

CALIFORNIA AGRICULTURAL COMMISSIONERS AND SEALERS ASSOCIATION

New Member Orientation Process Guidelines

1. Purpose of orientation; Ethics Committee role/composition - **Krug**
2. Review and provide to the new member(s): - **Quisenberry**
 - a) CACASA Mission Statement
 - b) Code of Ethics
 - c) Ethical Conduct Process
 - d) Confirm/Request delivery of CACASA Handbook by Executive Secretary
 - e) FAC 2105: filing of Oath of Office and Official Bond
3. Commissioners and Sealers role in Association activities - **Boitano**
 - a) Committee responsibilities
 - b) Involvement and attendance
 - i. Regional association
 - ii. CACASA including Board of Directors
 - c) Western Region and National Conference on Weights & Measures
 - d) Relationship with State and Federal legislators and their staff
4. Commissioners and Sealers relationship with CDFA as the local delivery system – **Hudson**
 - a) Secretary
 - b) Undersecretary
 - c) Deputy Secretaries
 - d) Directors
 - e) Chiefs and staff
 - f) Liaison
 - g) Current status of relationship
 - h) Current initiatives
5. Commissioners and Sealers relationship with Cal EPA, DPR - **Bray**
 - a) Secretary
 - b) Director
 - c) Chief Deputy Director
 - d) Assistant Directors
 - e) Chiefs and Staff
 - f) Liaison
 - g) Current status of relationship
 - h) Current initiatives
6. Commissioners and Sealers relationship with: - **Whitmer**
 - a) Board of Supervisors
 - b) County Executive Officer
 - c) Growers and regulated industries
 - d) General public: outreach/education
 - e) UC Cooperative Extension
 - f) Political activities (county positions/Association positions)
7. Historical and general issues of note, as a guide - **Krug**
 - a) Pick a mentor

- b) Four year appointment
- c) County Bond
- d) Support and discuss the roll of the Assistant's Conference, Deputy groups, Computer User Conference, etc.
- e) Take care of home FIRST
- f) Conflict of Interest issues; Form 700 – FPPC reporting requirements
- g) Conflict resolution: how to “agree to disagree” and county CACASA conflicts
- h) Things you should know and do as a department head.

Things you should know and do as a Department Head:

1. Participate in meetings and conferences – human interface is where all the work gets done and it pays off in the long run.
2. Get to know all of your staff and tour the county with staff.
3. County Ordinances specifically the Personnel Code, Employer – Employee Relations Code and Purchasing Code
4. County Policy Manual specifically the policies concerning Purchasing, Contracting, Furlough, Layoff, Performance Evaluation and Grievance Procedure.
5. Government Code dealing with County Government Sections 23000 - 25338+
6. Government Code dealing with closed sessions and complaints or accusations Section 54957.
7. 2 CFR Chapter II, Cost Principles for State, Local, and Indian Tribal Governments. Old Office of Management and Budget Circular A-87.
8. "Meyers-Milias-Brown Act", Government Code Sections 3500 – 3511.
9. Memorandum of Understanding of all your Recognized Employee Organizations.
10. 29 CFR Wage Orders, www.dir.ca.gov/dlse/29CFR-WOs1-13and15.pdf, www.dir.ca.gov/dlse/29CFR-WO16.pdf .
11. Names of your U.S. Congressmen and Senators, California Assembly Members, Senators and their lead staff persons.
12. Farm Bureau President and other industry related organization representatives.
13. Legal Mandates of the Agricultural Commissioner and Sealer of Weights and Measures.
14. Publications - Local Newspaper, Major City newspaper, Wall Street Journal, Governing Magazine, Public Management Magazine, California County Magazine (CSAC), Western City Magazine (League of Cities), California Agriculture, California Farmer, Ag Alert, Capital Press California's Ag Weekly, California Country, Pacific Coast Nurserymen Magazine, Western Farm Press, Western Fruit Grower Magazine, PCOC Magazine, CAPCA Advisor Magazine, CAAA Magazine, NCWM – News, Hot Irons, etc.

15. CSAC Digital Clipping Service www.digitalclippingservice.com
16. Have an open door policy to staff and the public.
17. Remember that during your first four year appointment you set the standard that you will live with the rest of your career. Be firm, clear and fair in your discretionary activities. **Use common sense.** Rely on your education, experience and understanding of human nature to get you through the first few years of being an agricultural commissioner and sealer of weights and measures.
18. Be sure to get re-appointed to the position every four years. It shows support from the board of supervisors and the industry; and protects you from political attacks that can and will flare up from time to time.

BOND

Food & Ag Code

2105. Prior to entering upon his duties, the commissioner shall file the usual oath, and he shall be required to file an **official bond** in an amount determined by the board of supervisors, unless he is covered by a master bond pursuant to Section 1481 of the Government Code.

Gov. Code

1481. (a) When deemed expedient by the appointing power, a master official bond or other form of master bond may be used which shall provide coverage on more than one officer, employee, or agent who is required by the appointing power or the board of supervisors of a chartered or general law county to give bond.

(b) Notwithstanding any other provision of law, when deemed expedient by the legislative body of a local public agency, a master official bond or other form of master bond may be used which shall provide coverage on more than one officer, employee, or agent of the local public agency, whether elected or appointed, who is required by statute, regulation, the appointing power, the governing board of a local public agency, or the board of supervisors of a chartered or general law county to give bond.

(c) A master bond under this section shall be in the form and for the term which is approved by the appointing power or the legislative body of a local public agency, and shall inure to the benefit of the appointing power, state, or local public agency by whom the officer, employee, or agent is employed as well as the officer or officers under whom the employee or agent serves. If the master bond provides coverage on a public guardian or public administrator, then that master bond shall be for the joint benefit of the guardianship or administratorship estates, and the county to which the bond is issued.

(d) "Local public agency" means any city or county, whether general law or chartered, city and county, special district, school district, municipal corporation, political subdivision, joint powers authority or agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or any board, commission, or agency thereof, or other local public agency, but shall not mean the state or any agency or department of the state.

(e) "Legislative body" means the board of supervisors of a county or city, or the governing board, by whatever name called, of a local public agency.

(f) In the case of the State of California, the form and content of the bond shall be subject to the approval of the Director of General Services.

24156. The board of supervisors of any county may, by resolution, adopt a program of self-insurance in lieu of bonds for any officer or employee employed by such county, or for the officers or employees of any district, the governing board of which is the board of supervisors of the county adopting the resolution, or for any officer or attache of any court supported in whole or in part by the adopting county. After the resolution is adopted, any or all requirements of law

with respect to faithful performance or revolving fund bonds shall be inapplicable to such county, district or court or any officer or employee thereof; provided, however, that such a county shall provide for self-insurance, the amount of which shall be determined pursuant to the provisions of Sections 1480, 1481, 24150 and 24151.

CLOSED SESSIONS

Gov. Code

54957. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

Charter County Agricultural Commissioners

General Law Counties: Alpine, Amador, Calaveras, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Plumas, Riverside, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba

Charter Counties: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, Tehama

Alameda County Ordinance and Charter

Sec. 17: The appointive County officers shall be:

Board of Law Library, Trustees, Members of
Civil Service Commission, Members of
Coroner
Fish and Game Warden
Health Officer

Horticultural Commissioner

Probation Committee, Members of
Probation Officer
Public Administrator
Public Defender
Public Works, Director of
Purchasing Agent
Surveyor

Such other officers as are not mentioned in Section 15 hereof.

Such other officers as may be hereafter provided by law shall also be appointive.

(Amendment ratified June 5, 1984. In effect September 10, 1984.)

Section 2.02.040 Appointments and removals by the board of supervisors.

