies and requires the implementation of programs that divert organic waste from landfill disposal to recovery activities to reduce the methane gas generation which would otherwise occur.

Title 14, 27  
 Adopt: 17409.5.1, 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.6, 17409.5.7, 17409.5.8, 17409.5.9, 17409.5.10, 17409.5.10.5, 17409.5.11, 17409.5.12, 17414.2, 17896.44.1, 18981.1, 18981.2, 18982, 18983.1, 18983.2, 18984, 18984.1, 18984.2, 18984.3, 18984.4, 18984.5, 18984.6, 18984.7, 18984.8, 18984.9, 18984.10, 18984.11, 18984.12, 18984.13, 18984.14, 18985.1, 18985.2, 18985.3, 18986.1, 18986.2, 18986.3, 18987.1, 18988.1, 18988.2, 18988.3, 18988.4, 18989.1, 18989.2, 18990.1, 18990.2, 18991.1, 18991.2, 18991.3, 18991.4, 18991.5, 18992.1, 18992.2, 18992.3, 18993.1, 18993.2, 18993.3, 18993.4, 18994.1, 18994.2, 18995.1, 18995.2, 18995.3, 18995.4, 18996.1, 18996.2, 18996.3, 18996.4, 18996.5, 18996.6, 18996.7, 18996.8, 18996.9, 18997.1, 18997.2, 18997.3, 18997.4, 18997.5, 18997.6, 18998.1, 18998.2, 18998.3, 18998.4, 20750.1, 21695  
 Amend: 17402, 17402.5, 17403.0, 17409.5, 17855, 17867, 17869, 17896.6, 17896.45, 17896.57, 18083, 18815.4, 18815.5, 18815.7, 21570, 21590, 21650, 21660.2  
 Filed 11/03/2020  
 Effective 01/01/2022  
 Agency Contact: Harilee Branch (916) 341-6056

Department of Social Services  
 File # 2020-0526-04  
 Intercounty Transfer Process

In this regular rulemaking the Department of Social Services (the "Department") is revising the California Work Opportunities and Responsibility to Kids Intercounty Transfer Procedures for a recipient of aid who changes residence from one county to another within the state. Additionally, the Department is revising the Application for CalFresh, Cash Aid, and/or Medi-Cal/Health Care Programs, which is incorporated by reference in the Manual of Policies and Procedures.

Title MPP  
 Amend: 40-181, 40-187, 40-188, 40-189, 40-190, 40-191, 42-405, 80-301, 80-310  
 Filed 11/04/2020  
 Effective 01/01/2021  
 Agency Contact: Oliver Chu (916) 657-3588

Emergency Medical Services Authority  
 File # 2020-1013-01  
 Reporting Adverse Action

The Emergency Medical Services Authority submitted this action as one without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to remove regulatory language and a referenced form that expired July 1, 2010 from a subdivision of a regulation.

Title 22  
 Amend: 100209  
 Filed 11/02/2020  
 Agency Contact: Kent Gray (916) 384-1476

Fish and Game Commission  
 File # 2020-1020-02  
 Take of Western Joshua Tree

This resubmitted emergency action authorizes incidental take of western Joshua trees during the endangered species candidacy period in connection with stated renewable energy projects, subject to research, monitoring, reporting, herbicide, mitigation, and other conditions.

Title 14  
 Adopt: 749.10  
 Filed 10/29/2020  
 Effective 10/29/2020  
 Agency Contact: David Thesell (916) 521-7070

**PRIOR REGULATORY  
 DECISIONS AND CCR  
 CHANGES FILED WITH THE  
 SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit [www.oal.ca.gov](http://www.oal.ca.gov).