



# Pesticide Use Enforcement Program Standards Compendium



**Volume 1**



## **General Administration of the Pesticide Use Enforcement Program**



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State of California  
Department of Pesticide Regulation  
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# **Pesticide Use Enforcement Program Standards Compendium Overview**

## **Mission**

The mission of the Department of Pesticide Regulation (DPR) is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.

## **Role**

The role of regulating pesticides in California is a joint responsibility of the Director of DPR and county agricultural commissioners (CACs). Food and Agricultural Code (FAC) section 2281 provides that DPR is responsible for overall statewide enforcement and for issuing instructions and making recommendations to the CACs.

The CACs are responsible for local administration of the pesticide use enforcement program. Several other FAC sections (11501.5, 12977, 12982, 14004.5, and 15201) state that CACs conduct pesticide work under the direction and supervision of the Director.

## **About the Pesticide Use Enforcement Program Standards Compendium**

The *Pesticide Use Enforcement Program Standards Compendium* is a series of volumes that contain pesticide use enforcement directives, interpretations, recommendations, and expectations. The Compendium represents the Pesticide Use Enforcement Program's "standard operating procedures."

Contents of the Compendium supersede any position or direction on these subjects contained in previous letters to CACs or earlier manuals. Omitted items not in conflict with directions or positions contained in the Compendium may continue to be used for interim guidance. DPR reserves the right to re-examine omitted topics and may readopt them or develop a new position or direction when necessary.

New and updated procedures, policies, and interpretations will be issued in the form of updates to the Compendium. Suggestions for changes, additions, or deletions to the Compendium should be made to DPR. The Compendium will be a reference against which county programs are evaluated. County performance can impact the mil assessment distribution money it receives.

## **Overview, Continued**

### **Description of Each of the Compendium's Eight Volumes**

Please note that the procedures described in this document are intended solely for the guidance of employees of DPR and CACs. They do not constitute rulemaking by DPR. DPR and CACs may deviate from these procedures, provided the deviation does not adversely impact the effectiveness of the county pesticide enforcement program or hinder effectiveness of DPR to fulfill its responsibilities for the overall statewide enforcement program oversight.

#### **Volume 1 – General Administration of the Pesticide Use Enforcement Program**

General authority; Pesticide Regulatory Activities Monthly Report instructions; pesticide use reporting; memorandum of understanding information; county pest control registration; local administration of the Licensing Program with interpretations of law or regulation sections relating primarily to the need for one of the various pest control licenses; and general procedures and expectations not specifically covered in other volumes.

#### **Volume 2 – Laws and Regulations**

Current text of pesticide-related laws and regulations, including excerpts from Food and Agricultural Code (FAC) laws and Title 3, California Code of Regulations (3 CCR); Business and Professions Code provisions and Title 16 (16 CCR) regulations; Health and Safety Code sections (illness reporting, vector control, etc.); and Labor Code sections (farm labor contractors).

#### **Volume 3 – Restricted Materials and Permitting**

The California Environmental Quality Act (CEQA) and the permit program's Environmental Impact Report (EIR) functional equivalency; permit issuance process and procedures; DPR "recommended" permit conditions; and permit appeals

#### **Volume 4 – Inspection Procedures**

Field procedures for pesticide use enforcement inspections and designing a neutral scheme inspection program.

#### **Volume 5 – Investigation Procedures**

Guidance on planning and conducting pesticide investigations and reporting the findings; preserving evidence; chain of custody; and report writing.

#### **Volume 6-7 – Enforcement Response (under development)**

Interpretations of law and regulation provisions relating to the enforcement response regulations; making decisions on violations found during an incident and what action to take; citable sections; regulatory toolbox; decision trees; statute of limitations; how to draft the Notice of Proposed Action (NOPA); conduct administrative civil penalty hearings; adopt final actions; handle appeals to the Director; and a glossary.

## **Overview, Continued**

### **Volume 8 – Interpreting Pesticide Laws, Regulations, and Labeling**

DPR interpretations of various sections of law and regulations; guidance on interpreting pesticide labeling, including interpretations of some general and specific labeling statements. It is cross-indexed by subject and section of the law or regulation addressed.

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## Overview, Continued

### Abbreviations Used in this Manual

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**Abbreviations** Throughout this manual, we will refer to sections of laws or regulations using these abbreviations:

<b>Abbreviation</b>	<b>Code</b>
B&PC	California Business and Professions Code
FAC	California Food and Agricultural Code
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
3 CCR	Title 3, California Code of Regulations
16 CCR	Title 16, California Code of Regulations
40 CFR	Title 40, Code of Federal Regulations

Common abbreviations found in this volume:

<b>Abbreviation</b>	<b>Term</b>
CAC	County Agricultural Commissioner
DPR	California Department of Pesticide Regulation
CDPH	California Department of Public Health
CalEPA	California Environmental Protection Agency
Cal/OSHA	California Division of Occupational Safety and Health
EBL	Enforcement Branch Liaison
OSHA	Occupational Safety and Health Administration
REI	Restricted Entry Interval
SPCB	Structural Pest Control Board
U.S. EPA	United States Environmental Protection Agency

Other common acronyms and abbreviations are found in Chapter 6, Section 4, *Acronyms*.

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## Chapter 1

# Pesticide Regulation: Authority, Structure, and Oversight

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## Section 1 Pesticide Regulatory Authority

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### A. Federal and State Authority

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**Primary federal authority** The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) establishes the United States Environmental Protection Agency (U.S. EPA) primary authority to regulate pesticides in the United States.

However, with the exception of pesticide labeling, FIFRA also gives U.S. EPA the authority to delegate pesticide enforcement authority to states by entering into cooperative agreements with state pesticide regulatory programs. Under these agreements, states are authorized to train their personnel to enforce pesticide laws and develop licensing, certification, and training programs for applicators using restricted use pesticides.

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**Federal delegation of authority to DPR**

FIFRA section 26 delegates to the states responsibility for primary pesticide use enforcement provided the state has adopted adequate pesticide use laws and regulations. FIFRA section 11 authorizes U.S. EPA to certify state programs for the training, licensing, and certification of pesticide applicators to meet as meeting federal standards, and FIFRA section 23 allows U.S. EPA to enter into cooperative agreements with states to enforce the FIFRA training, licensing, and certification requirements and to assure that the state program in these areas are consistent with federal standards.

DPR has been delegated primary use enforcement authority in California under FIFRA, has been certified as meeting federal standards for training, licensing, and certification, and has a cooperative agreement with U.S. EPA. The U.S. EPA and DPR cooperative agreement helps ensure California continues to meet the requirements to retain primacy in this area.

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**Federal law controls pesticide labels**

While states can regulate pesticide sales and use to the extent that it does not allow anything FIFRA prohibits, FIFRA section 24 (b) provides that a state cannot impose or continue in effect any requirements for labeling or packaging in addition to or different those required by FIFRA. This is referred to as the federal preemption of pesticide labeling.

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## Pesticide Regulatory Authority, Continued

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### B. DPR and CAC Responsibilities

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**DPR and CAC roles** Chapter 2 Section 3 *Roles and Responsibilities – CAC and DPR* gives an overview of DPR’s oversight role of each CAC pesticide enforcement program. DPR’s oversight authority comes from FAC section 2281, which outlines the roles and responsibilities of the State (DPR) and the county (CAC) for joint pesticide use enforcement, as follows:

DPR responsibilities:

1. Overall statewide enforcement
2. Issue instructions and recommendations to the county
3. Develop county priorities jointly with the CACs
4. Assist in planning/developing county programs focusing on:
  - Uniformity
  - Coordination
  - Training
  - Special services
  - Special equipment
  - Forms
  - Statewide publicity
  - Statewide planning
  - Emergency assistance
5. Develop a cost analysis of the county programs/activities
  - Identify underfunded programs/activities
6. Report to the Legislature

CAC responsibilities:

1. Administration of county programs/activities
2. Follow instructions and recommendations of DPR
3. Develop county priorities jointly with DPR

FAC section 12977 specifies that the CAC enforces the pesticide use enforcement provisions of Article 10 under the direction and supervision of DPR.

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## Pesticide Regulatory Authority, Continued

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**DPR and CAC  
roles**  
(continued)

FAC sections 12980, 12981 and 12982 place responsibility for safety in the pesticide workplace with DPR and specifies that the CAC enforces the provisions under the direction and supervision of DPR. The CAC may request the assistance of the local county health officers who may in turn request assistance of the Office of Environmental Health Hazard Assessment (OEHHA).

FAC section 11501.5 provides that the CAC enforces the county portion of the pest control licensing program under the direction and supervision of DPR.

FAC sections 2181 through 2187 provide that if DPR has satisfactory evidence that a CAC is guilty of neglect of duty, incompetence, or misconduct, DPR must convene a “trial board” that will hold a hearing to determine if the CAC should be removed from office.

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**Mill assessment  
funds the CAC  
program**

FAC section 12844 outlines the authority and general criteria for distributing the mill assessment funds for pesticide use enforcement; it provides for:

1. Joint (DPR and CAC) responsibility for regulations on distributing money
2. Disbursement based upon:
  - Program effectiveness (overall)
  - Inspections performed
  - Amount of pesticide used
  - Number of persons using pesticides
  - Private applicators certified
  - Hours expended
  - Dollars expended
  - Other items agreed upon

FAC section 12844.5 authorizes the expenditure of mill assessment funds for structural pest control activities.

3 CCR section 6395 provides a structure for allocating mill assessment funds.

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## **Pesticide Regulatory Authority, Continued**

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**CAC enforces restricted materials program**

FAC section 14004 specifies that the Director and the CAC, under the direction and supervision of DPR, enforce the restricted materials program.

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**CAC, DPR, SPCB enforce structural pest control**

FAC section 15201 outlines general responsibilities and roles of DPR, the Structural Pest Control Board, and CACs in licensing and pesticide use for structural pest control activities. It specifies that the CAC regulates pesticide use in structural activities under the direction and supervision of DPR.

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## **Pesticide Regulatory Authority, Continued**

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### **C. Authority of Other Local and State Agencies**

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**No Local regulation allowed unless authorized by FAC Division 6 & 7**

DPR has the authority to regulate the registration, sale, and use of pesticides under FAC Divisions 6 and 7 to the exclusion of all local regulation not specifically allowed by those provisions. This preemption of local regulation is set forth in FAC section 11501.1. If a local governmental agency attempts to regulate the sale or use of pesticides that is not allowed by the Food and Agricultural Code, DPR is required to notify the agency and, if not withdrawn, take legal action to have it declared null and void, and enjoin its enforcement.