All appointments and removals made by the board of supervisors and all appointments and removals which are required to be ratified by the board of supervisors shall be by a majority vote of the membership of the board, **except as otherwise specified in state law**, this code or the Charter. (Prior admin. code § 2-1.04)

Butte County Ordinances and Charter

Sec. 1. County officers designated.

County officers, other than members of the board of supervisors shall be a sheriff, a county clerk, a treasurer, a recorder, a tax collector, a license collector, a public administrator, a coroner, a

surveyor, a district attorney, an auditor, an assessor, a superintendent of schools, **a horticultural commissioner**, a welfare officer, a probation officer, a health officer, a county physician, a road engineer, a county librarian, and other such officers as are now or may hereafter be provided for by the constitution, by general law or by this Charter. (1923, p. 1554; 1933, p. 3228)

Sec. 5. Terms of appointive officers.

The appointive county officers shall not be appointed for a term exceeding four years, and the term of each elective county officer shall be four years, beginning at noon on the first Monday after the first day of January succeeding his election, and until such time as his successor shall be elected and shall qualify, except as otherwise provided in this Charter. (1933, p. 3228)

El Dorado County Ordinance and Charter

404. Appointed Department Heads.

The position of department head shall be designated by ordinance. Department heads serve at the pleasure of their appointing authority, the Board of Supervisors. Department heads shall have and may delegate the power to appoint, supervise, suspend and remove all persons employed in their departments subject to the provisions of Article V. of this charter.

407. Agriculture Commissioner/Sealer of Weights & Measures.

The offices of Agricultural Commissioner and Sealer of Weights & Measures are consolidated. **The appointment and employment of the Agriculture Commissioner shall be as provided for by general law.**

"County officer" means those officers enumerated in section 24,000 of the Government Code.

24000. The officers of a county are:

- (a) A district attorney.
- (b) A sheriff.
- (c) A county clerk.
- (d) A controller.
- (e) An auditor, who shall be ex officio controller.
- (f) A treasurer.
- (g) A recorder.
- (h) A license collector.
- (i) A tax collector, who shall be ex officio license collector.
- (j) An assessor.
- (k) A superintendent of schools.
- (l) A public administrator.
- (m) A coroner.
- (n) A surveyor.

- (o) Members of the board of supervisors.
- (p) A county veterinarian.
- (q) A fish and game warden.
- (r) A county librarian.
- (s) A county health officer.
- (t) An administrative officer.
- (u) A director of finance.
- (v) A road commissioner.
- (w) A public guardian.
- (x) **Such other officers as are provided by law.**

Fresno County Ordinance and Charter

Chapter 2.22 AGRICULTURAL COMMISSIONER/SEALER

2.22.010 Offices consolidated.

2.22.010 Offices consolidated.

Pursuant to the authority vested in the board of supervisors by virtue of Section 24300, subsection (p) of the California Government Code and Section 12.1 of the Fresno County Charter, the duties of the county offices of agricultural commissioner and director of weights and measures, respectively, are consolidated into one office to be known as agricultural commissioner/sealer of the county; the duties of which, including those performed in an ex officio capacity, shall be performed by one person appointed to such office. Whenever the terms "agricultural commissioner," "director of weights and measures," or "sealer" appear in this ordinance code, it shall be construed to mean agricultural commissioner/sealer. (Ord. 0-85-018 § 1.)

Los Angeles County Ordinance

5.02.050 Department head.

For purposes of Section 5.20.072 of the County Code, "department head" means a person formally designated as an acting department head, the employee who has the highest classification in a department which has no regularly appointed department head or designated acting department head, the executive director of the human relations commission and the director of the Museum of Natural History, as well as regularly appointed department heads. For purpose of Section 5.20.070 department head shall also mean the executive officer of the Superior Court and marshal. (Ord. 84-0011 § 4, 1984.)

2.40.020 Commissioner/director -- Appointment and authority.

The department shall be under the direction and management of the commissioner/director, who shall be appointed by the board. The commissioner/director shall appoint all employees of the department. (Ord. 84-0063 § 2 (part), 1984.)

2.06.010 Appointment restrictions.

A. **Except as otherwise provided by law**, department heads shall be appointed by the board of supervisors from a list received from the director of personnel certifying the candidates as meeting the standards for the position.

B. The provisions of this section and of sections 2.06.020, 2.06.030, 2.06.040, and 2.06.050 may be waived by the board of supervisors. (Ord. 98-0003 § 1, 1998: Ord. 11838 § 1, 1978: Ord. 11541 § 1 (part), 1977: Ord. 11470 § 1 (part), 1977: Ord. 4099 Art. 115 § 21011, 1942.)

2.06.110 Removal of department heads.

A. **Except as otherwise provided by law**, a department head shall serve at the pleasure of the board of supervisors. A department head may be terminated from county employment for any reason by majority vote of the board of supervisors upon 30 calendar days' advance written notification. During the running of said 30-day period, the department head may be suspended effective immediately upon the receipt of written notification thereof.

B. A department head shall have the right to meet in executive session with the board of supervisors to discuss his termination, provided a written request is filed with the board within five calendar days of receipt of the notification of termination. The board shall hold such executive session within 10 calendar days of the filing of the request. A department head may have his counsel present, but shall have no right to call witnesses or otherwise present evidence. (Ord. 98-0003 § 2, 1998: Ord. 11541 § 1 (part), 1977: Ord. 11470 § 1 (part) 1977: Ord. 4099 Art. 115 § 21016, 1942.)

Orange County Ordinances

Sec. 1-3-2. Employee regulations and compensation fixed by resolution.

The regulation of the method of employment, terms of employment, conditions of employment, working hours, leaves of absence, compensation of officers and employees of the County of Orange, the Orange County Flood Control District and the Orange County Harbors, Beaches and Parks District shall, effective July 1, 1965, be fixed by resolution of this Board. (Code 1961, § 13.012)

O. C. Personnel Resolution:

Section 4. Non-Elected Agency/Department Heads (Executive Management - Group II)

A. To the extent permitted by law, Agency/Department Heads appointed after July 4, 1986 shall serve at the pleasure of the County Executive Officer, (i.e. At Will). Prior to such an appointment, the Human Resources Director shall obtain written acknowledgement from the prospective appointee acknowledging his or her At Will status. Agency/Department Heads who have voluntarily entered into At Will agreements prior to July 4, 1986 shall continue to serve as At Will employees. Such employees may be released from service at any time, without notice, cause, or rights of appeal, by the County Executive Officer. Non-elected Agency/Department Heads appointed after July 4, 1986 will be required to sign At Will agreements as a condition of employment.

B. The provisions of Section A. above shall not apply to:

1. The County Counsel and the Agricultural Commissioner whose tenures are governed by statute. PSR-99

Placer County Ordinance

2.08.010 Officers created.

In addition to those officers specifically established by the Placer County Charter, these officers are created:

- A. Administrative assistant to the board of supervisors.
- B. LAFCO executive officer.
- C. Director of health and human services.
- D. **Agricultural commissioner/sealer of weights and measures.**
- E. Clerk of the board of supervisors.
- F. Director of library services.
- G. Chief probation officer.
- H. Chief building official.
- I. Director of administrative services/purchasing agent.
- J. Director of personnel.
- K. Director of facility services.
- L. Director of public works/road commissioner.
- M. Farm advisor.
- N. County surveyor.
- O. Planning director.
- P. Public guardian.
- Q. Veterans service officer.
- R. Director, community development/resource agency.
- S. Zoning administrator. (Ord. 5373-B (part), 2005; Ord. 5353-B (part), 2005; Ord. 5006-B (part), 1999: prior code § 2.200)

2.08.020 Officers consolidated.

- A. Assessor/map supervisor.
- B. County clerk/recorder/registrar of voters.
- C. **Sealer of weights and measures/agricultural commissioner.**
- D. Sheriff/coroner/marshal.
- E. Director of health and human services/public guardian. (Ord. 5006-B (part), 1999: prior code § 2.210)

Sec. 402 Appointive Officers.

