

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT  
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations  
Adopt Article 7, Sections 6580, 6582, and 6584  
Pertaining to Continuing Education for Private Applicators

This is the Initial Statement of Reasons required by Government Code section 11346.2 and the public report specified in section 6110 of Title 3, California Code of Regulations (3 CCR). Section 6110 meets the requirement of Title 14 CCR section 15252 and Public Resources Code section 21080.5 pertaining to certified state regulatory programs under the California Environmental Quality Act.

SUMMARY OF PROPOSED ACTION/PESTICIDE REGULATORY PROGRAM  
ACTIVITIES AFFECTED

The Department of Pesticide Regulation (DPR) proposes to adopt Article 7, Private Applicators sections 6580, 6582, and 6584, 3 CCR. The pesticide regulatory program activities that will be affected by the proposal are those pertaining to private applicator certification. In summary, the proposed action will establish private applicator continuing education requirements, as well as clarify certification requirements.

SPECIFIC PURPOSE AND FACTUAL BASIS

DPR is mandated by law to regulate the sale and use of pesticides to protect the public health and the environment. Existing law requires certification of pesticide applicators who use or supervise the use of restricted materials. Both DPR and the U.S. Environmental Protection Agency (U.S. EPA) designate certain pesticides as restricted materials due to their potential danger to human or environmental health. DPR administers California's certification program that was established in 1976 with final regulations adopted in 1980. The program follows standards set forth in Title 40 of the Code of Federal Regulations Part 171, and has been approved by U.S. EPA. Certification ensures that pesticide applicators have demonstrated sufficient knowledge to apply pesticides safely and legally.

In 1997, Food and Agricultural Code (FAC) sections 14090-14099.5 separated the private applicator certification program from the issuance of a restricted materials permit and established a continuing education program for certified private applicators. A private applicator, as defined in 3 CCR section 6000, is an individual who uses or supervises the use of a pesticide to produce an agricultural commodity on property owned, leased, or rented by him/her or his/her employer; or a householder who uses or supervises the use of a pesticide outside the confines of a residential dwelling to control pests on residential property owned, leased, or rented by him/her.

The private applicator certification program is administered by the county agricultural commissioners (CACs) who certify and/or recertify 7,000 private applicators every year statewide. A private applicator must initially take a DPR-prepared examination given by the CAC to obtain a private applicator certificate that may be issued for up to three years.

FAC section 14096 authorizes the private applicator to renew the certificate through continuing education or re-examination. FAC section 14099 provided the hours required to renew a certificate based on continuing education. However, subsection 14099(g) included a provision to sunset section 14099 on January 1, 2003, and therefore, the continuing education requirements were repealed.

FAC section 11502.5 states that the Director may adopt regulations to require and establish the minimum qualifications for education, examination, and continuing education for the renewal of any license or certificate. DPR proposes to adopt Article 7, Private Applicators, sections 6580, 6582, and 6584 to establish continuing education requirements, as well as clarify private applicator certificate requirements.

Proposed section 6580 would specify that before a person receives a new private applicator certificate, a Private Applicator Certificate Application form PR-PML-045 (Rev. 12/04), hereby incorporated by reference, shall be submitted to the CAC, and the applicant take and pass the private applicator examination in order to demonstrate knowledge and proficiency required to use restricted materials. No fee is required to be submitted with the application. The private applicator certificate would be valid for up to three years in accordance with FAC section 14095.

Proposed section 6582(a)(1) would specify that a certified private applicator who wants to renew his/her certificate must submit a Private Applicator Certificate Application form PR-PML-045 (Rev. 12/04), hereby incorporated by reference, to the CAC no sooner than 120 days prior to, and no later than 90 days after, the expiration date of the certificate. DPR is establishing this window for renewal, as this time period better coincides with CACs issuing restricted material permits. CACs verify private applicator certification when issuing restricted material permits. Additionally, proposed section 6582(a)(2) would specify that the private applicator needs to complete the required continuing education hours during the time the certificate is valid, or take and pass the private applicator certificate examination before renewing his certificate. However, in the event the private applicator does not renew his certification with the above timeframe, proposed subsection (b) would require he/she to take and pass the private applicator certificate examination.

Proposed section 6584(a) would specify the continuing education hours needed from topic areas described in section 6512(e)(1). FAC section 14095 specifies that private applicator certificates be issued for a period of three years, except that the term of the initial private applicator certificate is based the first letter of the surname. Therefore, in some instances, licenses could be valid for one year, two years, or even 10 months. It would only be appropriate to proportionately reduce the number of continuing education hours required to renew a certificate depending on how long the certificate was valid. The proposed section would break down the number of continuing education hours required based on when the certificate was issued (i.e., the valid period of the expiring license). These required hours are the same as those that were in FAC section 14099 before the section was repealed. The initial private applicator certificate terms were staggered in order to evenly distribute CAC certification workload over a three-year period.

Proposed section 6584(b) would require continuing education be taken from courses or programs approved pursuant to 3 CCR section 6512.

Without the adoption of the proposed regulation, private applicators will no longer be able to renew their certificate through continuing education and must retake the private applicator examination administered by the CACs. The CAC has no authority to charge a fee for examinations. If these sections are not adopted, the CAC must provide examinations on an ongoing basis to a large number of private applicators (7,000 annually) in his or her county without charging a fee to cover the cost of giving the examinations. As noted earlier, approximately 7,000 private applicator certificates are issued/renewed annually on a statewide basis. If renewal by continuing education is not an option, administering 7,000 examinations on an annual basis would create a large unfunded workload for the counties.

#### CONSULTATION WITH OTHER AGENCIES

DPR has consulted with the Agricultural Pest Control Advisory Committee during the development of the regulation pursuant to FAC section 12047.

#### ALTERNATIVES TO THE PROPOSED REGULATORY ACTION (GOVERNMENT CODE SECTION 11346.2(B))

DPR has not identified any feasible alternatives to the proposed regulatory action that would lessen any possible adverse economic impacts, including any impacts on small businesses, and invites the submission of suggested alternatives.

#### IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL

The proposal in effect pertains to private applicator certification examination, certificate duration, and renewal by taking continuing education or by examination. DPR's review of the proposed action showed no significant adverse environmental effect to California's air, soil, water, plants, fish, or wildlife can reasonably be expected to occur from implementing the proposal. Therefore, no alternatives or mitigation measures are proposed to lessen any significant adverse effects on the environment.

#### EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

The proposed regulatory action does not duplicate or conflict with the Code of Federal Regulations.

#### DOCUMENTS RELIED UPON

1. Agricultural Pest Control Advisory Committee Meeting Minutes, December 3, 2002.