

## SUPPLEMENT TO THE FINAL STATEMENT OF REASONS

### NONSUBSTANTIVE, CLARIFYING REVISIONS TO SECTION 6128

Nonsubstantive revisions were made to section 6128:

Subsection (a) has been amended for purposes of clarity to specify that the commissioner shall comply with the provisions of section 6128 each time a violation(s) "of law or regulation related to pesticide use" occurs.

The date of the 2005 Cooperative Agreement has been added and the phrase, "or subsequent modifications to that agreement" has been deleted in subsection (e).

Food and Agricultural Code section 2281 has been added as a reference to the authority under which the regulation is adopted.

### SUPPLEMENTAL AND CLARIFYING INFORMATION TO RESPONSE TO COMMENTS

**Comment #35:** Some parts of the DPR ERP have been incorporated into the proposed regulation but key definitions of "hazard," "effect," and "public protection" action are missing and should be added to the proposed regulation. Definitions of "compliance" and "enforcement action" lack clarity and should be replaced with the clearer definitions found in the ERP. In order to ensure compliance, it is essential that the regulations be unequivocal. The ERP specifies that Class A violations are violations that create a health or environmental hazard and clarifies that this "includes violations which create a hazard without causing a health or environmental effect". This language should be added to the regulation both for clarity and consistency with the ERP.

**Response:** DPR is only defining terms used in this regulation. Some terms such as hazard and effect are standard definitions found in Merriam-Webster's Dictionary and, therefore, do not need to be included in the regulations.

DPR does not agree that the definitions of "compliance" and "enforcement actions" lacks clarity. In fact, the definition of "enforcement action" is made more specific by incorporating the language (Notice of Proposed Action) of the statutes (FAC sections 11512.5 and 12999.5) which sets forth the notice and hearing procedures to levy a fine, or revoke, refuse, or suspend a license, certificate, or permit. The definition of "compliance action" was made clearer in regulation by specifically stating that a compliance action cannot impose a monetary penalty.

Class A violations are adequately defined in the existing regulation.