



The modification proposed by the California Farm Bureau is beyond the scope of the Board's 15-day notice. On May 16, the Board provided notice of modifications to the text of this proposed regulatory action. The notice specifically instructed that interested persons may submit comments "relevant to the proposed modifications to the regulatory text or the documents added to the rulemaking file." In other words, the notice did not "re-open" the entire regulatory action for comment. (See Gov. Code, § 11346.8, subd. (c).) The language at issue here relates to amendments proposed in the Board's original notice of rulemaking that were not affected by the modifications which were the subject of the 15-day notice.

In addition, the subcommittee believes the current proposed language in regulation 20300, subdivision (b) is sufficiently clear in stating a petition for certification may be signed by the filer by hand or electronically. The California Farm Bureau's primary concern appears to be ensuring that electronic signatures by employees in a showing of interest accompanying a petition for certification are not allowed. The California Farm Bureau points to language in regulation 20300, subdivision (i)<sup>1</sup> that evidence of majority support may consist of authorization cards or petitions signed by the employees. We do not believe the language of subdivision (i) is susceptible to an interpretation that employees may electronically sign cards or petitions for the purpose of demonstrating majority support. In fact, the first sentence of subdivision (i)(1) clearly states that the formats of demonstrating majority support, i.e., employees signatures on authorization cards or petitions, must be "submitted with the petition," referring here to the petition for certification form itself as described in subdivision (b). Under the current proposed language, it is only this petition -- the actual petition for certification -- that may be signed electronically.

Moreover, electronic signatures by employees are not currently permitted in a showing of interest accompanying a petition for certification. This point was acknowledged in responding to the comment previously received within the original 45-day comment period from the UFCW Western States Council and California Teamsters Public Affairs Council. In that comment, the UFCW and Teamsters requested the Board adopt rules allowing employees, at least those in the cannabis industry, to provide electronic signatures for use in a showing of interest accompanying a petition for certification. The Board declined to adopt such rules at the time, and instead delegated to the regulations subcommittee authority to study the issue and develop proposed language. Thus, while current rules and practice do not allow for the use of electronic signatures by employees in a showing of interest, the Board is awaiting the subcommittee's report and recommendations regarding the adoption of such rules.

Accordingly, similar to the subcommittee's prior recommendation the Board defer action on amendments to the Board's regulations concerning whether to allow electronic signatures by employees in a union's showing of interest — which the Board adopted, the subcommittee proposes the Board deny the current request to modify the regulatory language to reiterate existing rules prohibiting the use of employee electronic signatures. The subcommittee further recommends the Board vote to adopt the proposed rulemaking.

---

<sup>1</sup> This language appears in current subdivision (j) of regulation 20300, which is proposed to be re-lettered as subdivision (i) as a result of other proposed amendments to this regulation.