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**No limit on State Agencies if mandated by statute**

However this section specifically states that this preemption does limit the authority of another state agency to enforce or administer a law they are authorized or required to enforce.

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**State agencies with overlapping authority or related jurisdiction**

A number of state agencies have overlapping authority to regulate pesticide use or have separate authority over a resource that is impacted by pesticide use. Generally, in these cases there is a formal agreement between the various entities on how to divide the primary authority between them or to define a level of cooperation. See Section 2 Part C below.

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## Section 2

# The Regulatory Program: Protecting Workers, the Public, and the Environment

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### A. The Scope of the Regulatory Program

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**California State law mandates pesticide regulation**

The California legislature has given DPR a broad mandate to regulate all aspects of pesticide sale, registration and use. FAC section 11501 sets forth the intent of the Legislature to provide for the proper, safe and efficient use of pesticides to protect the public, workers, and the environment.

Division 6, includes the regulation of pest control operations—pest control businesses, applicators, pilots, advisors, and dealers. Division 7 focuses on registration of pesticides, the regulation of pesticide residue, worker safety, restricted material pesticides, and restrictions to protect the people and the environment.

In FAC section 12980, the Legislature declared its intent for DPR and the Office of Environmental Health Hazard Assessment (OEHHA) to jointly develop regulations related to pesticides and worker safety.

The authority and process for the CACs to administratively enforce the code and implementing regulations related to licensing and pesticide use is found in FAC section 12999.5. Similar authority is provided for DPR to enforce violations of the laws or regulations related to registration and sales, and illegal residue is found in FAC section 12999.4.

**State law authorizes regulations to implement the FAC**

In addition enforcing the statutory provisions, the Director is given the authority to pass any regulations necessary to carry the provisions of the Division 6 and 7 in FAC section 11456. Throughout those divisions, numerous other sections provide specific authority to adopt regulation to implement particular code provisions.

Regulations adopted under the authority of Division 6 and 7 are found in Title 3 of the California Code of Regulations (3 CCR) from section 6000 through 6972. Implemented at the state level, they include regulations that cover pesticide registration, renewal, evaluation and reevaluation, research authorizations, mill assessment.

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## The Regulatory Program, Continued

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**State law authorizes regulations to implement the FAC,**  
(continued)

More relevant to county pesticide use enforcement staff, these regulations cover:

- enforcement response (3 CCR sections 6128-6131),
  - inspection authority and investigation procedure (3 CCR section 6140-6141),
  - restricted materials and permitting (3 CCR sections 6400-6444),
  - special requirements on field fumigations and specific pesticide use requirements (3 CCR sections 6445-6489),
  - licensing and requirements for pest control operations (3CCR sections 6500-6686),
  - worker safety (3 CCR sections 6700-6795),
  - groundwater protection (3 CCR section 6800),
  - volatile organic compound restrictions and requirements (3 CCR sections 6880-6886), and
  - surface water protection (3 CCR sections 6960-6972).
- 

**CAC enforces pesticide use**

The 55 CACs in California's 58 counties serve as the primary enforcement agents for enforcing State pesticide laws and regulations, with oversight by DPR. FAC section 2281 sets forth this delegation. As with DPR's authority to comprehensively regulate agricultural and non-agricultural pesticide use statewide, the CAC similarly regulates pesticide use within the boundaries of the CAC's appointed county. The CAC's important responsibilities for pesticide use enforcement include conducting inspections and investigating pesticide-related illness or injury: whether on the farm, in the workplace, at home or in structural pest control.

Pesticide laws and authorities sometimes overlap with other agencies for workplace safety or environmental protection relative to a specific incident or county topic of interest. Therefore, CACs may occasionally consult with other State agencies such as the Departments of Industrial Relations, Water Resources, Public Health, or Fish and Wildlife. CACs may also consult with other agencies such as the California Department of Forestry and Fire Protection about pesticide use on forest lands, and federal and tribal officials about pesticide use on federal and tribal lands.

Many of these cross-jurisdictional activities and responsibilities are outlined in MOUs with DPR, the California Agricultural Commissioners and Sealers Association (CACASA) and the applicable agency. See Section 3 Part C below.

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## The Regulatory Program, Continued

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### B. Overlapping Jurisdiction with Cal/OSHA

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**Cal/OSHA has jurisdiction over the Pesticide Workplace**

DPR does not preempt other mandated regulation of the pesticide workplace of other state agencies. This fact has required DPR and Department of Industrial Relations (DIR) Division of Occupational Safety and Health (better known as Cal/OSHA) and CACASA to come to an agreement on how to practically and efficiently divide up each agencies jurisdiction over the pesticide workplace.

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**DPR's jurisdiction to regulate worker safety around the pesticide workplaces**

FAC section 12981 requires DPR to adopt regulations for, but not limited to, worker protection regarding the following subjects related to pesticides:

- 1) restricting worker reentry into areas treated with pesticides;
- 2) handling of pesticides;
- 3) hand washing facilities;
- 4) farm storage and commercial warehousing of pesticides;
- 5) protective devices; and
- 6) posting of fields, areas, adjacent areas or fields, and storage areas.

FAC section 12982 provides that DPR and CACs, under the direction and supervision of DPR, shall enforce pesticide and worker safety laws and regulations within their jurisdiction.

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**Cal/OSHA safety of workers handling pesticides**

A Memorandum of Understanding between Cal/OSHA, DPR, and CACASA was reached to determine who has primary jurisdiction over the pesticide workplace. DPR and the CACs have primary jurisdiction over the safety of workers handling pesticides or working in pesticide-treated areas (not only fields) with DPR and the CACs. DPR is actively exercising its authority to regulate all handling of pesticides and the reentry of workers into treated fields. Cal/OSHA has primary authority in places of employment related to manufacturing, formulating and packaging, or commercial transportation of pesticides or the entry of workers into treated areas other than fields. Cal/OSHA also retains jurisdiction over the non-pesticide aspects of workplaces where pesticides are being used.

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## The Regulatory Program, Continued

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### C. MOUs with Other Agencies

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**Introduction** Other state agencies may have cross-jurisdictional responsibilities with DPR and the CACs.

DPR and the CACs have Memoranda of Understanding (MOUs) with several other agencies to clarify responsibilities of each agency when there is an overlap in jurisdiction.

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**Definition of MOU** A Memorandum of Understanding is a document that describes an agreement between two or more parties. It provides a general description of the responsibilities and guidelines for activities that are to be assumed by each party, to eliminate duplication of effort and inconsistency of action. DPR and CACASA are parties to several MOUs related to pesticides.

MOUs also include cooperative agreements, management agency agreements, interagency agreements, and joint policy statements.

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**Updating an MOU** Regardless of the year an MOU became effective, it remains in effect until changed or inactivated. Updates to an MOU must be agreed upon and signed by the parties.

Some MOUs have not been updated to reflect the change in an agency's name; however, these MOUs remain in effect until changed.

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## The Regulatory Program, Continued

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**MOU List** There are currently several MOUs in effect which are relevant to the CACs pesticide enforcement program:

**DPR and CACASA:**

- Disbursement of Residual Mill Assessment Funds to Enhance Local Pesticide Enforcement Programs
- Control of Injurious Bird Species
- Control of Injurious Field Rodents

**DPR, CACASA and the Department of Fish and Wildlife:**

- Fish and Wildlife Protection
- Aleutian Canada Goose
- Rare or Endangered Species

**DPR, CACASA and the California Department of Food and Agriculture:**

- Adaptation of Reduced-Risk Pest Management Practices
- Agreement for Attaining Mutual Objectives

**DPR, CACASA and the Department of Industrial Relations:**

- Employee Protection at the Pesticide Workplace

**DPR, CACASA and the California Department of Public Health:**

- Protection of Human Health from the Adverse Effects of Pesticides

**DPR, CACASA and the Structural Pest Control Board:**

- Structural Pest Control Enforcement Program

**DPR, CACASA and the U.S. EPA Region IX:**

- Pesticide Episode Reporting, Investigation and Enforcement Action

**DPR, the State Water Resources Control Board, the Central Valley Regional Water Quality Control Board and Butte CAC and Glenn CAC:**

- Central Valley Regional Water Quality Control Board's Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands

The broad outlines of each of these MOUs follows.

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## The Regulatory Program, Continued

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MOUs between  
CACASA and  
DPR

**Control of Injurious Bird Species** - *Effective date:* August 25, 1983; provides reasonable means for relief from damage caused by depredating birds and with the least harm to non-offending species. The primary obligations of official agencies engaged in control of injurious bird species are: conservation, crop protection, and the preservation of public welfare.

**Control of Injurious Field Rodents** - *Effective date:* August 25, 1983; provides reasonable means of relief from damage with the least harm to non-offending species. The primary obligations of official agencies engaged in the control of injurious field rodents are: conservation, crop protection, and the preservation of public welfare.

**Disbursement of Residual Mill Assessment Funds to Enhance Local Pesticide Enforcement Programs** - *Effective date:* May 30, 2006; establishes processes and procedures to invoice for work performed, and distribution and accounting of the CACs' residual mill assessments funds, which are to be used to support county initiatives that will enhance local county pesticide enforcement programs. It establishes roles and responsibilities of DPR and CACASA to carry out mutually agreed upon objectives associated with expenditures of residual mill assessment funds.

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MOUs between  
DPR, CACASA  
and Calif. Dept.  
of Fish and  
Game (now  
Fish and  
Wildlife)

**Aleutian Canada Goose** - *Effective date:* April 17, 1987; Joint Policy Statement sets guidelines to eliminate or mitigate hazards to the Aleutian Canada Goose during vertebrate pest control activities during October through April in Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Merced, San Joaquin, Solano, Stanislaus, Sutter, and Yolo counties.

**Fish and Wildlife Protection** - *Effective date:* January 26, 1995; to ensure that registered pesticides are used in a manner that protects non-target fish and wildlife resources while recognizing the need for pest control. It defines the respective statutory authorities of each agency, principles of the agreement, communication and investigation of pesticide-related wildlife incidents through the Pesticide/Wildlife Incident Response Plan.

**Rare or Endangered Species** - *Effective date:* July 16, 1984; Joint Policy Statement sets guidelines to eliminate or mitigate hazards to rare or endangered species of mammals, birds, amphibians, reptiles and fish while recognizing need to preserve food supply.