The appointive officers of the county shall be:

Chief Executive Officer who shall be the County Administrator
 County Counsel
 Public Administrator who shall handle estates of decedents

Such other officers as now are or which may be hereafter **authorized by the general law of the State of California** or this Charter and established in pursuance thereof.

Sec. 403 Officers, Election and Term.

All elected officers of the county shall be nominated and elected in accordance with the general law. **The term of office of any officer shall be as provided under the general law.** Removal from office of any elected county office shall be as provided in the general law.

Sacramento County Ordinances

Section 25. Appointive County Officers, Boards and Commissions.

Appointive county officers, boards and commissions shall be those enumerated in Section 26 and 27 of this Article, and those provided for by general law, together with such other officers, boards and commissions as may hereafter be made appointive by the Board of Supervisors, pursuant to the provisions of this Charter.

Section 27. County Executive Appointments.

The County Executive shall, **subject to confirmation by the Board of Supervisors,** appoint a:
 Coroner
 Surveyor

County Engineer
Tax Collector
License Collector
County Clerk
Public Administrator
Director of Finance
Recorder

Agricultural Commissioner and Sealer of Weights and Measures

County Librarian
Purchasing Agent

and such other officers as are not mentioned in the foregoing Section 26. The Tax Collector shall be ex-officio License Collector. The offices of the Coroner and Public Administrator are hereby consolidated. The offices of Surveyor and County Engineer are hereby consolidated, and the duties required by law to be performed by the Surveyor shall be performed by the Engineer. The former offices of Auditor and Treasurer are hereby consolidated and their duties shall be performed by the Director of Finance. If the Board of Supervisors shall, within thirty days after submission by the County Executive of a nominee for confirmation by said Board, fail to take action upon same, said failure so to act shall be conclusively deemed to be, and shall operate as, a confirmation by the said Board.

Section 28. Expiration of Present Terms of Office.

All county officers holding offices which were elective immediately prior to the time this Charter takes effect shall continue to hold their respective offices until the expiration of their present terms, unless sooner removed in the manner provided by law. **The terms of all other county officers shall expire upon the taking effect of this Charter, provided, however, that each shall continue to hold office until his successor has been appointed and has qualified.**

Section 29. Tenure of Office.

Terms of all officers, employees, boards and commissions, **unless otherwise herein or by law provided**, shall be at the pleasure of the appointing power.

San Bernardino County Ordinances

SECTION 1. The County officers other than supervisors shall be such officers as are required or authorized by the Constitution, this Charter, **general law** or by ordinance of the Board of Supervisors.

SECTION 4. All County offices in this County that would, under the general laws, be filled by appointment if no County Charter had been adopted, and all County offices hereafter created or existing in this County under or pursuant to general law, in which such general

law a method of filling such offices by appointment is provided, are hereby declared to be and are made appointive County offices, and the incumbents thereof are declared to be and are made appointive County officers; and all such appointive County offices be respectively filled in the same manner, and by the same appointing body or person as is provided in such general laws, and such appointive County officer shall be appointed and hold office for the same time and upon the same conditions as to tenure of office and subject to the same right of removal as though such appointment had been made under such general laws provided nothing in this section contained shall be deemed to relate to the appointment of assistants, deputies, attaches, and other persons to be employed in such appointive offices.

SECTION 5. The Board of Supervisors shall establish, **where not otherwise expressly provided by law**, the number, qualifications, powers and duties of all County officers and employees. Compensation of officers and employees shall be established by ordinance. All such officers and employees, except those designated by the Board of Supervisors by ordinance shall be in the Classified Service of the County and subject to Civil Service rules and regulations. Nothing herein shall be deemed to impinge upon any authority otherwise conferred by law upon an officer to appoint deputies. The appointment of any deputy must be made in writing and filed in the office of the County Clerk, and until such appointment is so made and filed, no one shall be or act as such deputy. Nothing herein contained shall be deemed to limit the authority of the Board of Supervisors to employ persons for positions in the Unclassified Service and to fix their compensation by contract.

San Diego County Ordinances and Charter

Section 501: Duties. The Board shall appoint the following appointive officers:

Page 4 of 19

- (a) The Chief Administrative Officer;
- (b) The County Counsel;
- (c) The Probation Officer, subject to the confirmation by a majority of the judges of the San Diego County Superior Court;
- (d) The Director of the Equal Opportunity Management Office; and
- (e) The Clerk of the Board of Supervisors.

All other appointive officers, either established by this Charter, general law or ordinance, shall be appointed by the Chief Administrative Officer. (Amended, effective 1-22-85, Operative 2-6-85) (Amended, effective 8-7-86)

Section 700: Appointive Officers. The appointive officers include:

Agricultural Commissioner
Auditor and Controller
Clerk of the Board of Supervisors
Coroner
County Counsel
County Librarian

County Veterinarian
Director of Parks and Recreation
Director of Personnel
Director of Health Services
Director of Social Services
Director of Public Works
Probation Officer
Public Administrator
Purchasing Agent
Registrar of Voters

Sealer of Weights and Measures

Superintendent of Schools

and all other officers who may be required by general law or ordinance. (Amended, effective 8-7-86)

Section 703: Chief Administrative Officer. The Chief Administrative Officer exercises the Board's administrative supervision over affairs of the County delegated to that officer and over all departments, except the Civil Service Commission and the offices of Assessor, Superintendent of Schools, District Attorney, and Sheriff. The Chief Administrative Officer is responsible to the Board for the proper administration of such affairs of the County. (Amended, effective 8-7-86)

SEC. 28. OFFICERS AND EMPLOYEES.

The term "officers and employees" shall include all incumbents, officers and employees and their officers, assistants, deputies and employees.

SEC. 51. POWERS AND DUTIES OF OFFICERS, BOARDS, AND COMMISSIONS.

Every County officer, board and commission shall have the powers and perform the duties prescribed by the Charter, State law, this Code and all other ordinances not inconsistent with the Charter or State law.

SEC. 52. APPOINTMENTS AND REMOVAL.

All appointments made by the Board and all appointments which are required to be ratified or confirmed by the Board shall be by majority vote of said Board. Wherever the Board has the power of removal of any officer or appointee, it shall require a vote of four-fifths (4/5) of the members of the Board **except as otherwise provided.**

San Francisco County Ordinance and Charter

SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

1. All supervisory and policy-level positions within the office of the Mayor and the office of the City Administrator;
2. All elected officers of the City and County and their chief deputies or chief assistants;
3. All members of commissions, boards and advisory committees;
4. Not more than one commission secretary for each commission or board;
5. **All heads of agencies and departments**, unless otherwise provided for herein;

SEC. 1.50. OFFICERS OF THE CITY AND COUNTY

The officers of the City and County shall be the officers elected by vote of the people, members of the Board of Education, members of boards and commissions appointed by the Mayor and the Board of Supervisors, members of the Building Inspection Commission, members of the Ethics Commission, members of the Elections Commission, members of the Retirement Board, members of the Health Service Board, members of the Sunshine Ordinance Task Force, members of the Youth Commission, members of the Small Business Commission, members of the Board of Law Library Trustees, the Superintendent of Schools, the executive appointed as the chief executive officer under each board or commission, the Controller, the City Administrator, **the head of each department under the Mayor, and such other officers as may hereafter be provided by law or so designated by ordinance.** (Added by Proposition E, 11/4/2003) (Former Sec. 1.50 added by Ord. 277-96, App. 7/3/96; amended by Ord. 98-99, File No. 990407, App. 4/30/99; Ord. 186-00, File No. 000859, App. 8/11/00; repealed by Proposition E, 11/4/2003)

San Mateo County Ordinances and Charter

413. Department Heads.

The position of department head shall be designated by ordinance. Department heads shall have and may delegate the power to appoint, supervise, suspend and remove all persons employed in their departments subject to the provisions of Article V.

