

**State of California
Office of Administrative Law**

In re:
**Department of Resources Recycling and
Recovery**

Regulatory Action:

Title 14, California Code of Regulations

Amend sections: 17988.2, 17988.3

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2022-1208-01

OAL Matter Type: Nonsubstantive (N)

This action without regulatory effect proposes to add a third party certification entity, ISO/IEC 17065, to align with Public Resources Code section 42282(c).

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: January 24, 2023



**Ashita Mohandas
Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Rachel Machi Wagoner, Director
Copy: Kris Chisholm**

NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

NONSUBSTANTIVE

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2022-1208-01	EMERGENCY NUMBER N
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JAN 24 2023

1:55 PM

OFFICE OF ADMIN. LAW
2022 DEC 8 PM 4:38

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
Department of Resources Recycling and Recovery

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Single-Use Carryout Bags	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 17988.2, 17988.3
TITLE(S) 14	REPEAL

mm 1/24/23
per agency

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Kris Chisholm	TELEPHONE NUMBER (916) 322-2404	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) kris.chisholm@calrecycle.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 24 2023

Office of Administrative Law

SIGNATURE OF AGENCY HEAD OR DESIGNEE Anastasia Baskerville	DATE
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Digitally signed by Anastasia Baskerville
Date: 2022.12.06 14:08:58 -0800

TYPED NAME AND TITLE OF SIGNATORY
Anastasia Baskerville, Chief Counsel

TITLE 14, DIVISION 7, CHAPTER 4 OF THE CALIFORNIA CODE OF REGULATIONS
RESOURCE CONSERVATION PROGRAMS

ARTICLE 7
REUSABLE GROCERY BAGS

SECTION 17988.2. DEFINITIONS

(a) The definitions set forth in this Section and in Chapter 5.3 (commencing with section 42280), Part 3, Division 30 of the Public Resources Code, shall govern the construction of this Article.

(b) "Aesthetic change" means a change in decoration that does not affect the material composition, size, or construction of a certified reusable grocery bag, pursuant to sections 42281 and 42281.5 of the Public Resources Code, and does not constitute a change that creates a new type of reusable grocery bag. An aesthetic change includes, but is not limited to, a decoration that uses the same inks, dyes, or pigments in any proportion, or any combination or selection from a suite of inks, dyes, or pigments in any proportion for the type of reusable grocery bag that was previously submitted in a proof of certification.

(c) "Appropriate washing equipment" means the washing equipment employed to clean postconsumer recycled material by removing physical and/or chemical contaminants so it is suitable for use in manufacturing a reusable grocery bag. Appropriate washing equipment includes dry and wet washing technologies.

(d) "Certified Reusable Grocery Bags and Producers List" means the list of reusable grocery bag producers from which the department has received the payment required pursuant to this Article and section 42282.1 of the Public Resources Code, and a proof of certification, as required pursuant to this Article and sections 42281, 42281.5, and 42282 of the Public Resources Code, for each type of reusable grocery bag that the producer offers for sale or distributes in the state of California.

(e) "Decoration" means the coloration and/or treatments applied to a reusable grocery bag using inks, dyes, pigments, decals, or other methods.

(f) "Fabric Weight" means the weight of the fabric used in the construction of a reusable grocery bag reported in units of grams per square meter. Fabric weight may be measured based on a single sample or based on an average of the weights of one sample taken from each of the following locations: the handles, reusable grocery bag opening, and body

of the reusable grocery bag. Samples may include more than one layer of fabric, based on the construction of the reusable grocery bag.

(g) "ISO/IEC 17025" means the International Organization for Standardization/ International Electrotechnical Commission general requirements for the competence of testing and calibration laboratories.

(h) "ISO/IEC 17065" means the International Organization for Standardization/ International Electrotechnical Commission requirements for bodies certifying products, processes and services.

~~(h)~~(i) "Point of sale" means the place where items are purchased in a store, such as at a checkout counter. "Point of sale" includes any location where a store fulfills an order to its customers as part of an online transaction, a phone order, or by similar means.

~~(i)~~(j) "Proof of certification" means a document (or multiple documents) submitted by a reusable grocery bag producer under penalty of perjury to the department via the Reusable Grocery Bag Reporting System. A proof of certification shall demonstrate that a reusable grocery bag sold or distributed to a store in California, as defined by section 42280(g) of the Public Resources Code, is compliant with the provisions of this Article.

~~(j)~~(k) "Reusable grocery bag" has the same meaning as in section 42280 of the Public Resources Code, and includes, but is not limited to, a reusable grocery bag made with plastic film, compostable plastic film, or with natural or synthetic fiber, including, but not limited to, woven or non-woven nylon, polypropylene, polyethylene-terephthalate, or Tyvek.

~~(k)~~(l) "Reusable Grocery Bag Reporting System" means the department's online database established to receive proofs of certification from reusable grocery bag producers for reusable grocery bags.

~~(l)~~(m) "Third-party certification entity" means an entity that is either an independent laboratory that is having an ISO/IEC 17025 accreditation accredited, or a certification body having an ISO/IEC 17065 accreditation, and that performs applicable testing and certifies that a reusable grocery bag meets the requirements of section 42281 and 42281.5 of the Public Resources Code.

~~(m)~~(n) "Type of reusable grocery bag" means a reusable grocery bag manufactured, imported, sold, or distributed by a certified reusable grocery bag producer that has a different material composition, decoration (that is not an aesthetic change), size, or

construction than another reusable grocery bag manufactured, imported, sold, or distributed by the same certified reusable grocery bag producer.

Authority cited: Sections 40401 and 40502, Public Resources Code.

Reference: Sections 42280, 42281, 42281.5 and 42282, Public Resources Code.

SECTION 17988.3. SUBMITTAL AND RESUBMITTAL OF A PROOF OF CERTIFICATION

a) A reusable grocery bag producer shall submit a proof of certification to the Reusable Grocery Bag Reporting System for each type of reusable grocery bag that it manufactures, imports, sells, or distributes and that is provided to a store in the state for sale or distribution at the point of sale. The proof of certification shall have been completed by a third-party certification entity within three months prior to the date it is submitted to the department and it shall include an accreditation number confirming the third-party certification entity is an accredited ISO/IEC 17025 laboratory or an ISO/IEC 17065 certification body.

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Credits

NOTE: Authority cited: Sections 40401 and 40502, Public Resources Code, Reference: Sections 42281, 42281.5 and 42282, Public Resources Code.