

COMMENTS RECEIVED ON FIRST MODIFIED TEXT

Noticed May 31 - June 15, 2006

1-1	<p>Comment: Commentor 1A also submitted comments during the 45-day comment period (Commentor #8). No new comments were made.</p> <p>Response: These comments are not relevant to the changes made in the first modified text. See original responses to comments #1, #2, #19, #35, #36, #47, #48, #64, #66, and #67.</p>	1A
2-1	<p>Comment: Commentor 2A also submitted comments during the 45-day comment period (Commentor #22). No new comments were made.</p> <p>Response: The comments are not relevant to the changes made in the first modified text. See original responses to comments #29, #30, #38, #39, and #60.</p>	2A
3-1	<p>Comment: “Enforcement response” should be defined.</p> <p>Response: DPR does not agree with this comment. Section 6128 was amended to clarify when an enforcement response is to be taken. This recommendation to change the definition is outside the scope of this changes made in the first modified text and DPR believes that the section 6128 <i>is</i> the definition of enforcement response. Specific violation response definitions start at section 6128(c)(1). All other comments were submitted during the original 45-day comment period and DPR’s responses are included in that package.</p>	3A
4-1	<p>Comment: Commentor 3A also submitted comments during the 45-day comment period (Commentor #29). The remaining comments received were submitted during the original 45-day comment period.</p> <p>Response: Theses comments are not relevant to the changes made in the first modified text. See original responses to comments #15, #16, #17, and #65.</p>	3A

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5-1	<p>Comment: Propose including <i>individual licensee</i> to definition of “Enforcement action” in proposed section 6128(b).</p> <p>Response: This comment is not relevant to the changes made in the first modified text. No response necessary. However, existing State laws allow the county agricultural commissioner’s to take action on an individual’s county registration, a permit, or certificate when appropriate and therefore adding “individual licensee” to the proposed definition is unnecessary.</p>	4A
6-1	<p>Comment: Regarding sections 6128(c)(2)(B) and 6128(c)(3)(A), we feel it is inappropriate to step up the violations against a company who is diligently supervising their licensees when it is their licensees who are violating both state law and company policy. Any violations committed by individual licensees should be directed at the individual licensee.</p> <p>Response: The comment is not relevant to the changes made in the first modified text. See original response to comment #72.</p>	4A
7-1	<p>Comment: Section 6130(a)(2) speaks to repeat violations levied “against that person...” It would be beneficial to the public to make the clarification that violations issued against individual licensees in the employ of a registered company would not count against the company.</p> <p>Response: The proposed changes to section 6130(a)(2) are for clarification only. The term “that person” includes/refers to an individual or business. The Commentor’s suggested change is unnecessary.</p>	4A
8-1	<p>Comment: The ERP created two classes of violations: Hazard or Effect Violations (HEV) and Unclassified violations. The ERP also defined the types of violations in each class and made the HEV class the highest enforcement priority. It is recommended that the language in the ERP on classification of violations be incorporated into the proposed regulations as guidance to county agricultural commissioners for uniformity and consistency statewide and to be consistent with the Governor’s directive.</p> <p>Response: The comments are not relevant to the changes made in the first modified text.</p>	5A

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9-1	<p>Comment: The ERP, in providing guidance on determining appropriate action, used the term incident and defined incident as “an occurrence when one or more violations are discovered”. This language allowed county agricultural commissioners the opportunity to consolidate multiple violations discovered during a single inspection or multiple inspections or investigation into an appropriate and progressive enforcement response. The proposed Enforcement Response regulations do not contain any language relative to incidents. The omission of any reference to incidents in the proposed regulations will result in county agricultural commissioners being required to consider each and every violation discovered independently from the other whether or not they are the result of a single action that caused them. Such a requirement puts county agricultural commissioners in the position of being criticized if they do not propose to penalize the violator for each and every violation discovered in each occurrence. It also puts the regulated community at risk of excessive enforcement relative to a violation or violations discovered in a single or series of inspections. It is recommended that the language contained in the ERP regarding “incidents” be incorporated into the proposed Enforcement Response regulations for the protection of county agricultural commissioners, the regulated community and for consistency between the ERP and regulations.</p> <p>Response: DPR agrees with this comment and the second modified text of the proposed regulations revised sections 6128(a) and 6128(c).</p>	5A
10-1	<p>Comment: Include guidance on when a decision report would be appropriate and an appeal process for the counties when DPR does not approve decision reports.</p> <p>Response: This comment is not relevant to the changes made in the first modified text. See original response to comments #4 and #69.</p>	5A