2.04.050 Organizational structure.

Department heads are responsible for the supervision and administration of the various divisions thereof. All department heads other than elected officials, appointees of the superior and municipal courts, or those specifically exempted by the Board of Supervisors shall report directly to and be supervised by the County Manager in all areas of program, policy, budget and operation. Each department and division head providing staff services to a board or commission shall be the liaison officer between the particular board or commission and the Board of Supervisors. In order to permit effective coordination of County activities, elected department heads **and those appointed by the Board of Supervisors and Superior and Municipal Courts shall ordinarily report and respond to the Board of Supervisors in all appropriate areas of operation through the County Manager.** (Prior code § 2003; Ord. 2393, 09/20/76)

2.12.060 Appointments and removals.

All appointments and removals made by the Board of Supervisors and all appointments and removals which are required to be ratified by the Board of Supervisors shall be by a majority vote of the membership of said board except as otherwise specified herein or in the Charter. (Prior code § 2113; Ord. 1024, 08/04/53)

Santa Clara County Ordinance and Charter

Section 500. Officers, boards, and commissions created by this Charter or the Constitution or general laws of the state, or hereafter created by the Board of Supervisors, shall have and exercise all the powers and shall perform all the duties vested in and delegated to them by the Constitution, this Charter, or ordinance, and to the extent not in conflict with this Charter or ordinance by the general laws of this state.

Tehama County Ordinance and Charter

Not available online.

AGRICULTURAL COMMISSIONER

LEGAL MANDATES

California Food and Agricultural Code General Mandates

2001. There is in each county government the county department of agriculture.

2002. The county department of agriculture is under the control of the county agricultural **commissioner**.

2242. The **board of supervisors shall** provide a suitable office for the commissioner, and shall furnish and equip his office with all necessary furniture, supplies, and effects for the proper discharge of his duties.

2271. The **commissioner shall** keep a record of his official acts.

2272. (a) The **commissioner shall** make an annual report to the director on the condition of agriculture in his or her county and on what is being done to eradicate, control, or manage pests, and actions relating to the exclusion of pests or quarantine against pests. The **commissioner** may include in the annual report information relating to organic farming methods, biotechnology, integrated pest management, and biological control activities in the county. The **commissioner shall** also furnish from time to time to the director any other information the director may require.

(b) This section **shall** become operative July 1, 1999.

2273. The **commissioner shall** also make a monthly report to the board of supervisors if and when so required by the board.

2274. The **commissioner shall** learn about all pests that may exist, or are likely to exist, in his county.

2275. The **commissioner**, for the purpose of learning the best and most efficacious methods of performing his duties, **shall** attend the annual meeting of the California Agricultural **Commissioners** Association or its successor, and such other meetings as the director **shall** require.

2276. The **commissioner shall**, for the purpose of becoming informed about new and dangerous agricultural pests, observing and learning new and better methods of pest control, and determining the best and most efficacious methods of conducting the work of his department, consult with staff members of the United States Department of Agriculture, the State Department of Agriculture, the University of California, and with agricultural **commissioners** of other counties.

He **shall** make such trips outside of the county which are necessary for such purposes, if authorized by the board of supervisors.

2279. The **commissioner shall** compile reports of the condition, acreage, production, and value of the agricultural products in his county. The **commissioner** may publish such reports, and **shall** transmit a copy of them to the director.

2281. Except as otherwise specifically provided, in all cases where provisions of this code place joint responsibility for the enforcement of laws and regulations on the director and the **commissioner**, the **commissioner shall** be responsible for local administration of the enforcement program.

Plant Quarantine and Pest Control

5024. (a) The secretary or the **commissioner shall**, during the maintenance of any quarantine established by the secretary pursuant to Article 1 (commencing with Section 5301) of Chapter 5, inspect any plant or thing that is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest. The person who conducts the inspection **shall** not permit any of those plants or things to pass over the quarantine line during the quarantine, except pursuant to a certificate of inspection and release that is signed by that person.

(b) Whenever the **commissioner** finds that a plant or thing does not, and will not, present a threat to the state, the **commissioner** may recommend to the secretary the waiver of, and the secretary may waive, the inspection and certification requirements specified in subdivision (a).

5101. Each **commissioner** is an enforcing officer of all laws and regulations which relate to the prevention of the introduction into, or the spread within, the state of pests. He is, as to such activities, under the supervision of the director.

5102. Each **commissioner** and each qualified representative of the **commissioner** is a state plant quarantine officer for the following purposes:

(a) Certifying to the pest condition or pest treatment of shipments, if certification as a condition of movement or entry is officially required.

(b) Enforcing laws and regulations which relate to plant quarantine.

5205. A **commissioner shall** make such inspections as may be necessary to determine the facts which are required by the state or country of intended destination and **shall** issue a certificate that states the facts which are determined upon receipt of the scheduled fee for a certificate or, if no scheduled fee has been established, upon request of the shipper.

5253. The **commissioner shall** disseminate all or any portion of the statement in whatever manner he may deem is best suited to inform persons that own or have charge or possession of any premises or appliances within the county where there is a probability of the presence of the pest.

Pest Abatement

5403. If, after service of notice pursuant to this chapter a public nuisance is not abated within the time which is specified in the notice, the **commissioner shall** abate the nuisance by eradicating, controlling, or destroying the pest.

5561. The **commissioner shall**, in writing, notify the record owner or person in charge of any property having an abandoned or neglected plant or crop which the commissioner has found to be a public nuisance, of the need to remove or destroy the neglected or abandoned plant or crop. The notice required by this section shall be made by personal service or by certified mail to the address shown on the last equalized assessment roll of the county, and by posting copies of it in three conspicuous places on the property.

5563. The **commissioner shall**, in addition to the notice required by this article, advise the owner that, unless the abandoned or neglected plant or crop is removed or destroyed within 60 days, or less than 60 days if required by county ordinance, after the date the notice was served or mailed, or by such date as may be mutually agreed upon by the commissioner and the owner, the commissioner will report the existence of the nuisance to the district attorney or to the county counsel of the county with a request that an action be filed in the superior court praying for an order to remove or destroy the neglected or abandoned crop as provided for in Article 2 (commencing with Section 5571).

5571. If the **commissioner** of any county determines by inspection that there is a condition which constitutes a nuisance, as defined in Section 5551 or 5552, on any property or premises within his jurisdiction, he **shall** make a report of his inspection to the district attorney or to the county counsel if the board of supervisors has authorized the county counsel pursuant to Section 26528.5 of the Government Code to file the petition prepared pursuant to this article. The **commissioner** in the report **shall** do all of the following:

- (a) State that the property owner has been notified.
- (b) Describe the property upon which the nuisance exists.
- (c) Name the pest or other condition which in his opinion is dangerous to the agriculture of the county, district, or vicinity.
- (d) State, if his findings justify such a statement, that the removal or destruction of the neglected or abandoned plant or crop will provide the best means for the elimination of the menace to the agriculture of the county, district, or vicinity.

5702. If, in the opinion of the director or commissioner, the plant or other host or possible carrier is not infested or infected with the pest, or has been disinfected or cleaned so as to eradicate or control the pest, the director or **commissioner shall** in writing release it or issue the shipping permit or nursery stock certificate as the case may be.

5742. Except as otherwise provided in Section 5744, it is unlawful for any person to ship or move any used appliances unless there is **furnished to the commissioner** of the county of destination such proof as he may require that the appliances either:

- (a) Have not been exposed to infestation or infection by any pests.
- (b) Have been treated immediately prior to shipment or movement in the manner which is designated by the director.

