

## ADDENDUM TO THE FINAL STATEMENT OF REASONS

### UPDATE OF THE INITIAL STATEMENT OF REASONS

The Pesticide Research Authorization [(DPR-REG-027a, Est. 4/15)] and Experimental Pesticide Use Report [(DPR-REG-028a, Est. 4/15)] forms contain a statement that failure to comply with any of the conditions of the research authorization pursuant to Title 3, California Code of Regulations (3 CCR) sections 6260-6272 could result in revocation of the authorization and an administrative fine up to \$5,000 for each time a condition or regulation is violated. Pursuant to Food and Agricultural Code section 12999.5, in lieu of civil prosecution by the Director, the county agricultural commissioner (CAC) may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with section 12971) or Article 10.5 (commencing with section 12980) of this chapter, Section 12995, Article 1 (commencing with section 14001) of Chapter 3, Chapter 3.7 (commencing with section 14160), Chapter 7.5 (commencing with section 15300), or a regulation adopted pursuant to any of these provisions, of not more than \$1,000 for each violation. Any violation determined by the CAC to be a Class A violation as defined in 3 CCR section 6130 is subject to a fine of not more than \$5,000 for each violation.

Box 5 on the Experimental Pesticide Use Report [(DPR-REG-028a, Est. 4/15) form requires "Total Lbs AI Used" to be reported which is different than "Total amount of active ingredient used" in section 6266(b). This will ensure the amount of active ingredient used will be reported in consistent units.

### SUMMARY AND RESPONSE TO COMMENTS:

Revised response to the comment at the bottom of page 5 in the Final Statement of Reasons

**Comment:** DPR should retain the long-held privacy of research authorization programs as they have in the past, recognizing the need for trade secret protection in the marketplace. This can be accomplished by maintaining the need for full disclosure to DPR staff while protecting confidential information from inappropriate public disclosure, consistent with applicable law, including the Public Records Act.

**Response:** If the research authorization is for a product containing an active ingredient currently in a registered product, it is already known that the active ingredient can be used as a pesticide. The identification of the inert ingredients and the percentage of inert and active ingredients (the confidential statement of formula) of the research product are not disclosed and remain protected [7 USC 136h(d)(1)]. Knowledge that the applicant is developing a new use or method of application using a known active ingredient has limited economic value to a competitor warranting treatment as a trade secret. If they were to learn through a Public Records Act request of the applicant's research, in order to register a competitive product similar to the applicant's research product, they would still have to engage in the process of developing a product containing the active ingredient, conduct and pay for their own research to submit to support the registration of their product, or wait for the applicant to register the new product, and pay the

applicant a share of the cost incurred to conduct the research. The potential need for a new use or method to address a particular problem would be knowledge equally available to both.

#### INCORPORATION BY REFERENCE

DPR incorporated by reference the Pesticide Research Authorization [(DPR-REG-027a, Est. 4/15)], Pesticide Research Authorization (Additional Pesticides) [(DPR-REG-027b, Est. 4/15)], Experimental Trial Report [(DPR-REG-029, Est. 4/15)], Experimental Pesticide Use Report [(DPR-REG-028a, Est. 4/15)], and Experimental Pesticide Use Report (Continued) [(DPR-REG-028b, Est. 4/15)] as it would be cumbersome and impractical to publish these documents in 3 CCR. Also these documents were made available upon request directly from DPR.

#### NONSUBSTANTIVE CHANGES MADE TO THE TEXT DURING THE OFFICE OF ADMINISTRATIVE LAW (OAL) REVIEW

- Changes to sections 6260(d) and 6266(b) were made to make consistent with current 3 CCR, and punctuation corrections were made to section 6264(a)(2)(K).
- Food and Agricultural Code section 12999.5 added as reference to sections 6262 and 6266.

#### NONSUBSTANTIVE CHANGES MADE TO THE FORMS DURING OAL REVIEW

Pesticide Research Authorization [(DPR-REG-027a, Est. 4/15)]:

- The initialism "PHI" was spelled out to read "preharvest interval."
- The "Failure to comply...." statement was revised to improve clarity. Food and Agricultural Code section 12999.5 was added to reference authority to levy a civil penalty against violators .
- The instructions for Box 11 was clarified to include reference to Title 40 Code of Federal Regulation Part 180) that exempts a commodity, crop group or site to be treated from the requirement of a tolerance.

Experimental Pesticide Use Report [(DPR-REG-028a, Est. 4/15)]:

- The "Failure to comply...." statement was revised to improve clarity. Food and Agricultural Code section 12999.5 was added to reference authority to levy a civil penalty against violators.
- Instructions for reporting pesticide use have been amended to reference the pesticide use reporting requirements in 3 CCR sections 6626 and 6627.
- Box 7 instructions were clarified to that when research is conducted in multiple counties using the same product, use in each county should be listed separately.

Experimental Trial Report [(DPR-REG-029, Est. 4/15)]:

- "(If applicable)" was added after "Date Harvest Will Begin" since not all research trials will result in harvest.