

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

December 17, 2021

Agricultural Employment

Cal/OSHA Standards Board Approves 2nd Readoption of COVID-19 ETS: On December 16, the Cal/OSHA Standards Board approved the 2nd readoption of COVID-19 Emergency Temporary Standard (ETS) first adopted in November 2020 and readopted in June 2021. The 2nd readoption will be effective January 14, 2022 through April 14, 2022. The readopted version of ETS generally deletes exemptions from various ETS requirements applicable to vaccinated employees, creating new requirements for testing, face coverings, social distancing, exclusion from workplace, and ventilation in housing, and provision of face coverings in employer-provided transportation. Some changes seem problematic; the definition of “face covering” is revised with a new criteria requiring a mask be constructed of “fabrics that do not let light pass through when held up to a light source.” No guidance is offered as to how much passage of light may be acceptable, how bright the light source must be, or whether any passage of light is acceptable. In an apparent effort to provide clarity that seems to add only redundancy, employees who must receive notice of the presence of a COVID-19 case in the workplace now include those who were “on the premises.” Vaccinated employees, employees who have had COVID-19 and returned to work as permitted by the ETS, and employees who have experienced a close contact with a COVID-19 case are exempted from removal requirements but only if they wear a face covering and maintain six feet of distance in the workplace, but it is unclear whether this applies to employees working outdoors. Last, since the ETS does not impose any obligation on employees to wear face coverings, it is unclear whether an employee may decline to wear a face covering, triggering the requirement for workplace exclusion and be eligible for exclusion pay required by the ETS.

Gov. Newsom Issues EO Allowing 3rd ETS Readoption: The Administrative Procedures Act, the California law that generally bestows regulatory authority on regulatory agencies permits those agencies to adopt emergency regulations for 180 days and to readopt those regulations for two additional 180-day periods, after which the agency must adopt a permanent regulation or allow the regulation to lapse. In the case of the COVID-19 ETS, Governor Newsom repeatedly exercised executive authority to extend the life of the ETS which would have otherwise ended in September 2021. On the same day the Standards Board approved the second (and last provided for under California law) re-adoption, Governor Newsom issued an Executive Order waiving the limitations in the Administrative Procedures Act to allow the Standards Board to readopt the COVID-19 ETS for a 3rd time prior to the expiration of the 2nd readoption in April 2022. *Staff: Bryan Little at blittle@cfbf.com or 800-753-9073*

Animal Welfare

Farm Bureau provided comments this week on Proposition 12. This is in addition to the written comments provided in July, and verbal testimony given in August. After the review of stakeholder’s comments, the Department released updated regulations earlier this month. The changes were mostly technical and clarifying in nature, but concerns rose on the exemption of youth programs such as 4-H. The regulation provided an exemption from Prop 12 for county fairs, and 4-H programs, but the exemption was partial and could prove problematic. Students are dependent on processing plants as a resale outlet at their local county fairs to market their animal projects. Currently, processing facilities contract with fairs and exhibitions for the resale and custom

hogs shown and sold by 4-H and FFA students. The processing facilities have stated that the anticipated burden of Prop 12's administrative costs will force them to discontinue processing resale and custom hogs from county fairs. Without the resale and custom resale market for student animal projects, students without connections or means will not be able to participate in the most fundamental entry-level agricultural experience. Farm Bureau provided comments asking for a clarification of these exemptions so students may continue to participate in these programs. *Staff: Katie Little at klittle@cfbf.com or 916-446-4647.*

Climate Change

The Legislative Analyst's Office has released an assessment of the state's investment in climate policies aimed to the agricultural communities. In summary, the report found that the greenhouse gas reductions and climate benefits associated with the state's four programs (Healthy Soils, Dairy Digesters, Alternative Manure Management and Water Efficiency) are overstated but that they benefits are still worthy of investment. The full report can be found [here](#). *Staff: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Land Use

The California Natural Resources Agency has released the 30x30 Report: "30x30 California: Accelerating Conservation of California's Nature." The full report and appendices can be found [here](#). Farm Bureau staff is in the process of reviewing the draft report and providing comment by the deadline of Friday, January 28th. *Staff: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

The Assembly Natural Resources Committee will meet and hear several bills on Monday, January 10th. AB 1547 (Eloise Reyes, D-Los Angeles) has been set on the agenda and is opposed by Farm Bureau. The bill, as introduced last year, would authorize the Air Resources Board to regulate indirect emission sources, a role traditionally held by local air quality management and pollution control districts. The bill would also require a local government, before approving a warehouse development project, to ensure the project is at least 3,000 yards from a sensitive land use, consider all air quality impacts from incoming and outgoing trucks and require all onsite equipment (loaders, trucks, forklifts, belts, etc.) be electric. The bill would also require much more significant public outreach to community residents beyond the current CEQA requirements. Farm Bureau has joined a coalition to oppose AB 1547 with concerns raised about the bill's application to downstream food processing, distribution and storage facilities, and to on or off-farm coolers and packing sheds. Those interested in watching the hearing live or provide comment can do so [here](#). *Staff: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Livestock

The California Department of Food and Agriculture has announced one vacancy on the Rendering Industry Advisory Board (RIAB), which is responsible for advising the Secretary on the status and needs of the rendering industry. The vacancy is for an industry member who must be affiliated with a licensed renderer, collection center, dead animal hauler, or registered transporter of inedible kitchen grease. The term expires September 30, 2024. Interested applicants should submit a resume by January 14th, 2022 to the following: Ms. Mae Abbott; Meat, Poultry and Egg Safety Branch 1220 N Street; Sacramento, California 95814 or via email to: mae.abbott@cdfa.ca.gov. *Staff: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Utilities

On December 13, a Proposed Decision was released by the California Public Utilities Commission that addresses the parameters for a revised net metering construct – NEM 3.0. The 200 page Proposed Decision largely focuses on residential net metering, creating different elements than currently exist for new customers and, in addition, changing the elements of the existing net metering tariffs. Because of the emphasis on residential customers, the Proposed Decision is very opaque about how the non-residential (including agricultural customers) net metering program will be structured under NEM 3.0 and any changes that will be applied to existing customers. The debate over new program elements has been and will continue to be contentious with clear indications that residential customers currently do not pay costs that support the program. Comments on the Proposed Decision are currently due January 3, although a request has been made for an extension to the filing date. CAFB

is scrutinizing the Proposed Decision and will submit comments focusing on the non-residential program elements, demonstrating that there is no need to change parameters for the current program. *Staff: Karen Mills, kmills@cfbf.com or (916) 561-5655*

Wildfire and Forestry

On December 14, 2021 the Joint Institute for Wood Products Innovation Advisory Council met via teleconference. The Governor's Office of Business and Economic Development (Go-Biz) discussed that Climate Catalyst Fund will undertake an iBank Board meeting, in coordination with CalFIRE and California Natural Resources Agency in early 2022 to determine investment project profiles and opportunities. California Law Empowering Renewable Energy presented research regarding forest biomass pile and burn data. The advisory council meeting can be viewed [here](#). *Staff: Peter Ansel, pansel@cfbf.com or 916-446-4647*