5743. The **commissioner** of the county of destination **shall** refuse entry of the used appliances until the proof required in Section 5742 is furnished.

Field Rodents

6022. The **commissioner shall** cooperate in suppressing field rodents and insects, or other associated vectors of rodent-borne diseases transmissible and injurious to humans.

Plant Material Shipment

6401. It is unlawful for any person to transport, receive, or import into the state any plant or any thing against which quarantine has been established, or any plant, unless he does both of the following:

- (a) Notifies the director or the **commissioner** of the county in which the plant or thing is received, of the arrival of the plant or thing immediately after its arrival.
- (b) Holds the plant, or thing for immediate inspection by the director or **commissioner**, without unnecessarily moving it, or placing it where it may be harmful.

6501. Except as otherwise provided in Section 6502, 6504, 6506, or 6924, it is unlawful for any person to receive or bring into any county or locality of the state from another county or locality within the state any nursery stock, or any other plant, appliance, or thing subject to a federal or state quarantine or which the **commissioner** or the director considers and designates to be liable to be infected or infested with any pest, unless the person does all of the following:

- (a) Notifies the **commissioner** of the arrival of the article immediately after its arrival.
- (b) Holds it for immediate inspection by the **commissioner**, without unnecessarily moving or placing the article where it may be harmful.
- (c) Legibly marks the shipment in a conspicuous manner and place with all of the following:
 - (1) The name and address of the shipper or owner.
 - (2) The name of the person to whom the shipment is forwarded or shipped or the name of his or her agent.
 - (3) The name of the county where the contents of the shipment were grown.
 - (4) A statement of its contents.

Nursery Inspection

6903. The **commissioner shall** inspect all nurseries within his jurisdiction when and as required by the regulations of the director.

6904. The **commissioner shall** issue such orders as may reasonably be necessary to insure compliance with the standards of cleanliness.

Any interested person, upon request, is entitled to a hearing before the director to review any order which is issued by a **commissioner** pursuant to this section.

Weed and Seed Pests

7205. The director may adopt such regulations as may be necessary to carry out the provisions of this article. He, and the **commissioners** under the supervision and control of the director, **shall** enforce such provisions and regulations.

7533. The commissioner, upon receipt of a notice from any person who is the grower of any crop seed within the commissioner's jurisdiction of such person's intention to harvest crop seed not less than 10 days prior to the date of harvest, may cause a field inspection to be made of such crop. If any pest is found growing in such crop, the seed of which may be harvested with such crop seed, the **commissioner shall** serve a notice which specifies the particular pest that is growing in such crop and the methods to be used in removing the pest which is found in the crop.

7573. If, upon inspection by the commissioner, any seed screenings or cleanings from crop seed are found to contain the seed of any pest, the **commissioner shall** give notice in writing of such fact to the person in possession of the screenings or cleanings. The notice shall order that the screenings or cleanings be processed or destroyed, as provided in this article, within 60 days.

7601. Every person, before engaging for hire in the business of cleaning crop seed, **shall obtain a permit from the commissioner** to operate each separate portable seed cleaner which is being used for the first time in the county.

Pesticide Use Enforcement

11501.5. The director, and the **commissioner** of each county under the direction and supervision of the director, **shall** enforce this division and the regulations which are issued pursuant to it.

11732. It is unlawful for any person to advertise, solicit, or operate as a pest control business in any county unless the person has registered with the **commissioner** for the current calendar year.

The registration **shall** be in the form prescribed by the **commissioner** and **shall** show all of the following information:

- (a) Name and address of the registrant.
- (b) Number and kind of units to be operated in the county.
- (c) Type of pests that are intended to be controlled.
- (d) Any other information as the **commissioner** may require.

11761. Any person that alleges any loss, nonperformance, or damage as a result of the use or application of any pesticide, or of any substance, method, or device for pesticidal purposes; or for the purpose of preventing, destroying, repelling, mitigating, or

correcting any disorder of plants; or for the purpose of inhibiting, regulating, stimulating, or otherwise altering plant growth by direct application to plants or soil **shall**, within 30 days from the time that the occurrence of such loss, nonperformance, or damage became known to such person, file with the **commissioner** of the county in which the loss, nonperformance, or damage, or some part of the loss, nonperformance, or damage, is alleged to have occurred, a verified report of the loss, nonperformance, or damage.

11920. It is unlawful for any person to act as a pest control aircraft pilot in any county without first registering with the appropriate county agricultural **commissioner**.

11921. Each pest control aircraft pilot **shall** register in person with the agricultural **commissioner** of the county where he intends to work or with the director if the county does not have an agricultural **commissioner**. Registration in any additional county may be made in person or by mail on prescribed forms which may be obtained and processed in the county where personal registration is made.

12031. Each agricultural pest control adviser who makes any recommendation for agricultural use **shall** register in person with the agricultural **commissioner** in the county listed in the adviser's address on the license issued pursuant to Article 2 (commencing with Section 12021) or with the director if the county does not have an agricultural **commissioner**. If the address of the adviser on the state license is not within this state, the registration **shall** be in the county of occupational choice. Registration in any additional county **shall** be made by mail or in person, at the discretion of the **commissioner** of the additional county. The additional registration by mail **shall** be made on prescribed forms which may be obtained and processed in the county listed in the address of the adviser on the state license or the county of occupational choice, as the case may be.

12977. The director, and the **commissioner** of each county under the direction and supervision of the director, **shall** enforce the provisions of this article and the regulations adopted pursuant to it.

12982. The director and the **commissioner** of each county under the direction and supervision of the director, **shall** enforce the provisions of this article and the regulations adopted pursuant to it. The local health officer may assist the director and the **commissioner** in the enforcement of the provisions of this article and any regulations adopted pursuant to it. The local health officer **shall** investigate any condition where a health hazard from pesticide use exists, and **shall** take necessary action, in cooperation with the **commissioner**, to abate the condition. The local health officer may call upon the State Department of Health Services for assistance pursuant to Section 105210 of the Health and Safety Code.

14004. The director, and the **commissioner** of each county under the direction and supervision of the director, **shall** enforce this chapter and the regulations issued pursuant to it.

14033. The director shall adopt regulations that govern the use of 2,4-D and any other herbicide which he finds and determines is injurious to any crop that is being grown in any area of the state. The regulations of the director may prescribe the time when, and the conditions under which, a restricted herbicide may be used in different areas of the state. They may provide that a restricted herbicide **shall be used only under permit of the commissioner or under the direct supervision of the commissioner**, subject to any of the following limitations:

- (a) In certain areas.
- (b) In excess of certain quantities or concentrations.

14093. The **commissioner**, or the director in any county where there is no commissioner, **shall** issue a private applicator certificate to each applicant who passes the examination.

Egg Quality Control

27561. (a) The director **shall** enforce this chapter, and the regulations adopted pursuant to this chapter.

(b) The **commissioners** of each county, their deputies, and qualified inspectors, under the supervision and control of the director, **shall** enforce this chapter and the regulations which are adopted by the director pursuant to this chapter.

(c) Except as provided in Sections 27581 and 27601, and any of the violations enumerated in paragraph (1) of subdivision (a) of Section 27671, before any state or local official may commence legal prosecution of a handler based on a violation of this chapter, or the regulations adopted pursuant to this chapter, the handler **shall** be given an opportunity for a hearing with respect to the alleged violation. The director **shall** establish, with the advice of the committee, a policy manual which sets forth procedures for providing notice to a person charged with the violation, and for conducting the hearing. The policy manual is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Apiary Regulation

29043. Registration of an apiary **shall** be filed with the **commissioner** of the county in which the apiary is located, or with the director if there is no **commissioner** in the county. The director **shall** adopt a form of registration to be used statewide, which **shall** include a request for notification of use of pesticide in accordance with Section 29101. All **commissioners shall** use the same form.