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## The Regulatory Program, Continued

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**MOU between DPR, CACASA and the Calif. Dept. of Food and Agriculture**

**Adaptation of Reduced-Risk Pest Management Practices - *Effective date:*** June 25, 2001; to affirm the mutual commitment to facilitate and coordinate adoption of reduced-risk pest management practices, including biological control approaches, in a comprehensive statewide program. It clarifies the roles, relationships, and responsibilities of the parties in achieving this goal.

**Agreement for Attaining Mutual Objectives - *Effective date:*** April 16, 1984; outlines mutual objectives for communication, public relations, management, training programs, and program objectives and effectiveness measures. (Agencies in this MOU are the California Association of Weights and Measures Officials, California Agricultural Commissioners Association and the California Department of Food and Agriculture.)

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**MOU between DPR, CACASA and the Dept. of Industrial Relations**

**Employee Protection at the Pesticide Workplace - *Effective date:*** January 6, 1993; protection of workers from the potential adverse impacts of pesticides in a coordinated and cohesive manner to eliminate overlap of activities, duplication of effort, and inconsistency of action.

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**MOU between DPR, CACASA and the Calif. Dept. of Public Health**

**Protection of Human Health from the Adverse Effects of Pesticides - *Effective date:*** November 8, 2008; to protect public health in a coordinated and cohesive manner, eliminating unnecessary overlap of activities or duplication of effort. The cooperative program addresses problems of human health related to vector-borne disease and the use and reporting of pesticides.

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**MOU between DPR, CACASA and Structural Pest Control Board**

**Structural Pest Control Enforcement Program - *Effective date:*** December 17, 1998; identifies areas of responsibility, jurisdiction, enforcement, training, and coordination for structural pest control, and reimbursement procedures for training and pesticide enforcement/compliance action activities.

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**Cooperative Agreement between DPR, CACASA and U.S. EPA, Region 9**

**Pesticide Episode Reporting, Investigation and Enforcement Action - *Effective date:*** April 25, 2005; to ensure a unified and coordinated program of pesticide episode reporting, investigation, and enforcement action in California. It sets criteria for priority investigations including human and environmental effects (water, air, land, animals and wildlife), economic loss, episodes.

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## The Regulatory Program, Continued

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**MOU between  
DPR, State  
Water  
Resources  
Control Board,  
Central Valley  
Reg. Water  
Quality Control  
Board, CACs of  
Butte, Glenn**

**Central Valley Regional Water Quality Control Board’s Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands** - *Effective date:* June 29, 2005; this was for a pilot program in Butte and Glenn Counties in the Sacramento River Basin under jurisdiction of the Regional Water Board, but the two counties may undertake activities related to this MOU throughout the Sacramento River Basin. It is solely related to activities in support of the “Irrigated Lands Program” with interaction between the Regional Water Board and the CACs as well as with growers on a local level to protect water quality from non-point sources of pollution.

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## Section 3

### CAC and DPR Authority to Conduct Inspections

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**Authority to inspect - general**

The CACs conduct thousands of pesticide use inspections and investigations each year.

The statutory authority for DPR and CAC inspections, in general, is found in Government Code section 11180 ("The head of each department may make investigations and prosecute actions concerning: (a) All matters relating to the business activities and subjects under the jurisdiction of the department. ...").

Additionally, the Legislature has granted DPR authority to enter premises to conduct inspections (FAC section 11456) and sample produce for residue (FAC section 12581). 3CCR section 6140 provides DPR and CACs with authority to enter, inspect and/or sample and require records to be produced. Furthermore, when the CAC issues an Operator ID or Permit, the boilerplate text authorizes CAC/DPR entry and inspections at reasonable times. For structural activities, the Legislature granted CACs authority to conduct inspections and investigations on licensees in B&PC section 8616.5 and 8616.7 provided that other requirements in the law are met.

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**During an inspection**

Whenever possible, the inspector should seek the consent of the property owner or his/her representative. Tact and good judgment must be exercised in all instances. Absent such consent, the right to inspect without a warrant, such as during an inspection, will depend on the nature of the area to be inspected and whether or not the person is licensed.

It is important to remember that all investigative work must be conducted at a reasonable time and in a reasonable manner.

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*Continued on next page*

## CAC and DPR Authority to Conduct Inspections, Continued

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### **Rights protected by Constitution**

Certain constitutional protections regarding searches and seizures must be observed. A visual reconnaissance of a field may, under certain circumstances, constitute a search. Collecting physical evidence, such as residue samples, may be a seizure. If CAC or DPR staff search or seize in violation of someone's constitutional rights, all of the evidence collected will be inadmissible.

If an inspector has a right to be in an area, his/her observation of things in plain sight does not constitute an unlawful search. This would include observations over a fence from a public road, aerial observations from a reasonable altitude, and observations from these areas made with binoculars.

Both the State and federal constitutions forbid unreasonable searches and seizures of people's houses, persons, and effects. This does not mean that all inspections require warrants. There is a threshold question of whether the area searched was protected by the Fourth Amendment of the U.S. Constitution. The Fourth Amendment protects a person's reasonable expectation of privacy; it protects people, not places. The constitutional analysis is as follows: (1) Has the person exhibited an expectation of privacy? (2) Is the expectation reasonable? and, (3) If the answers to 1 and 2 are yes, has this expectation been violated by unreasonable governmental intrusion?

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### **Authority to inspect private or non-licensee property**

A related issue is the scope of the CAC's authority to conduct such inspections on the premises of parties other than a licensee. Tact and good judgment must be exercised in these instances.

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### **Authority to inspect licensee**

The FAC deals with a closely regulated industry employing dangerous materials under specific licenses and permits. Numerous legal cases hold that those who hold such licenses have, as a matter of law, consented to the warrantless inspection of their premises, vehicles, equipment, and records maintained in connection with the regulatory scheme.

3 CCR section 6140 authorizes DPR and CACs to enter and inspect, and requires any person responsible for keeping records, to make those records available for inspection.

Note: 3CCR section 6140(a) is not a citeable section for administrative civil penalties, but you may cite it on a cease & desist order.

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## CAC and DPR Authority to Conduct Inspections, Continued

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**Authority to inspect licensee**  
(continued)

Where a licensee or permittee refuses to allow inspection of an area and it is not a dwelling, its appurtenant structures, nor an area where an actual expectation of privacy has been exhibited, there may be a violation of the FAC. The licensee *may* be charged with a violation, either by direct citation, Notice of Violation, or through the District Attorney.

**Hazardous situation exists.** If there is reason to believe that a hazardous situation exists, it may be necessary to issue a cease and desist order or to seize the produce until the inspection is completed. This authority is in FAC sections 11896, 11897, 13101, and 13102. Cease and desist orders may be signed by DPR or a CAC.

Various 3 CCR sections require records to be kept; section 6140(b) requires they be produced for inspection. Refusal to allow inspection of records would be a violation.

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**Authority to inspect private property**

In agricultural areas, things such as locked gates, fences, and nearby buildings will usually be found to be an indication of private ownership manifesting a reasonable expectation of privacy. Under these circumstances, it may be a better practice to seek the owner's consent, absent an emergency. In contrast, open fields, common paths leading around or on to the property, roads, such as those used by irrigation districts, and other rights-of-way are generally regarded as accessible without permission.

**Pest control for hire customer.** Customers of the business hired to conduct pest control provide the licensed business with permission to control and have access to their property (usually a home) for purpose of the application. In this case, inspectors obtain permission from the business to enter and inspect these houses and properties to determine the business' compliance with the requirements. The consent in these cases is indirect – from the owner to the licensee to the inspector. The licensee is, in effect, an agent of the owner.

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*Continued on next page*

## CAC and DPR Authority to Conduct Inspections, Continued

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### Consent to inspect

Whenever possible, the inspector should seek the consent of the property owner or his/her representative who may be the licensee. Absent such consent, the right to inspect without a warrant will depend on the nature of the area to be inspected. If it is an open field, orchard, or similar area and the inspection is to be made at reasonable time and in a reasonable manner, the inspection would not violate the party's right to be free from unreasonable searches guaranteed by the 4th Amendment to the U.S. Constitution and the California Constitution.

If the property to be inspected belongs to a party who is not a licensee, for example a private dwelling, or in the situation where a grower is using a non-restricted material, or in a commercial structure not involved in pest control operations, the inspector should obtain consent from the owner or his/her representative before entering the premises over the fumigator's objections. This may be oral consent, but if it is refused, the inspector should contact his/her supervisor for assistance.

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### Conducting an inspection

When conducting an inspection, the inspector should identify himself/herself and indicate their official capacity. The inspector should explain his/her intent to conduct an inspection under the legal authority of FAC section 2281 (CAC joint responsibility), section 11456 ("Director may enter ..."), section 12581 (residue) and/or 3 CCR section 6140 (inspection authority). If the party then refuses to allow the inspection, it should be explained that the refusal is a violation of the terms of the license and a misdemeanor (*FAC sections 11891 and 12996*). The person should be asked, "Are you refusing to allow this inspection?" If the answer is "yes," the inspector should then ask, "Do you understand that your refusal is a violation of the law?" If the person admits that they understand, or merely denies that the inspector has the authority to proceed, a citation or Notice of Violation should be issued or a complaint may be filed with the District Attorney.

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## CAC and DPR Authority to Conduct Inspections, Continued

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**Obtaining assistance to inspect**

It may be necessary to seek an inspection warrant from the superior court with the assistance of DPR's Office of Legal Affairs or county counsel (See Gov. Code section 1822.50 et. seq.).

**Administrative subpoena to inspect.** As a final resort, records may be obtained by administrative subpoena duces tecum obtained from DPR legal staff pursuant to Government Code section 11131. These subpoenas are signed by DPR legal staff. If a subpoena is refused, a court order to enforce must be obtained.

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**If a question arises**

State and county field staffs should consult their supervisors, their county counsel, DPR Regional Offices, and/or DPR's Office of Legal Affairs if a serious question arises. When appropriate, direct communication between the local county counsel or District Attorney, county personnel and DPR legal staff should be established to quickly resolve entry and inspection issues.

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## Section 4

### Adopting County Pest Control Regulations

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**Introduction** FAC section 11501.1 prohibits local regulation of the registration, sale, transportation, or use of pesticides, except as specifically provided in the FAC. However, FAC sections 11503 and 11503.5 provide a limited exception to allow for the adoption of CAC regulations.

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**CAC authority in to adopt regulations** FAC sections 11503-11511 in Division 6, Pest Control Operations allows CACs to adopt regulations supplemental to those of DPR. FAC sections 11504-11511 specifically spell out the required process.

