

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS

In a Notice published August 23, 2010 the Department of Food and Agriculture proposed to amend regulations contained in Title 4, Division 9, Chapter 12, Article 2. These regulations give guidelines to sealers of weights and measures on penalties to impose when taking administrative actions authorized by Sections 12015.3 and 13302 of the Business and Professions Code.

As a result of recommendations received during the comment period, the Department believes that the changes to the proposed modified text are non-substantive changes related to the proposed modified text and that the public was adequately placed on notice that changes could result from the originally proposed regulatory action.

Notice is hereby given that any interested person may present statements or arguments on the modified text to the Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, CA 95828. Comments may also be submitted by facsimile (FAX) at (916) 229-3026 or by e-mail at DMS@cdfa.ca.gov. Comments may be submitted beginning March 16, 2011 and ending March 31, 2011. All written comments received by April 4, 2011, which pertain to the indicated changes will be reviewed and responded to by the Department as part of the compilation of the rulemaking file. Please limit your comments to the modifications of the original proposal which appears on the attached amendment in underlined text "underlined" for additions, and strikethrough text "~~strikethrough~~" for deletions.

Changes to the modified proposal include the following:

- Section 4800(a): Adds Section 13302 of the Business and Professions Code.
- Section 4800(b): The time frame for appeal of the Sealer's decision is specified from the date of receipt of the decision. The Business and Professions Code reference replaces the Code of Civil Procedure reference.
- Section 4800(c): The Business and Professions Code reference replaces the Code of Civil Procedure reference.
- Section 4800(d): Clarifies that the final decision is that of the sealer.
- Section 4800(e): Adds Section 13302 of the Business and Professions Code.
- Section 4801: Changes the title of this section from "Admission" to "Administration".
- Section 4802(a)(1): Changes "Serious" to "Category A" and amends the definition to include actual monetary loss and removes arising out of two or more visits.

- Section 4802(a)(2): Changes “Moderate” to “Category B” and removes arising out of two or more visits.
- Sections 4802(a)(3): Changes “Minor” to “Category C” and amends the definition to replace “minimal effect” with “typically less egregious effect.”
- Section 4802(b) – Table A: Changes are made to various sections to reflect changes caused by Business and Professions Code section changes.

These documents, in addition to the rulemaking file which contains all written comments on the original proposal, are available for public inspection at the Division between the hours of 8:00 a.m. and 4:30 p.m. Inquires about this action may be directed to:

David R. Lazier, Assistant Director
Division of Measurement Standards
6790 Florin Perkins Road, Suite 100
Sacramento, CA 95828
(916) 229-3044

DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS



3/10/2011
Date

Kristin J. Macey, Director