29300. The director, and the **commissioner** of each county under the direction and supervision of the director **shall** enforce this chapter.

Honey Quality Control

29441. The director and the **commissioners** of each county of the state, their deputies and inspectors, under the supervision and control of the director **shall** enforce this chapter.

Fruit and Vegetable Standardization

42651. The director and the **commissioners** of each county of the state, their deputies and inspectors, under the supervision and control of the director **shall** enforce this division.

42822. An **enforcing officer shall** cause the prosecution of any person whom he knows or has reason to believe is guilty of violating any provision of this division.

47020. (a) A certified farmers' market **certificate issued by a county agricultural commissioner shall** be valid for 12 months from the date of issue. The county agricultural **commissioner shall** inspect every certified farmers' market within his or her jurisdiction at least once, in every six months of operation. The county agricultural commissioner may charge a certification and inspection fee up to a maximum rate of sixty dollars (\$60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the certified farmers' market manager prior to the payment of the fee.

(b) A certified producer's certificate issued by a county agricultural commissioner may be valid for up to 12 months from the date of issue. The county agricultural **commissioner** in each county **shall** perform at least one annual onsite inspection of the property or properties listed on every certified producer's certificate issued in their county to verify production of the commodities listed on the certificate or the existence in storage of the harvested production, or both. If the certificate is issued for a period of seven months or more, the county agricultural commissioner in each county **shall** perform at least one additional onsite inspection or other equally appropriate measure to verify production or storage, or both. The county agricultural commissioner may charge a certificate and inspection fee up to a maximum rate of sixty dollars (\$60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections **shall** be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the producer prior to the payment of the fee.

(c) Renewal of a certified farmers' market certificate or certified producer's certificate may be denied by either the department or a county agricultural commissioner if a certified farmers' market or a certified producer is delinquent in the payment of the required state fee or any county certification and inspection fee or administrative civil penalty authorized under this chapter. The certificate shall be eligible for renewal when

all outstanding balances and associated penalties or administrative fines have been paid to the department or the respective county or counties.

Seed Law Enforcement

52282. The director and, under the supervision and direction of the director, the **commissioner** of each county and the qualified representatives of the **commissioner shall** enforce this chapter and carry out its provisions and requirements.

52361. The director, each **commissioner**, and any qualified representative of the **commissioner, shall** sample and inspect any agricultural or vegetable seed which is subject to this chapter at such time and place and to such extent as he may deem necessary to determine whether such agricultural or vegetable seed is in compliance with the provisions of this chapter, and notify promptly the person that is in possession or control of the seed of any violation.

53361. The director and the **commissioners** of each county of the state, their deputies and inspectors, under the supervision and control of the director, **shall** enforce this chapter.

53363. If the director or the **commissioner shall** find that any person has violated any provision of this chapter, he may institute proceedings in a court of competent jurisdiction in the area in which the violation occurred, to have such person convicted of the violation, or he may file with the district attorney such evidence that may be deemed necessary.

California Health and Safety Code Agricultural Burning

41865. (a) This section shall be known, and may be cited, as the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991.

(b) As used in this section:

(1) "Sacramento Valley Air Basin" means the area designated by the state board pursuant to Section 39606.

(2) "Air pollution control council" means the Sacramento Valley Basinwide Air Pollution Control Council authorized pursuant to Section 40900.

(3) "Conditional rice straw burning permit" means a permit to burn granted pursuant to subdivisions (f) and (h).

(4) "Allowable acres to be burned" means the number of acres that may be burned pursuant to subdivision (c).

(5) "Department" means the Department of Food and Agriculture.

(6) "Maximum fall burn acres" means the maximum amount of rice acreage that may be burned from September 1 to December 31, inclusive, of each year.

(7) "Maximum spring burn acres" means the maximum amount of rice acreage that may be burned from January 1 to May 31 of the following year, inclusive.

(c) Notwithstanding Section 41850, rice straw burning in counties in the Sacramento Valley Air Basin shall be phased down, as follows:

(1) From 1998 to 2000, the maximum spring and fall burn acres shall be the following number of acres planted prior to September 1 of each year:

	Maximum Fall Burn	Maximum Spring Burn
Year	Acres	Acres
1998	90,000	110,000
1999	90,000	110,000
2000	90,000	110,000

(2) Notwithstanding paragraph (1), any of the 90,000 acres allocated in the fall that are not burned may be added to the maximum spring burn acres, provided that the maximum spring burn acres does not exceed 160,000 acres.

(3) Notwithstanding paragraph (1), the maximum acres burned between January 1, 1998, and August 31, 1998, shall be limited so that the total acres burned between September 1, 1997, and August 31, 1998, do not exceed 38 percent of the total acres planted prior to September 1, 1997.

(4) In 2001 and thereafter, the maximum annual burn acres shall be the number of acres prescribed in subdivision (i), subject to subdivisions (f) and (h).

(d) The number of allowable acres to be burned each day shall be determined by the state board and the air pollution control officers in the Sacramento Valley Air Basin and equitably allocated among rice growers in accordance with the annual **agricultural** burning plan adopted by the air pollution control council and approved by the state board.

(e) On or before September 1, 2000, the state board, in consultation with the department and the air pollution control council, shall adopt regulations consistent with the criteria provided in subdivisions (f) and (h). On or before September 1, 1996, an advisory group shall be established by the state board and the department to assist in the adoption of those regulations.

(f) Commencing September 1, 2001, the county air pollution control officers in the Sacramento Valley Air Basin may grant conditional rice straw burning permits once the county **agricultural commissioner has determined** that the applicant has met the conditions specified in subdivision (h). The county **agricultural commissioner shall** be responsible for all field inspections associated with the issuance of conditional rice straw burning permits. A conditional rice straw burning permit shall be valid for only one burn, per field, per year.

(g) The county agricultural commissioner may charge the applicant a fee not to exceed the costs incurred by the county agricultural commissioner in making the determination specified in subdivision

(f). This subdivision shall be operative only until January 1, 2009.

(h) If the terms and conditions for issuing conditional rice straw burning permits specified in paragraphs (1) to (4), inclusive, are met, a conditional rice straw burning permit may be issued unless the state board and the department have jointly

determined, based upon an annual review process, that there are other economically and technically feasible alternative means of eliminating the disease that are not substantially more costly to the applicant. The terms and conditions for issuing the conditional rice straw burning permits are:

- (1) The fields to be burned are specifically described.
- (2) The applicant has not violated any provision of this section within the previous three years.
- (3) During the growing season, the county agricultural commissioner has independently determined the significant presence of a pathogen in an amount sufficient to constitute a rice disease such as stem rot.
- (4) The county agricultural commissioner makes a finding that the existence of the pathogen as identified in paragraph (3) will likely cause a significant, quantifiable reduction in yield in the field to be burned during the current or next growing season. The findings of the county **agricultural commissioner shall** be based on recommendations adopted by the advisory group established pursuant to subdivision (e).

SEALER OF WEIGHTS AND MEASURES

LEGAL MANDATES

12200. There is in each county the office of county sealer of weights and measures. The county **sealer shall** be appointed by the board of supervisors, except in chartered counties where a different method of appointment is prescribed. The term of office of such sealer is four years from and after his appointment and until his successor is appointed but he may be removed as hereinafter provided.

In addition to his salary each sealer is entitled to his necessary traveling and other expenses incurred in the performance of his duties. A county sealer may, with the consent of the power appointing him, appoint deputies or inspectors when necessary or expedient to carry out the duties of his office. Such deputies or inspectors shall serve at the pleasure of the county sealer. The sealer may employ such clerks and employees as may be approved by the appointing power. Any such clerk or employee shall not have authority to enforce the provisions of this chapter. A county may in its discretion refer to a deputy county sealer as a weights and measures inspector.

