



Department of Pesticide Regulation



Edmund G. Brown Jr.
Governor

2011 NOV -2 AM 10:00

CERTIFICATION PURSUANT TO
TITLE 1, CALIFORNIA CODE OF REGULATIONS, SECTION 2800 OFFICE OF
IN RESPONSE TO THE PETITION OF BILL GILLESPIE ADMINISTRATIVE LAW

On September 20, 2011, the Department of Pesticide Regulation (DPR) received a copy of a petition to the Office of Administrative Law alleging certain material contained in DPR's document titled, "Continuing Education Approval Requests -- A Help Manual for Course Sponsors" (manual) constitutes underground regulations.

Individuals who hold a license or certificate to perform various aspects of pest control activity must obtain certain specified hours of continuing education (CE) course work before DPR can renew a license or certificate (Title 3, California Code of Regulations (CCR), section 6511). Prior to providing a CE course to these individuals, a potential CE sponsor must obtain the evaluation and approval of each course from the Director in order for the individual to receive credit for the hours required to complete the course (3 CCR, section 6512). Each instructional course or program must be at least one hour in length (3 CCR, section 6512(e)(2)). This manual is intended to provide assistance to potential CE course sponsors in obtaining the evaluation and approval of courses by the Director.

Petitioner Bill Gillespie alleges that guidance set forth in the manual provided to potential sponsors of CE courses describing what the Director will use in part to assess the length of correspondence and online courses in order to establish the minimum one-hour regulatory requirement, and determine the total hours of credit to assign to each course, constitutes an underground regulation. The sponsors were informed that course length would be assessed using the guidance that each 200 words of online or correspondence course material is equal to one minute of course credit (i.e., 12,000 words of course material equals one hour of credit), and that one minute of credit would be given for each examination question included in the material, with a limit of no more than 20 questions (i.e., 20 minutes of credit) given per hour. The guidance was the result of the recommendation of a subcommittee of DPR's Agricultural Pest Control Advisory Committee (APCAC) that is made up in part of course sponsors such as Mr. Gillespie. DPR intends to continue to work with the APCAC subcommittee to arrive at final criteria for assessing correspondence and online course length and will implement those through the rulemaking process. DPR will not issue as an enforceable requirement, attempt to enforce, or use the criteria referred to above to determine course length unless and until they are adopted in regulation pursuant to the Administrative Procedures Act.

Chris Reardon
Chief Deputy Director

Dated: 11/1/11

2011 NOV -3 AM 8:06