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**Suggested county consultation** DPR encourages the CAC to consult with county counsel, county administrator, or any other county authority normally consulted when making a decision of this magnitude before proceeding with the proposed regulation.

When developing a regulation that supplements DPR’s pest control operation regulations, CACs should consult with the appropriate county agency with responsibility for county California Environmental Quality Act (CEQA) compliance.

DPR encourages the CAC to review the “notice of intention to adopt regulations” and the text of the proposed regulation with their EBL prior to publishing the notice.

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**Applicable sections for CAC regulations** FAC section 11503 authorizes the CAC to adopt regulations to supplement those of DPR concerning the conduct of pest control operations and records and reports of those operations. The development and adoption of commissioner regulations must follow to the extent practicable the process required for adoption of regulations at the state level. They must also be reviewed and approved by DPR before they are operative.

Section 11503.5 pertains only to agricultural production within ¼ mile of schools. Regulations adopted under the authority of section 11503.5 become effective in 30 days, unless disapproved by DPR.

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## Adopting County Pest Control Regulations, Continued

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**Applicable sections for CAC regulations, (continued)**

Under FAC section 11738, a CAC’s supplemental pest control operation regulations may provide for qualification by examination of pest control business registrants, persons in charge of the pest control operations of those registrants, and persons employed by those registrants to operate pest control equipment (other than aircraft) within the county.

Under FAC section 11739, a CAC’s regulations may provide grounds for cancellation of a pest control business’s county registration to operate pest control equipment within the county unless a person qualified pursuant to FAC section 11738 is in charge of the operations, or each unit that is operated within the county is under the personal direction of a person qualified pursuant to FAC section 11738.

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**Emergency regulations**

If, in the opinion of the CAC, the public health, welfare, or safety requires that any regulation take effect immediately, the CAC shall designate it as an emergency regulation. The CAC specifies in writing the facts which constitute the necessity for the emergency regulation. The CAC should forward the written “Statement of Emergency” together with the completed regulation action to DPR. An emergency regulation becomes effective on the date it is approved by DPR (FAC section 11511).

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**Publishing and mailing the notice**

The CAC must publish in a newspaper of general circulation in the county the “Notice of Intention to Adopt Regulations” at least 10 days in advance of a hearing where the regulations are to be adopted, amended or repealed (FAC section 11504). The notice shall contain a statement of the time, place, and nature of the proceedings and the entire regulation or an informative summary (FAC section 11505). Also 10 days before, the CAC must mail a copy of the “notice of intention to adopt regulations” to all registered Pest Control Advisers and Pest Control Businesses as well as any other interested party.

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*Continued on next page*

## Adopting County Pest Control Regulations, Continued

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### **APA requirements**

However, the CAC should make the newspaper publication and mailing of the notice so that it will be received at least 45 days in advance of the closing date by which the interested persons can submit statements, arguments, or contentions to the CAC in writing or orally at a public hearing, since the CAC's "Notice of Intention to Adopt Regulations" will provide for at least a 45-day public comment period.

The APA requires a minimum 45-day public comment period, and that is an APA provision that is practicable for the CAC to follow.

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### **Hearing and consideration of comments**

If a hearing is requested, the CAC shall allow any interested person to present information, and the CAC shall consider all relevant matter which is presented (FAC sections 11507 and 11508). The CAC should respond to the relevance and merit of all comments made either in writing or orally before adopting any regulation. The hearing may be continued or postponed as determined by the CAC (FAC section 11509).

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### **Documents and approval for CAC regulations**

To adopt county regulations, the CAC prepares and submits the following documents, with the proposed pest control regulations, to DPR for review, as specified in the Administrative Procedure Act and FAC:

- "Notice of intention to adopt regulations" referenced in FAC sections 11504 and 11505, which contains an "informative summary" referenced in FAC section 11505 and information similar to that found in a DPR notice of proposed adoption of regulations
  - An initial statement of reasons
  - The text of the CAC's regulations as proposed and as adopted
  - A final statement of reasons in which the CAC responds to all comments received during the comment period.
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## Adopting County Pest Control Regulations, Continued

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**Documents and approval for CAC regulations**  
(continued)

FAC section 11503 requires that DPR review and approve a regulation of the CAC before it becomes operative. DPR considers the necessity, clarity, authority, and consistency of the regulation, as defined by Government Code. CCR section 6110(a) also requires DPR to prepare a report and post for public comment 45 days prior to approval. If approved, the CAC's regulation will be filed with DPR. (FAC section 11510). Upon notification by DPR that a CAC's regulation has been approved, the CAC should notify all affected parties that the regulation has been approved and indicate the regulation's effective date. The CAC should keep a complete record of the proceedings.

Note: All of the above also applies to FAC section 11503.5, except that the CAC's regulation becomes effective 30 days after submittal by the CAC, unless expressly disapproved by DPR. (FAC section 11510)

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**Sample regulations**

Please contact the DPR Office of Legal Affairs.

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## Section 5

### Pesticide Use on Federal Facilities & Tribal Land

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**Introduction**      There are three types of reserved federal lands: military, public, and Indian (tribal). This section describes pesticide use on federal facilities, federal land, and tribal land.

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#### A. Federal Facilities & Federal Lands

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**Background**      U.S. EPA monitors compliance by federal facilities to assure they obey environmental laws and regulations through on-site inspections and by reviewing information submitted by U.S. EPA, states, and tribes. U.S. EPA works in partnership with other federal, state, tribal, and local agencies to ensure federal facilities meet their environmental requirements. Federal facilities, like all other regulated facilities, are responsible to comply with environmental requirements, including following pesticide laws on federal land.

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**Guidance**      The following guidance should be followed relative to pesticide use on federal facilities. It also outlines the administrative actions that may be taken against persons who violate the State's pesticide laws when working on federal facilities. This guidance summarizes DPR's research on this issue and has been reviewed by the Legal Office. U. S. EPA, who coordinates the federal facilities program, has also reviewed this guidance and indicated they have no issue with it.

Where the term "federal facilities" is used, it includes all property under the control of the federal government and federal employees. The term "state laws" includes implementing regulations, and the terms "the State" and "states" include CACs.

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**Scope**      This section can be used to interpret a variety of pesticide use scenarios encountered by CACs relative to pesticide use by federal employees on federal facilities. This includes, but is not limited to:

- Investigations (drift, illnesses, etc.)
- Use monitoring inspections
- Maintaining pesticide use records
- Operator identification numbers & pesticide use report submission

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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### **A. Direct regulation and civil penalties**

Only Congress or the President, if authorized by federal statute, can require the federal government to comply with state regulatory laws on federal facilities. However, even where the federal government is required to comply with certain state laws, states cannot levy penalties against the federal government for violation of those laws unless clearly authorized by federal statute to do so.

At present, Congress has not required the federal government to comply with state pesticide laws and has not authorized states to levy civil penalties against the federal government for violation of those laws. Apart from the exceptions listed below, the State cannot directly regulate pesticide use by federal employees on federal facilities. Nor can the State impose civil penalties against federal agencies, officials, or employees for violations of state pesticide laws on federal facilities. Constitutional law also shields private contractors from direct regulation and civil penalties when they are hired by a federal agency to operate a federal facility to satisfy a federal mandate.

#### ***Policy:***

Pest control operators who work on federal facilities are not private contractors who *operate* federal facilities. Pest control businesses do not operate federal facilities; they are hired to perform some of the tasks necessary to the operation of the facility under the supervision of the facility operator. Also, to our knowledge, there are no federal mandates that specifically require the use of pesticides on federal facilities. Therefore, DPR and the CACs have authority to directly regulate private persons who conduct pest control activities on federal facilities at the request of, or under contract to, a federal agency or the operator of the federal facility. DPR and the CACs can also impose penalties on these private persons for violations of state pesticide laws.

DPR and the CACs also have regulatory and penalty authorities over private persons and the applicators they hire, who lease or use federal facilities for personal purposes rather than to fulfill a federal mandate.

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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### **B. Executive Order 12088 – Federal Compliance with Pollution Control Standards**

Executive Order 12088, “Federal Compliance with Pollution Control Standards,” requires federal agencies to comply with pollution control standards established pursuant to specified federal statutes, including the Federal Insecticide, Fungicide, and Rodenticide Act. It became effective in 1978 and has not been withdrawn or superceded.

This Executive Order obliges federal agencies to comply with applicable pollution control standards; to take steps necessary to prevent, control or abate environmental pollution that occurs on their facilities; and to work cooperatively with federal, state, and local agencies to resolve disputes.

The Executive Order does not provide DPR or the CACs with authority to compel federal agencies' compliance with state pesticide laws or to take civil penalty actions against a federal agency, official, or employee for violations of these laws. Instead, it allows state and local agencies to request the Administrator of U.S. EPA to resolve conflicts that arise concerning federal agency compliance with state and local pollution control standards.

Since the Executive Order does not clearly define “pollution control Standards”, the courts, federal agencies, and regulatory agencies have been left to determine the applicability of environmental requirements on a case-by-case basis. In *Sierra Club v. Peterson* (consolidated with *Coalition for Alternatives to Pesticides in Northern California v. Block*), the federal appellate court found California's restricted material permit program to be a pollution control standard under this Executive Order and that the U.S. Forest Service was required to obtain a permit before using 2,4-D on property under their control located in California.

#### ***Policy:***

Using this case as a guide, DPR determined that the following are pollution control standards within the context of the Executive Order:

1. The pesticide registration program;
2. The restricted material permit program;
3. The pesticide storage, transportation, and disposal program;
4. The general standards of care regarding pesticide applications listed in 3 CCR sections 6600, and 6602 - 6616;
5. The ground and surface water protection programs; and
6. The toxic air contaminants program.

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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### C. Federal agencies' applicator certification

Federal law requires U.S. EPA to designate the pesticides they register as general or restricted use. Only certified applicators may handle or supervise the use of restricted use pesticides so designated by U.S. EPA. U.S. EPA approves applicator certification plans proposed by states, tribes, and federal agencies. Federal agencies may qualify federal employees under an approved Federal Agencies Plan or they may obtain applicator certification from the states where their facilities are located. For example, pesticide applications at U.S. Geological Survey facilities “will be made only by properly trained and State certified applicators.” Alternatively, the Secretary of Defense submits a plan to U.S. EPA for certifying Department of Defense (DoD) employees to apply restricted-use pesticides and the plan is approved by U.S. EPA. DoD employees certified in accordance with the plan may, without obtaining any additional state certification, use and supervise the use of restricted use pesticides while engaged in performance of their official duties

Federal regulations require states to accept federal employees qualified under approved federal plans or to describe any additional requirements in the State's Plan for Certification of commercial and Private Applicators of Restricted Use Pesticides. California's approved plan requires federal agencies to “provide assurance that their applicators are knowledgeable concerning California laws and regulations pertaining to pesticides.”