12205. For the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office, every county **sealer** serving in a county shall attend the annual meeting of the California Association of Weights and Measures Officials and such other meetings as the department or the board of supervisors requires. The county **sealer shall** be allowed all actual and necessary traveling expenses incurred while on any service that requires him to go outside the county. Those expenses shall be a charge against the county in which the county **sealer** is employed.

12209. Every **sealer shall**:

(a) Carefully preserve all copies of the standards of weights and measures in his possession;

(b) Keep the copies in a safe and suitable place when not actually in use;

(c) Annually and at such other times as the department requires file with the department a written report of the work done by him, of the weights, measures, weighing and measuring instruments inspected or tested by him, the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this division and of all other matters and things pertaining to his duties or which may be required by the department.

12210. (a) Each **sealer shall**, within his or her county inspect, try and test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, sold, or used by any proprietor, agent, lessee or employee for commercial purposes, as defined in subdivision (e) of Section 12500.

(b) Each **sealer shall**, when so directed by the board of supervisors of his or her county, and only upon the written request of any person, firm or corporation, calibrate, test, weigh, and measure, and certify to the accuracy of, noncommercial weights and measures and weighing and measuring devices, and instruments, tools, and accessories connected therewith. The board of supervisors may authorize the **sealer** to establish from time to time a schedule of fees to cover the cost of such service and to charge and collect the fees.

12211. Each **sealer shall**, from time to time, weigh or measure packages, containers, or amounts of commodities sold, or in the process of delivery, in order to determine whether they contain the quantity or amount represented and whether they are being sold in accordance with law.

The secretary shall adopt necessary regulations governing the procedures to be followed by sealers in connection with the weighing or measuring of amounts of commodities in individual packages, containers, or lots of packages or containers, including the procedures for sampling a lot, and for determining whether any package, container, or a lot of packages or containers complies with this section.

In adopting those regulations, the secretary shall adopt by reference the package checking procedures recommended by the National Conference on Weights and Measures and published in the current edition of the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and any subsequent amendments thereto, except insofar as those requirements are specifically modified, amended, or rejected by a regulation adopted by the secretary.

Any lot, package, or container of any commodity that conforms to this section shall be deemed to be in conformity with this division relating to stated net weights or measures.

Whenever a lot, package, or container of any commodity is found to contain, through the procedures authorized in this section, a less amount than that represented, the **sealer shall** order, in writing, that lot, package, or container of commodity off sale and require that an accurate statement of quantity be placed on each package or container before it may be released for sale by the **sealer** in writing. The **sealer** may seize as evidence any package or container that is found to contain a less amount than that represented.

12212. The director shall adopt necessary regulations governing the inspection frequency of all commercially used weights, measures and weighing and measuring apparatus in the state.

The **sealer** of each county **shall** perform such inspections as may be required by the director. Nothing in this section shall be construed to prohibit the **sealer** from inspecting a device more frequently than required if he deems such tests necessary.

Any such regulation shall be adopted by the director in conformity with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government **Code**.

In counties where the director finds that the **sealer**, because of lack of equipment, is unable or fails to perform such tests as required herein, the director may enter into a contract with the board of supervisors of each of such counties to perform such tests. Such contracts shall provide that the county shall pay the cost of such services based

upon a uniform schedule of fees developed by the director. Such fee schedule shall be based on the approximate cost of performing such services. Such contracts shall also provide that the director shall periodically render a bill to each county so served for the cost of services rendered, and the auditor of the county so billed shall pay such charge in the same manner in which other claims against the county are paid.

All fees collected under the provisions of this section shall be credited to the General Fund.

12013. (a) Any **sealer shall** have the authority, as a public officer, to arrest, without a warrant, any person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this division, the violation of which is declared to be a public offense.

In any case in which an arrest is made pursuant to this authority for an offense declared to be a misdemeanor or an infraction, the arresting officer may, instead of taking the person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal **Code**, unless the arrested person demands to be taken before a magistrate. The provisions of such chapter shall thereafter apply with respect to any proceeding based upon the issuance of a citation pursuant to this authority.

This subdivision shall not be interpreted to prevent further restriction by the board of supervisors of a county of the authority of a county **sealer** or his deputies to make arrests.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) Any **sealer** may serve all processes and notices throughout the state; provided, that county sealers and their deputies are authorized to serve processes and notices only within the boundaries of the county which employs them.

12015. Any **sealer** having knowledge of a violation of any of the provisions of any law relating to weights and measures **shall** cause the violator to be prosecuted.

12025.5. Whenever any commodity or any container is ordered off sale under the provisions of Section 12211 or Section 12607 of this division, the **sealer shall** cause the commodity or container affected by such off-sale order to be identified by a tag or other suitable device with the words "off sale." It shall be unlawful to remove or obliterate any such tag or device placed upon such commodity or container or in any way dispose of or commingle such commodity or container or prepare, pack, place, deliver for shipment, deliver for sale, sell, or cause to be loaded, shipped, or transported, any such commodity or container before it has been released by the **sealer**.

12500.10. (a) A **sealer shall** cause to be removed from commercial usage any weighing, measuring, or counting instrument or device sold or used in violation of Section 12500.5. The instrument or device may be either seized or marked with a tag or other suitable device with the words "unapproved device".

(b) Upon proof of compliance with Section 12500.5, the **sealer shall** remove the tag or device bearing the words "unapproved device".

(c) If the owner or user of any weighing, measuring, or counting instrument or device marked "unapproved device" refused or neglected to have it brought into compliance with Section 12500.5 within 30 days after the instrument or device was so marked, it shall be subject to seizure by the **sealer**. Any instrument or device which has been seized by the **sealer** pursuant to this section shall be subject to disposition as ordered by a court of competent jurisdiction upon petition for a disposition order by the owner or by any person claiming an interest in the seized instrument or device. If no disposition order is issued within four years after the date of the seizure, that instrument or device shall be defaced, destroyed, or otherwise disposed of by the **sealer**. The **sealer shall**, immediately following the defacing, destruction, or disposal of that instrument or device, notify, in writing, the board of supervisors of the county in which the **sealer** is serving of that fact together with the name and address of the owner or user of the instrument or device.

12504. Upon the written request of any person who intends to use or sell for commercial purposes any weight or measure, or weighing or measuring instrument in any county, the **sealer** for such county **shall** test or cause to be tested, as soon thereafter as is practicable, the weight or measure, or weighing or measuring instrument referred to in the request.

Such written request shall not relieve the person making it from any violation of the provisions of this division or of the responsibility for using or selling any incorrect or unsealed weight, measure, or weighing or measuring instrument.

12505. Whenever a **sealer** examines any weight or measure or weighing, measuring, or counting instrument used for commercial purposes, and finds it to be correct, he or she **shall** seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.

12506. A **sealer shall** condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments used for commercial purposes, which in his or her best judgment are not susceptible of repair, but any which the **sealer** finds susceptible of repair, he or she shall cause to be marked with a tag or other suitable device with the words "Out of order."

12507. The owners or users of any weights and measures or weighing or measuring instruments which have been marked "Out of Order," shall have them repaired or

corrected within 30 days, but until they have been repaired or corrected and tested the owners or users thereof may neither use nor dispose of them in any way.

In the event that the owner or user of any weights or measures or weighing or measuring instruments marked "Out of Order" shall have refused or neglected to have them repaired or corrected within thirty (30) days they shall be subject to seizure by the **sealer**. Any weights or measures or weighing or measuring instruments which have been seized by the **sealer** under the provisions of this section shall be subject to such disposition as shall be ordered by a court of competent jurisdiction upon petition for a disposition order by the owner or by any person claiming an interest in such seized equipment.

