

How to Read and Understand the Codes

Introduction

Sometimes, it may seem that laws and regulations are written just to confuse and befuddle us. Actually, laws and regulations are intended to address problems. However, after various interests and parties have had an opportunity to comment or “weigh-in” on the matter, the intended simple solution often becomes more complicated as the result of many compromises. After words and phrasings are added, deleted, and massaged, the original simple provision may be transformed into something quite different from the initial proposal.

Code analysis steps

The following analytical steps (guidance) may seem basic or obvious, but these steps are routinely used by successful paralegals, legal researchers, and attorneys. This guidance might also be helpful to you in your role of regulator, inspector, investigator, Advocate, or Hearing Officer.

Step	Action
1	Read the section over at least three times – then read it again. It is likely that you will more accurately understand the section with each reading.
2	Never ignore “and,” ”or,” and “except.” These are the words that can partially or completely change the intention(s) and/or requirement(s) of the section(s).
3	Assume all words and all punctuation have meaning. Do not ignore words that you do not immediately understand; do not skip over words that do not serve your purpose; do not ignore punctuation. Punctuation can tell you whether you are reading part of a clause or idea, a continuation of a clause or idea, or a complete idea. Sometimes, punctuation seems inconsistent or redundant. This may be purposeful. You can be assured that if the Director of the DPR, DPR’s Office of Legal Affairs, or a court looks at the section, they will consider all of the words and punctuation.

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Code analysis steps (continued)

Step	Action
4	<p>Interpret the section so that it is consistent with all of the State’s other pesticide laws and regulations, and policies of DPR, if possible.</p> <p>If a section seems to completely disagree with another law, regulation, or written policy of DPR, you may not be interpreting the section correctly or you may have missed an exemption stated in another law or regulation.</p>
5	<p>Interpret ambiguities in ways that seem to best further the purpose of the Legislature’s intent, or in the case of regulations, the intent of the authorizing statute.</p> <p>The Legislature authorizes DPR to operate for specific purposes. DPR promulgates regulations and develops written policies to ensure its actions are consistent with the Legislature’s intent.</p>
6	<p>Interpret the code so that it makes sense and does not lead to absurd or improbable results.</p> <p>Although they sometimes may be difficult to read, the codes are not actually intended to be “tricky” or confusing.</p>
7	<p>Look at the titles, headings, or subheadings of the section. Then, read “up” to the name of the article or chapter.</p> <p>It is important to consider the context of the law or regulation. No law or regulation exists in a vacuum. Take a close look at the titles, headings, and subheadings leading to the code section you are referencing to make sure you are considering the section within its context.</p>

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Tips for interpreting regulations

- Regulations should be fairly consistent with the mission of the agency. Attempt to reconcile regulations with other regulations of the same agency.
 - Strictly interpret regulations that can result in a punishment.
 - Liberally interpret regulations that are intended to protect the general welfare.
 - Do not interpret a regulation in a manner that is contrary to common sense.
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Don't give up

As stated earlier: "Read the section again!" or try reading it aloud to a colleague. CAC staff may contact its Enforcement Branch Liaison if they are having difficulty understanding a particular State pesticide law or regulation.

References

- Barclay's Official California Code of Regulations (Thompson West)
 - *Legal Research: How to Find and Understand the Law*, by Steven Elias (Nolo Press)
 - West's Annotated California Codes (West Group, A Thompson Company)
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Exercise

Sentence construction exercise

Laws and regulations can be constructed in various styles. Some can be simple and straightforward, others require a more complex construction of ideas and elements. Sections that are conjunctive or disjunctive are easy to prove with factual testimony and other evidence. After reviewing the chart, try the exercise at the bottom of the page.

Construction	Concept	Application
Conjunctive	“and,” “including”	<ul style="list-style-type: none">• All elements must be satisfied• Easy to apply• Predictable• Hearing Officer has little discretion in application
Disjunctive	“or,” “except”	<ul style="list-style-type: none">• Only one of a list of elements must be satisfied• Easy to apply• Predictable• Hearing Officer has little discretion in application
Aggregate	Some, but not all elements in a list	<ul style="list-style-type: none">• Various factors affect application• Less easy to apply• Less predictable• Hearing Officer has significant discretion in application
Mixture	Balance weight of elements to make a determination	<ul style="list-style-type: none">• Various factors affect application• One factor may have greater weight than other factors• Less easy to apply• Unpredictable• Hearing Officer has considerable discretion in application

Exercise

Identify the construction style of the following sections:

- 3 CCR section 6412(a)
- 3 CCR section 6434(b)
- 3 CCR section 6600(b)
- 3 CCR section 6702