#### ***Policy:***

At present, DPR accepts applicator certification from agencies approved by the U. S. EPA. Federal employees certified under their agency's approved federal plan must present a current certificate to the CAC when applying for a restricted material permit and to a licensed pesticide dealer when purchasing restricted use pesticides.

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### U.S. EPA brochure

U.S. EPA has written a brochure, *Federal Facilities Inspections: A Guide to EPA's Access and Inspection Authorities*. The brochure may be viewed at <https://www.epa.gov/sites/production/files/2013-09/documents/accessbrochureapril2013.pdf>

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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**Federal facility  
policy summary**

- b. Federal employees performing pest control on federal facilities:**
- i. Regulatory Requirements:
    1. Must comply with federal, state, and local pollution control standards established pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act per Executive Order 12088.
    2. Must obtain applicator certification prior to the purchase and use of restricted use pesticides.
    3. Must comply with requirements on the registered pesticide label.
  - ii. Administrative Actions and Civil Penalties:
    1. DPR and CACs cannot assess civil penalties against federal agencies or their employees for violations of state or federal law.
    2. DPR and CACs can refuse, revoke, or suspend any license, certificate, registration, or permit issued by DPR or the CAC for violations of state laws.
    3. Executive Order 12088 provides that U.S. EPA is responsible for dispute resolution between a federal facility and a federal, state, or local regulatory agency. The CAC should inform DPR when they determine that a federal agency violated a pollution control standard and failed to cooperate in the investigation or correction of the problem.
- c. California laws apply to the following people:**
- Persons who are not federal employees and who are hired by or under contract to a federal agency or the facility operator to perform pest control on a federal facility
  - Private persons who lease or contract for the use of federal facilities for private activities
- i. DPR and CACs can take administrative actions for violations of state laws. Administrative civil penalty action would be taken in lieu of criminal prosecution or civil penalties by DPR through the Attorney General. CAC's administrative action against a county-issued registration or permit and DPR administrative action against a DPR-issued license or certificate, can be in addition to any other CAC and/or DPR administrative civil penalty action, criminal prosecution, or DPR civil penalty action through the Attorney General.
  - ii. DPR or CACs can seek criminal prosecution.
  - iii. DPR can seek civil penalties through the Attorney General (in lieu of criminal prosecution).

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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**Inspections on federal facilities**      **To conduct a pesticide use related inquiry on a federal facility**, contact the lead person of the property. Although FIFRA requires that anyone applying restricted-use pesticides be certified as a pesticide applicator by his/her state pesticide agency, the pesticide applicator on a federal facility may or may not be state-certified.

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**Follow-up**      The CAC should inform DPR when they find that a federal agency violated a pollution control standard (pesticide law or regulation) and fails to cooperate in the investigation or correct the problem. DPR will work with the CAC and the federal agency to resolve the problem or will forward the information to U.S. EPA for resolution.

If you are denied access to a federal facility during an investigation or if you determine that a federal agency is unwilling to correct noted violations, please contact your EBL immediately. Depending upon the nature of the issue, DPR will work with you and the federal agency to resolve the problem or will forward the information to U.S. EPA for resolution at their level.

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**Cross jurisdictional pesticide episode**      When the cause (application) and the effects (exposure, illness, or damage) occur in different jurisdictions (state, country, or tribal land), follow these guidelines during the investigation, as each jurisdiction has partial investigative responsibility:

- The jurisdiction suffering the effects is responsible to document the extent and seriousness of the effects and transmit that information to the jurisdiction where the application originated.
- The jurisdiction where the cause originated is responsible to investigate the circumstances of the application to determine if any laws or regulations were violated and to take appropriate enforcement action.

Communication and cooperation between the two jurisdictions is critical. DPR and U.S. EPA should be involved whenever appropriate. Consult with your EBL whenever there is a cross-jurisdictional episode.

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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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### U.S. government related links

The FedCenter web page provides a selection of enforcement-related links at <http://www.fedcenter.gov/enforcement/>

For information on federal government web sites, see <http://www.usa.gov/>.

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### Maps – federal land and tribal land

The *Federal Lands and Indian Reservations* and *California Tribal and Federal Lands* maps include Department of Defense (DoD) land. The DoD manages military reservations, such as army posts, marine bases, naval stations, and air force bases.

California map resources:

- [https://nationalmap.gov/small\\_scale/printable/images/pdf/fedlands/CA.pdf](https://nationalmap.gov/small_scale/printable/images/pdf/fedlands/CA.pdf) (identifies name and location of military lands, as well as tribal and federal lands)
- [http://www.parks.ca.gov/?page\\_id=862](http://www.parks.ca.gov/?page_id=862) (select a location from the right column of detailed regional and city maps of California)
- <http://www.visitcalifornia.com> (cursor down to detailed regional and city maps of California)

Neighboring state map resources:

- <http://www.epa.gov/region9/air/maps/>
  - <http://www.fws.gov/>
  - [https://nationalmap.gov/small\\_scale/printable/fedlands.html](https://nationalmap.gov/small_scale/printable/fedlands.html) (identifies name and location of military lands, as well as tribal and federal lands)
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## Pesticide Use on Federal Facilities & Tribal Land, Continued

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### B. Tribal Land

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**Tribal land –  
pesticide use**

A federal Indian reservation is an area of land reserved for a tribe(s) under treaty or other agreement with the U.S., executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe.

Federal Indian reservations are generally exempt from state jurisdiction, unless specifically authorized by Congress.

Federal and state courts have declined to allow states to assert civil regulatory jurisdiction in a variety of areas. Historically the department has not attempted to enforce pesticide laws with regard to tribal activity.

To use restricted use pesticides (RUPs) within Indian Country, in 2014, the U.S. EPA adopted a federal plan to certify applicators to use RUPs (see DPR letter ENF 14-07). The 40 CFR sections 171.10 and 171.11 apply to certification of pesticide applicators on Indian reservations.

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**Tribes - related  
links**

This link offers a variety of California Indian Tribal Relations information.  
<https://calepa.ca.gov/tribal/resources/>.

The link below to the California Governor's Office of the Tribal Advisor provides a variety of California Tribal Government links.  
<http://www.tribalgovtaffairs.ca.gov/>.

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## Section 6

### California Environmental Quality Act – CEQA

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**Background** The law that assures that governmental decisions consider and operate to protect the environment is the California Environmental Quality Act (CEQA). Adopted in 1970, CEQA mandates environmental impact review of development projects in California, and applies generally to the activities of all State and local agencies and to those private activities that the agencies finance or regulate. CEQA requires, among other activities, that an Environmental Impact Report (EIR) be developed that discloses the potential environmental impacts of a project.

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**CEQA's impact on DPR and CACs** DPR's regulatory program in the areas of pesticide registration, adoption of the regulations, and the issuance of restricted materials permits has been determined to satisfy CEQA section 21080.5. The certification of a regulatory program is the functional equivalent of the EIR process if it meets certain specified requirements. The three listed pesticide programs have been certified and have operated under functional equivalency since 1980. This certification is found in Title 14, CCR section 15251(i).

For a discussion of DPR's functional equivalency development and scope, see Compendium Volume 3 *Restricted Materials and Permitting*.

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## Section 7

### Related DPR Pesticide Regulatory Programs

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**Introduction** The Food Safety Program and the Pesticide Product Compliance Program are primarily DPR state level programs. The CAC may have some involvement in certain situations.

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### Food Safety Program

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**Food Safety Program** The Food Safety Program is administered by DPR by sampling and analyzing produce for compliance with pesticide residue tolerances. The most common CAC involvement would be focused on potential pesticide use violations when the commodity was grown in California.

FAC sections 12534, 12535, and 12581 authorize DPR to sample produce for pesticide residue. FAC section 12561 authorizes DPR to adopt tolerances for pesticide residues on produce. However, as a practical matter, this authority is limited by preempting federal law (see Compendium Volume 8, Section 1.10 *Recognition of Federal Tolerances*).

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### Pesticide Product Compliance Program

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**Pesticide Product Compliance Program** The pesticide product compliance program is administered by DPR, through a cooperative agreement with U.S. EPA, to inspect for product registration and labeling, inspect producing establishments, and collect product samples. The most common CAC involvement is in observation and reporting suspected violations found during field activities. If CACs observe potential product compliance issues, these should be referred to your county's EBL.

FAC section 12811 requires that pesticides be registered before they are sold or used in California. For a description of registration process, see Compendium Volume 8, Chapter 7. FAC sections 12851 – 12859 specify labeling and warranty requirements for pesticide products. Misbranding is defined in sections 12881 – 12885 and adulteration is defined in section 12911.

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## Chapter 2

# County Pesticide Use Enforcement Work Plans and Performance Evaluations

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## Section 1 Introduction

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### **Background**

An effective statewide pesticide use enforcement program is designed to protect workers, the environment, the public, our food supply, and ensures regulatory compliance.

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### **Chapter contents**

The effectiveness of California's pesticide regulatory enforcement program is mutually dependent on both the DPR and the CAC.

- Sections 2 and 3 provide background on how the CACs activities fit into DPR's Strategic Plan.
  - Sections 4 provide CACs with guidance in the development of the county's pesticide use enforcement (PUE) work plan (WP).
  - Section 5 explains DPR's continuous evaluation of the CAC's enforcement program.
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## Section 2

### DPR's Strategic Plan Goals

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#### Background

Strategic planning is critical to making state government programs and operations more efficient and effective. The strategic planning process produces fundamental decisions and actions that shape and guide what an organization is, what it does, and why it does it. A key byproduct of this planning is the strategic plan--a blueprint for future programmatic direction.

The CACs local PUE programs are instrumental to meeting the vision and mission in DPR's Strategic Plan.

DPR's Strategic Plan is located on our website at  
<http://www.cdpr.ca.gov/docs/dept/planning/stratmenu.htm>

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#### Strategic Plan goals guide program planning

DPR's 2013 Strategic Plan is designed to help DPR meet regulatory obligations as described by the Legislature. The enforcement program priorities outlined in this document were chosen as those best suited to achieving statewide strategic goals through local enforcement activities.