If no such disposition order is issued within four years after the date of seizure, such equipment shall be defaced and destroyed or otherwise disposed of by the **sealer**. The **sealer shall**, immediately following the defacing, destruction or disposal of such weights or measures or weighing or measuring instruments, furnish the board of supervisors of the county in which the **sealer** is serving, with a list of the items so disposed of together with the name and address of the owner or user of each thereof.

12509. When any weight, measure, or weighing or measuring instrument has been repaired and corrected, and has been reinspected and found correct the **sealer shall** remove the tag or device with the words "out of order," and shall seal and mark such weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where, upon inspection, it is found correct.

Upon completion of corrective repairs or adjustments, and with the authorization from the **sealer**, a repairman may remove an "out of order" tag or device, and the weight, measure, or weighing or measuring instrument may be placed in service pending reinspection by the **sealer**.

13591. The department, its inspectors, and each **sealer**, are hereby authorized and empowered to inspect the petroleum products referred to in this chapter and to enter, for the purpose of such inspection, any place where petroleum products are kept or stored for sale.

All such officers **shall** enforce the provisions of this chapter.

13730. The department and each county **sealer shall** enforce the provisions of this chapter, and may sample, inspect, analyze, and test any product referred to in this chapter manufactured, packed, stored, sold, or distributed within this state. The department, through its agents, has free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of, and may, by legal means, open any box, carton, parcel, or container of, any product referred to in this chapter and take therefrom samples for analysis or for evidence.

13660. (a) Every person, firm, partnership, association, trustee, or corporation that operates a service station shall provide, upon request, refueling service to a disabled driver of a vehicle that displays a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles. The price charged for the

motor vehicle fuel shall be no greater than that which the station otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) Any person or entity specified in subdivision (a) that operates a service station shall be exempt from this section during hours when:

(1) Only one employee is on duty.

(2) Only two employees are on duty, one of whom is assigned exclusively to the preparation of food.

As used in this subdivision, the term "employee" does not include a person employed by an unrelated business that is not owned or operated by the entity offering motor vehicle fuel for sale to the general public.

(c) (1) Every person, firm, partnership, association, trustee, or corporation required to provide refueling service for persons with disabilities pursuant to this section shall post the following notice, or a notice with substantially similar language, in a manner and single location that is conspicuous to a driver seeking refueling service:

"Service to Disabled Persons

Disabled individuals properly displaying a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles, are entitled to request and receive refueling service at this service station for which they may not be charged more than the self-service price."

(2) If refueling service is limited to certain hours pursuant to an exemption set forth in subdivision (b), the notice required by paragraph (1) shall also specify the hours during which refueling service for persons with disabilities is available.

(3) Every person, firm, partnership, association, trustee, or corporation that, consistent with subdivision (b), does not provide refueling service for persons with disabilities during any hours of operation shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

"No Service for Disabled Persons

This service station does not provide refueling service for disabled individuals."

(4) The signs required by paragraphs (1) and (3) shall also include a statement indicating that drivers seeking information about enforcement of laws related to refueling services for persons with disabilities may call one or more toll-free telephone numbers specified and maintained by the Department of Rehabilitation. By January 31, 1999, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the toll-free telephone number or numbers to be included on the signs required by this subdivision. At least one of these toll-free telephone numbers shall be accessible to persons using telephone devices for the deaf. The State Board of Equalization shall publish information regarding the toll-free telephone numbers as part of its annual notification required by subdivision (i). In the event that the toll-free telephone number or numbers change, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the new toll-free telephone number or numbers to be used.

(d) During the county **sealer's** normal petroleum product inspection of a service station, the **sealer shall** verify that a sign has been posted in accordance with subdivision (c). If a sign has not been posted, the **sealer shall** issue a notice of violation to the owner or agent. The **sealer shall** be reimbursed, as prescribed by the department, from funds provided under Chapter 14. If substantial, repeated violations of subdivision (c) are noted at the same service station, the **sealer shall** refer the matter to the appropriate local law enforcement agency.

(e) The local law enforcement agency shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the local law enforcement agency determines that there has been a denial of service in violation of this section, or a substantial or repeated failure to comply with subdivision (c), the agency shall levy the fine prescribed in subdivision (f).

(f) Any person who, as a responsible managing individual setting service policy of a service station, or as an employee acting independently against the set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, and five hundred dollars (\$500) for each subsequent offense.

(g) In addition to those matters referred pursuant to subdivision (e), the city attorney, the district attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section. Any person or public agency may also file a verified complaint alleging violation of this section with the city attorney, district attorney, or Attorney General.

(h) Enforcement of this section may be initiated by any intended beneficiary of the provisions of this section, his or her representatives, or any public agency that exercises oversight over the service station, and the action shall be governed by Section 1021.5 of the **Code** of Civil Procedure.

(i) An annual notice setting forth the provisions of this section shall be provided by the State Board of Equalization to every person, firm, partnership, association, trustee, or corporation that operates a service station.

(j) A notice setting forth the provisions of this section shall be printed on each disabled person's placard issued by the Department of Motor Vehicles on and after January 1, 1999. A notice setting forth the provisions of this section shall be provided to each person issued a disabled person's or disabled veteran's plate on and after January 1, 1998.

(k) For the purposes of this action "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

12311. Every **sealer** having knowledge that a county standard may be incorrect, regardless of the cause, **shall** notify the department of the condition, and shall, if deemed by the department to be necessary, arrange to have the standard in question retested, adjusted, or replaced.

13350. (a) The board of supervisors of any county or city and county that has adopted or that adopts an ordinance for the purposes of determining the pricing accuracy of a

retail establishment using a point-of-sale (POS) system, shall base the initial standard inspection of the POS system on the following criteria:

(1) The initial standard inspection shall be performed by collecting a random sample of items that shall include a maximum of

50 percent sale items from either:

- (i) One department of a retail store.
- (ii) Multiple areas of a retail store.
- (iii) The entire store.

(2) The initial standard inspection shall be performed by testing a minimum random sample of 25 items for a retail establishment with three or fewer POS checkout registers.

(3) The initial standard inspection shall be performed by testing a minimum random sample of 50 items for all other retail establishments.

(4) The **sealer shall** verify that the lowest advertised, posted, marked, displayed, or quoted price is the same as the price displayed or computed by the point-of-sale equipment or printed receipt. Only items computed at a higher price than the lowest advertised, posted, marked, displayed, or quoted price shall be considered not in compliance.

(5) The compliance rate percentage of a retail establishment shall be determined by dividing the number of items in compliance by the sample size multiplied by 100.

(b) Enforcement action may be taken for any item not in compliance.

(c) The **sealer** may reinspect any retail facility that has a compliance rate of less than 98 percent.

(d) The board of supervisors, by ordinance, may charge a point-of-sale system inspection fee or an annual registration fee, not to exceed the county's total cost of inspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

(e) The board of supervisors, by ordinance, may charge a reinspection fee for reinspections of a retail establishment that fails a standard inspection, not to exceed the county's total cost of reinspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

12544. (a) A county **sealer** intending to suspend the authorization of a service agency **shall** notify the service agency in writing of all of the following:

(1) The alleged violations to be used as the basis for suspension.

(2) The proposed duration of the suspension.

(3) The date the suspension is to begin, which may not be sooner than 20 days after a notice is mailed.

(4) The names of service agents to be affected by the suspension.

(5) The fact that the service agency or service agent shall be provided the opportunity for an investigational hearing prior to the suspension.

(6) The fact that the service agency or service agent may be represented by legal counsel.

(7) The fact that the service agency or service agent may appeal to the department prior to imposition of a suspension.

(b) A copy of the proposed action to the service agency shall be immediately forwarded to the department.

(c) The department may, as a result of the investigative hearing, declare the suspension to be effective in additional counties.