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#### DPR Vision and Mission

- Vision: A California where pest management is fundamental to a healthy environment.
  - Mission: To protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.
- 

#### Strategic Plan goal: Enforce and achieve compliance

The DPR Strategic Plan includes goals to protect people and the environment, enforce and achieve compliance, and ensure environmental justice. This is achieved by:

- Identifying and improving areas of greatest non-compliance;
  - Ensuring that regulatory requirements are practical and enforceable;
  - Ensuring appropriate enforcement actions are taken;
  - Enhancing the effectiveness of inspections and investigations; and
  - Enhancing efforts to improve compliance.
-

## Section 3

### Roles and Responsibilities – CAC and DPR

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**Purpose of the Pesticide Use Enforcement program**

The primary purpose of California’s pesticide regulatory program is to regulate, restrict, or ensure proper stewardship of registered pesticides for:

- Environmental and human health protection;
- A safe workplace for pesticide handlers and for agricultural workers;
- Pest control licensee competency and responsibility; and
- The ongoing availability of pesticides essential to the production of food and fiber and the protection of health.

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**DPR responsibility for statewide program**

California law designates DPR as the agency responsible for delivering an effective statewide pesticide regulatory program. DPR directly regulates most aspects of this program; however, the Legislature delegated local administration of pesticide use enforcement to the CACs. The success of the statewide use enforcement program, therefore, depends on the collective enforcement achievements at the local level. To assure successful and consistent local pesticide use enforcement programs, DPR uses its statewide regulatory authority to oversee, evaluate, and improve the CACs’ PUE programs (FAC section 2281).

State law also requires DPR to provide CACs with guidance in the form of instructions and recommendations, assistance to CACs in the planning and development of adequate county programs, evaluation of local program effectiveness, and assurance that CACs take corrective actions in areas needing improvement.

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**CACs responsible for local use enforcement**

Whenever California law places joint enforcement responsibilities on the Director and the CACs, CACs are responsible for the administration of the local program, with few exceptions. The FAC and 3 CCR describe the CAC’s enforcement authority, activities they must, or may, conduct to properly administer this program, the requirement to implement the local programs according to state-issued guidance, and their obligations to work cooperatively with DPR in the improvement of their programs.

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## Roles and Responsibilities - CAC and DPR, Continued

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**CAC discretion** While the FAC and 3 CCR clearly establish DPR's oversight role, they also grant broad discretion to the CACs in the daily administration of their local PUE programs. The variety of pesticide use in California precludes an effective "one size fits most" enforcement program. DPR cannot provide guidance for every potential contingency. Therefore, the success of our collective program depends on the CACs' ability to make sound decisions and take independent, appropriate, and consistent actions whenever necessary.

DPR will support the decisions made and actions taken by CACs provided they result in fair and effective local PUE programs.

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**Role of DPR written guidance** DPR provides written guidance to assist CACs and their licensed staff in making sound decisions and taking appropriate actions. This guidance also serves to promote statewide uniformity, fairness, and consistency to the extent possible.

Our written guidance does not have the force of law. It may sometimes be inappropriate for a given situation. DPR expects CACs and their staff, as persons licensed to conduct PUE activities, to obtain, analyze, and apply all relevant information in the course of responding to any given situation. This expectation is at the core of DPR and the Legislature's willingness to grant local authority and discretion to the CACs.

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**Role of Enforcement Branch Liaisons** DPR's Enforcement Branch Liaisons (EBLs) and supervisors are the Director's designated representatives in the field. As such, they are the CACs' primary points of contact concerning the implementation and evaluation of the local PUE program. EBLs are subject matter experts in the areas of pesticide use enforcement and response, episode investigation, and local program evaluation. The EBL's knowledge of local issues and their authority to guide local program improvement foster the consistent and fair implementation of regulatory requirements among independent local programs. The EBL's actions and assistance, on behalf of the Director, promote an effective statewide use enforcement program.

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## Section 4

### Enforcement Work Plans for CAC PUE Programs

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**Work plans (WP)** Each CAC must develop a pesticide use enforcement (PUE) work plan (WP) for approval by DPR. The WP must contain the “**core enforcement program**” areas and other components outlined below.

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**WP performance evaluation frequency** The CAC develops a WP that covers one, two, or three years. The CAC, along with their EBL, should determine the WP frequency that best fits the complexity of their program. During the course of a multi-year WP, the CAC should amend their WP if faced with unanticipated priorities or emergency projects that affect their ability to carry out core program functions.

The WP should include a commitment to continually assess, monitor, and evaluate the core program areas in their PUE program and implement program improvements where needed. For example, if during the course of the WP cycle, an evaluation indicates a significant lack of program effectiveness, the CAC should take immediate corrective action. If this requires resource redirection, the CAC should contact their EBL as soon as possible.

The EBL’s observations and county visits are part of continuous evaluation of the CACs pesticide regulatory program. The EBL will inform the commissioner when a deficiency is observed. The EBL will work with the CAC to determine the frequency of the DPR Performance Evaluation required by Title 3, California Code of Regulations (3 CCR) section 6394(a). A CAC may request annual evaluations even though it has a multi-year WP.

---

**WP negotiation and approval** DPR will approve CAC WPs that have clear goals and deliverables and are focused on core program implementation and any DPR-identified priorities. DPR will not approve WPs where CAC-proposed activities detract from the CAC’s ability to implement their core program responsibilities. EBLs will assist the CAC in identifying the desirable activities with their core program responsibilities.

Once approved, CAC WPs are publically available on our website at <http://apps.cdpr.ca.gov/docs/county/workplan/index.cfm>

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## Enforcement Work Plans for CAC PUE Programs, Continued

**WP Components** DPR wants enforcement WPs to be simple to prepare, negotiate, understand, implement, and evaluate. WPs should contain the following components:

Component	Function
County Program	<ul style="list-style-type: none"> <li>• A general description of CAC enforcement program components.</li> <li>• Describe program highlights or accomplishments that the county will continue to build on during the next WP cycle.</li> <li>• Describe expected program changes in general terms (for example, a 25 percent reduction in structural pest control inspections, no outreach events for applicators, increased fieldworker inspections).</li> </ul>
County Resources	<ul style="list-style-type: none"> <li>• A description of resources for the implementation of your WP.</li> <li>• Describe normal or expected workload for each core enforcement program area (for example, total restricted materials permits issued and Notices of Intent [NOI] approved), DPR priorities, local program issues, and staff and resources required for implementation (for example, the number of full-time staff needed for normal or expected workload).</li> </ul>
Corrective Actions	<ul style="list-style-type: none"> <li>• A description of completed corrective actions, if prior DPR evaluation(s) contain agreed-upon corrective actions.</li> <li>• Describe future corrective actions and the measure(s) to be taken.</li> </ul>
Core Enforcement Program	<ul style="list-style-type: none"> <li>• A listing of core enforcement program areas and CAC’s activities. Address each DPR core enforcement program area listed starting on page 7 or explain why it does not apply to your county program. See specific core enforcement program WP guidance on the following pages. Make sure WP commitments are commensurate with expected workload and can be met.</li> </ul>
DPR-Requested Activities	<ul style="list-style-type: none"> <li>• A listing of priority and other activities identified by DPR in the most recent enforcement letter on Priorities and Other Pesticide Regulatory Activities, which are in addition to the core enforcement program areas. Address each activity or describe why it does not apply to your county program.</li> </ul>
Additional CAC Activities	<ul style="list-style-type: none"> <li>• A listing and description of expected outreach presentations or activities.</li> <li>• A description of related pest control enforcement activities (for example, pest quarantine/exclusion, public health pest control, special projects)</li> <li>• Other desirable CAC-proposed activities are optional. Workload for desirable activities depends on CAC resource availability. If the CAC adds activities, the WP must describe the planned activities, estimated resources, and expected program benefit.</li> </ul>

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## Enforcement Work Plans for CAC PUE Programs, Continued

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### A. Core Enforcement Program

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**Core enforcement program**

The “**core enforcement program**” encompasses program areas critical to meeting pesticide regulatory program mandates and strategic goals. The core enforcement program consists of the following:

- Restricted materials permitting;
  - Compliance monitoring; and
  - Enforcement response.
- 

### Restricted Materials Permitting

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**Restricted materials permitting - Purpose**

DPR and the CACs must assure that the RMP system protects people and the environment while allowing for effective pest management. To assure effective implementation of the permit system, CACs must:

- Continuously evaluate hazards posed by proposed applications
- Familiarize themselves with the Pesticide Use Enforcement Program Standards Compendium, Volume 3 *Restricted Materials and Permitting*

Generally, applications of California restricted materials may occur only under a permit issued by the CAC. The CAC must evaluate each proposed application before it occurs and document their determination that the application posed no unacceptable risks or that the RMP was conditioned to mitigate identified hazards. Per 3 CCR section 6436, CACs also conduct a pre-application site evaluation when they determine that only an on-site evaluation will allow an appropriate assessment of risk.

DPR’s evaluation of the CAC’s permit system focuses on business process evaluation and improvement to assure the most efficient use of available resources. The following provides guidance for incorporating restricted materials permitting program priorities into the CAC’s WP.

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## Enforcement Work Plans for CAC PUE Programs, Continued

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**Restricted  
Materials  
Permitting -  
Process**

The restricted materials permitting portion of the WP should briefly describe the current procedures or business process, findings from previous evaluations, and any planned improvements. The CAC should document all program changes resulting from their ongoing assessment. This allows DPR and the CAC to review needs and to adjust or redirect workload to match resource availability.

The CAC's procedures should focus on the following:

- Identification and evaluation of all sensitive sites including residential areas, schools, crops, wetlands, waterways, and critical habitats of rare, endangered, or threatened species and livestock;
  - Mitigation alternatives and site specific use practices;
  - Review and evaluation of Notices of Intent (NOIs) to ensure environmental and human health conditions have not changed since the permit was issued; and
  - Certification of private applicators.
- 

**Restricted  
Material  
Permitting -  
Site evaluation**

The Site Evaluation (Pesticide pre-application site evaluation (PR-ENF-102)) should utilize the CAC's knowledge of pesticide hazards, local conditions, cropping, and fieldwork patterns, as well as handler, permittee, and adviser compliance histories to address local, multi-county, and/or regional issues. Specifically, the evaluation should address:

1. High priority situations and proposed level of monitoring:
    - Pesticide by crop/chemical (fumigant), environmental conditions, proximity to sensitive sites, etc.
    - As resources allow, certain on-site pre-application inspections.
  2. The percent of total approved NOIs to be site evaluated. CACs should not limit themselves to evaluating five percent of approved NOIs if resources allow and local situations require more. Pre-application site evaluation can prevent adverse episodes from occurring and is critical to the restricted materials permit program effectiveness.
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## Enforcement Work Plans for CAC PUE Programs, Continued

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### Compliance Monitoring

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#### **Compliance Monitoring - Purpose**

DPR's goal to reduce pesticide risks to people and the environment depends on an effective and comprehensive compliance monitoring program. Conducting Inspections and Investigations allows CACs to identify and respond to potential hazards to workers, the public, and the environment.

Effective and comprehensive compliance monitoring is essential to assure the safety of pesticide handlers, fieldworkers, the public, and the environment. Compliance monitoring includes pesticide use and records inspections, episode and complaint investigations, and surveillance.

To assure an effective compliance monitoring program, CACs must:

- Conduct broad-based and comprehensive Inspection types;
- Identify the number and types of inspections necessary to maintain an enforcement presence effective at deterring violators;
- Follow the Pesticide Use Enforcement Program Standards Compendium Volume 4, *Inspection Procedures*;
- Assure thorough and timely Investigations; and
- Familiarize themselves with the Pesticide Use Enforcement Program Standards Compendium Volume 5, *Investigation Procedures*.

The EBL will work with the CAC to schedule the DPR oversight inspections required to meet the joint U.S. EPA/DPR/CAC agreement goals.

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#### **Compliance Monitoring - Inspections**

As with site monitoring plans, inspection strategies developed by CACs, either individually or regionally, can be more effective and comprehensive than a plan developed by DPR. An effective inspection strategy encompasses a broad spectrum of pesticide handling situations and responds quickly to local issues. Specifically, the WP should focus on the following:

1. A balance between planned and spontaneous inspections:
    - Targeted: specific crop, application method, grower vs. business; and
    - Random inspections.
- 

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## Enforcement Work Plans for CAC PUE Programs, Continued

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**Compliance  
Monitoring -  
Inspections**  
(continued)

2. Prioritize inspections based on situation and risk. Consider:
    - Violation history and/or pesticide episode occurrence;
    - Local and/or state priorities; and
  3. Effectiveness in terms of:
    - Response to changes; and
    - Improvements in overall compliance rates.
- 

**Compliance  
Monitoring -  
Investigations**

DPR and the CACs have responsibility to investigate episodes that may involve potential or actual human illness or injury, property damage, loss, or contamination, and environmental effects alleged to be the result of the use or presence of a pesticide, in a timely and thorough manner. The WP should focus on the following:

- Timely initiation and completion of all non-priority investigations. Reducing initiation and completion times will result in improved evidence gathering;
  - Timely Priority Episode investigation initiation and reporting. CACs must initiate priority episode investigations immediately, but in no event will the investigation commence later than three working days, submit an initial notification to DPR, and submit a preliminary update within 15 days;
  - Development and use of investigation plans. CACs should develop investigation plans and use the “elements of the violation analysis” technique to reduce time needed to obtain key evidence and complete the investigation report. Please review the *Investigation Procedures* manual (Volume 5 of the Pesticide Use Enforcement Program Standards Compendium) Investigative Plan; and
  - Thorough report preparation. Complete investigation reports include a discussion of all suspected and causal violations discovered during the investigation. Incomplete reports will be returned to the CACs for additional information.
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## Enforcement Work Plans for CAC PUE Programs, Continued

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### Enforcement Response

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**Enforcement  
Response -  
Purpose**

To realize the full benefits of a comprehensive and effective statewide pesticide regulatory program, DPR and the CACs must apply enforcement authority fairly, consistently, and timely. Achieving compliance is a top priority for both CACs and DPR. The enforcement response regulations provide the tools to help CACs choose the best enforcement option. Our joint enforcement response should emphasize worker and environmental safety by:

- Creating a climate that compels all pesticide users to comply with state laws and regulations through a progressive discipline approach
- Ensuring that compliance, once achieved, is sustainable
- Helping CACs balance the level of enforcement response with their staffing resources
- Improving enforcement response guidance

The following provides guidance for incorporating enforcement response into CAC WP.

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**Enforcement  
Response -  
Implementation**

Emphasis should be placed on detecting and deterring “repeat” violators through compliance monitoring and enforcement response. The following actions should be taken:

- Consider all appropriate enforcement options before taking action. If available options will not result in sustained compliance, refer it to the State for enforcement action, when appropriate;
  - Assure timely responses to ensure against lost or compromised evidence;
  - Respond to all violations with compliance or enforcement action.
  - Choose the response most likely to result in sustained compliance with the most efficient use of resources; and
  - In cases of staffing shortages, the greatest effort should be directed at violations that pose the highest risk to people and the environment, and focus on preventing health and safety violations.
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## Enforcement Work Plans for CAC PUE Programs, Continued

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### B. Additional DPR Priority Program Areas

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This includes any additional program priority areas DPR expects to be addressed in the CAC's WP.

For example, the following list was issued by DPR for FY 17-18. For each priority or activity the CAC describes in the WP how these issues are being addressed, if applicable.

- A. Soil fumigant use compliance (including chloropicrin mitigation measures and approved soil fumigant tarps), labels, regulations and permits
- B. Bee pollinator protection incident reporting to DPR, including complaints or reports of loss associated with pesticide applications
- C. Compliance with DPR regulations regarding pesticide use around Schools
- D. Structural fumigation use compliance.
- E. Implementation of new laws and regulations such as fumigant notification regulations, closed system regulations, worker protection standard (WPS) revised regulations, and personal protective equipment (PPE) regulations.
- F. Implementation of medical marijuana pesticide policies and regulations
- G. Implementation of 1,3-d use limitations.
- H. Collaboration with the State Regional Water Quality Board and DPR Environmental Monitoring Branch to protect water bodies, including ground water regulations, surface water regulations, and assisting DPR with surface water studies.
- I. Training county staff on pesticide laws and regulations, including DPR policies and Compendium guidance manuals.
- J. Regulatory outreach and education. Describe subject(s) and audience, including pollinator protection, closed systems, worker protection standard (WPS) revisions Certification and Training updates, pesticides around schools regulations, and PP regulations.
- K. Focused inspections on employers with employees under pesticide medical supervision, 3CCR 6728.
- L. Collaboration with DPR in addressing U.S. EPA activities or requests
- M. Other special projects or significant activities identified by the county agricultural commissioner.

These priority program areas are periodically updated in an Enforcement Letter to all CACs.

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## Section 5

### CAC Performance Evaluation by DPR

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**Purpose** DPR evaluates the county’s pesticide regulatory program at least once every three years in accordance with Title 3 California Code of Regulations, section 6394 (Performance Evaluation). After consulting with the Enforcement Branch Regional Office Manager, the EBL informs the CAC of the frequency of the performance evaluation report and identifies the calendar year(s) to be evaluated. A CAC may request an annual performance evaluation report. If this is the case, please consult the EBL serving your county.

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**Process and Timelines** The performance evaluation process is continuous with a focus on DPR’s Core Enforcement Program. It is based on field observations, oversight inspections, the WP, review of county records, and an evaluation of pesticide use inspections, illness investigations and enforcement response. It includes meetings and discussions with the CAC to discuss the county’s overall performance and any program deficiencies and suggested corrective actions. When program deficiencies are identified, the EBL is required to notify the CAC formally with an Issue Review form immediately to determine corrective measures.

The draft Performance Evaluation Report is discussed with the CAC prior to finalization. The Regional Office manager then determines when the Performance Evaluation Report will be finalized and submitted to the CAC.

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**Availability** Once the evaluation is approved, evaluations are publically available on our website at <http://apps.cdpr.ca.gov/docs/county/evaluations/index.cfm>

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## CAC Performance Evaluation by DPR, Continued

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**Program  
evaluations**

The following is an overview of what EBLs and the Regional Offices may consider when evaluating the CAC's PUE program.

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**Restricted  
materials  
permitting –  
program  
evaluation**

Effectiveness based on:

- Program procedures and process
  - Occurrence of adverse incidents where CAC had a high degree of control
- 

**Compliance  
monitoring –  
program  
evaluation**

Effectiveness based on:

- Comprehensiveness of the Inspection program
  - Completeness, accuracy, and timeliness of Investigations
- 

**Enforcement  
response –  
program  
evaluation**

Effectiveness based on:

- Appropriateness and timeliness of enforcement response
  - Progressiveness of response for repeat violators
-

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## Chapter 3

### Licensees - State License and Certificate Requirements

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## Section 1 Licensing Overview

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### Introduction

Part of DPR's mission is to protect human health and the environment from the hazards of pesticides.

Part of the Structural Pest Control Board's (SPCB) mission is to protect the general welfare of Californians and the environment in the structural pest management profession.

To achieve these missions, it is imperative to ensure that commercial and non-commercial pest control activities are performed by licensed and trained individuals:

- DPR and SPCB issue licenses and certificates to businesses and individuals to perform pest control or sell agricultural-use pesticides.
- The County Agricultural Commissioners (CACs) issue private applicator certificates and register certain licensees.

CACs also issue registrations to and conduct inspections on Farm Labor Contractors (FLCs). FLC licenses are issued by the Department of Industrial Relations' Labor Commissioner's Office (also known as the Division of Labor Standard Enforcement (DLSE)). DLSE's mission is to ensure a just day's pay in every workplace in the State and to promote economic justice through robust enforcement of labor laws.

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### Types of licenses or certificates

The type of license or certificate required is determined by the type and circumstance of the pesticide(s) applied. Questions to ask are:

- What type of work is being done?
- What is the setting/location?
- What pest is being targeted?
- Who is doing the work?

DPR issues licenses or certificates that are not for structural use to:

- Individuals who use or supervise the use of pesticides who are not private applicators
  - Businesses that apply pesticides
  - Pesticide dealers and brokers
  - Individuals who give advice on agricultural pest control, including making written recommendations
- 

*Continued on next page*

## Licensing Overview, Continued

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**Types of licenses or certificates,**  
(continued)

SPCB issues licenses to:

- Structural pest control businesses
- Individuals applying pesticides to control pests invading structures

Relative to this chapter, DLSE issues Farm Labor Contractor (FLC) licenses to employers providing farm labor.

CACs issue:

- Private Applicator Certificates (PACs)
- County registration of many individuals and businesses licensed or certified by DPR, SPCB and DLSE.

A description of requirements for various types of pest control activities and settings are in this chapter.

---

**How to obtain a license or certificate**

Specific information for obtaining a DPR license or certificate is available from the DPR Pest Management and Licensing Branch, including application forms at <http://www.cdpr.ca.gov/docs/license/liccert.htm>.

Specific information for obtaining a Structural pest control license or certificate is available from the SPCB website, including application forms for examinations at <http://www.pestboard.ca.gov/howdoi/lic.shtml>.

Specific information for obtaining a Farm Labor Contractor license is available from the DLSE website, including application forms at [https://www.dir.ca.gov/DLSE/FLC\\_new\\_license.htm](https://www.dir.ca.gov/DLSE/FLC_new_license.htm).

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**Vector control certified technician**

Vector Control Technicians are “certified commercial applicators” per 3 CCR section 6000. Certification is done by the California Department of Public Health (CDPH). For information on this certificate please see <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Vector-Control-Technician-Certification-Program.aspx>.

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## Licensing Overview, Continued

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### DPR examination information

Applications and applicable fees must be postmarked no later than the date indicated on the Examination Schedule provided by DPR's Pest Management and Licensing Branch.

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### County Registrations

To conduct operations in a county, a business or individual must first register in that county:

- County registration fees are in *FAC sections 11734* for Pest Control Businesses, *11923* for Pest Control Pilots, *12034* for Pest Control Advisers, and *LC section 1695(b)* for Farm Labor Contractors.
- County registration fees for Structural Pest Control Businesses are in *FAC sections 15204 and 15204.5*.
- Refusal, revocation, or suspension of the county registration of the respective licenses can be found in *FAC sections 11735* (Pest Control Operators), *11924* (Pilots), and *12035* (Pest Control Advisers).

There is no statutory authority requiring or allowing a CAC to condition registrations for a Pest Control Business, Pest Control Adviser, Pest Control Aircraft Pilot, or a Structural Pest Control Business.

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### Who to contact

For questions about an agricultural pest control license or certificate, contact DPR's Pest Management and Licensing Branch's Licensing Program at:

Department of Pesticide Regulation  
1001 I Street, P.O. Box 4015  
Sacramento, California 95814-2828  
(916) 445-4038 / Fax (916) 445-4033

For questions about a structural pest control license, contact the SPCB at:

Structural Pest Control Board  
2005 Evergreen Street, Suite 1500  
Sacramento, California 95815  
(916) 561-8704 / Fax (916) 263-2469

For questions about a Farm Labor Contractor license, send an email to [FLC@dir.ca.gov](mailto:FLC@dir.ca.gov).

For questions about a county registration issue, contact the applicable local County Agricultural Commissioner office:

<https://www.cdfa.ca.gov/exec/county/countymap/>.

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## Section 2

### Agricultural Pest Control Advisers (PCAs)

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**Who needs the agricultural PCA License**

Any individual who offers a recommendation on any agricultural use, who holds himself/herself forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use. (*FAC sections 11410, 11411 and 12001*)

For a discussion of “agricultural use,” see Compendium Volume 8, Section 1.1, *Agricultural and Non-Agricultural Pest Control Use*.

See the next page for PCA licensing exemptions and see Section 2.2 for examples of situations when licensing as a PCA is required

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**Duties of a PCA** **Interprets FAC section 11410**

Whether an individual’s activities amount to acting as a Pest Control Adviser and thereby triggering licensing requirements must be judged using the definition of “agricultural use” in *FAC section 11408* and the three criteria described in *FAC section 11410*. These criteria are:

1. Offer (to a third party) a recommendation on agricultural use.
  2. Hold oneself forth (to a third party) as an authority on agricultural use.
  3. Solicit services or sales (*3 CCR section 6000*) outside of a fixed place of business for agricultural use.
- 

**Public distribution required - PCA**

**Interprets FAC section 11410**

The definition of PCA infers distributing the recommendation outside the firm or agency to a third party (soliciting outside a fixed place of business, holding forth, and offering). The Merriam-Webster dictionary’s definition of “recommend” is to “advise” or “to present as worthy of acceptance.” Implicit in *FAC section 11411* and the dictionary definition of “recommendation” is that the advice is offered or given to another person. A person does not give advice to himself/herself (or in the case of the property operator itself). Similarly, an individual “holds himself/herself forth as an authority” on some subject to another person, not to himself/herself.

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## Agricultural Pest Control Advisers (PCAs), Continued

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**Public  
distribution  
required - PCA  
(continued)**

The idea of licensing certain individuals who engage “for hire” in certain occupations is in the concept of consumer protection -- to protect the public from individuals who may purport to have certain skills or knowledge who, in fact, do not possess them.

---

**PCA licensing  
exemptions**

Exemptions to the PCA licensing requirements:

- Officials of federal, state, and county departments of agriculture and University of California personnel engaged in duties related to agricultural use are exempt, if the recommendation is put in writing. (*FAC section 12001*)
  - Owners (and their employees) of private firms (i.e., growers, golf courses) making decisions on pesticide use on their own property.
  - A veterinarian writing a prescription for use to control an animal pest. This is a non-agricultural use. (*FAC section 11408*)
  - Individuals within an established place of business who merely write sales invoices or receipts or otherwise handle over-the-counter sales transactions where no recommendations are made or inferred.
  - Registered professional foresters (RPF), in the practice of providing silvicultural advice. However, in situations where the RPF gives advice in the form of silvicultural prescriptions and includes the use of specific pesticides, the RPF would have to be licensed as a PCA.
  - Individuals making a recommendation for treating seed, who either owns or is employed by a firm in the business of treating seed. While the firm may need a pest control business (PCB) license, this is considered industrial use not within the scope of a PCA license requirement.
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## Agricultural Pest Control Advisers (PCAs), Continued

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**Education  
required to  
obtain a PCA  
license**

An applicant for a new PCA license must meet the following educational requirements (3 CCR section 6550):

- Option 1: Graduated with a bachelor's degree in agricultural sciences, biological sciences, natural sciences, or pest management and completed the core course requirements;
- Option 2: Graduated from an accredited doctoral degree program in agricultural sciences, biological sciences, natural sciences or pest management; or
- Option 3: Meet the core course requirements plus 24 months of technical experience working in an agricultural capacity related to pest management.

The core course requirements (3 CCR section 6550(b)) are 42 semester units or 63 quarter units of college-level curricula in the physical and biological sciences, crop health, pest management systems and methods, and production systems course areas with a 2.0 grade point average in all core courses.

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**Requirements  
to obtain a PCA  
license**

PCA applicants shall:

1. Submit a complete *Agricultural Pest Control Adviser License Application* form (DPR-PML-084).
2. Submit a copy of official college transcripts with the PCA application. (3 CCR section 6550)
3. Submit an initial application fee.
4. Submit an examination fee for each examination requested.
5. Pass the Laws, Regulations, and Basic Principles (includes Integrated Pest Management Principles) examination and at least one category examination.

*Note*: Examinations are based on the knowledge expectations found on DPR's website at [www.cdpr.ca.gov/docs/license/adviserke.htm](http://www.cdpr.ca.gov/docs/license/adviserke.htm).

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## Agricultural Pest Control Advisers (PCAs), Continued

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**PCA pest control categories**

As specified in FAC section 12022, the pest control categories available under the PCA license are as follows:

- A. Insect, Mites, and Other Invertebrates
  - B. Plant Pathogens
  - C. Nematodes
  - D. Vertebrate Pests
  - E. Weed Control
  - F. Defoliation
  - G. Plant Growth Regulation
- 

**Requirements once licensed**

Once licensed, an adviser shall:

- Accumulate at least 40 hours of approved continuing education every two years before license renewal. Four of the 40 hours must cover the topic of pesticide laws and regulations. (*3 CCR section 6511(e)*)
  - Register with the CAC in their "home" county (address on the PCA license) and in each county where recommendations are made. If the address is not within California, then the registration would be in the county of occupational choice. (*FAC section 12031*)
  - Write recommendations that do not conflict with label requirements. (*FAC section 12971*)
  - Retain one copy of each written recommendation for one year following the date of the recommendation (*FAC section 12004*)
  - If the recommendation is for use of a high-volatile organic compound nonfumigant product, the recommendation must not recommend a use in violation of 3 CCR section 6884 or identify the exemption under 6884(b). The PCA must keep a copy of these recommendations for two years (*3 CCR section 6558*).
  - Provide the operator of the property with a copy of the written recommendation prior to the application. (*FAC section 12003*)
  - Provide the pesticide dealer and applicator with a copy of the written recommendation prior to application. (*FAC section 12003*)
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## Section 2.1 County Registration of PCAs

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**County registration of PCAs** An adviser shall not make, or offer to make, an agricultural use recommendation in any county without first registering with the CAC. This registration is required annually. (*FAC sections 12002 and 12033*)

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**In-person home county registration** Check the PCA license to make sure it is valid for the year the applicant is registering and check the applicant's signature on the back of the card or check DPR's list of valid licenses at:

<http://www.cdpr.ca.gov/docs/license/currlic.htm>.

1. Using the reproduction template (See Appendix A) as a guide, the CAC can make its own form for registering the PCA, as long as it contains the information from DPR's *Agricultural Pest Control Adviser County Registration* form (DPR-PML-091).
2. Copy the registration application with the applicant's license card.
3. Have the PCA complete the CAC's registration form.
4. Make sure the application is complete.
5. Collect the registration fee, if required.
6. The CAC or authorized person should sign and date the form.
7. Keep the original for county records, and provide the applicant a copy of the registration form.
8. Review pertinent county policies and regulations with the applicant, especially any new ones.

If necessary, process the registration forms the applicant needs to register in additional counties. Do not sign them. Give the forms to the applicant to send, with a reminder that other counties may require fees for registration.

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**Out of county registration -- mail**

1. Check the PCA's home county registration form for completeness.
2. Check the completed form to make sure the license is valid for the year the applicant is registering.
3. Make sure the appropriate fee (if one is required) accompanies the form.
4. Check the records to see if the applicant previously registered in the county and if there were any problems.
5. The CAC or authorized person should sign and date the form.
6. Keep the original for county records, and provide the applicant a copy of the registration form.
7. Provide a list of current county policies and regulations and indicate whether your office will require copies of their recommendations.

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## Section 2.2

### Interpretation of Agricultural PCA Scenarios

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<b>Introduction</b>	This section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.
<b>Biological control agents</b>	Individuals who recommend the use of biological control agents (e.g., predatory insects, parasitic wasps, pathogenic fungi or viruses) are required to have a PCA license.
<b>Management firms</b>	<p>For the purposes of this discussion, a "management firm" is defined as a business that provides operational assistance, support or other activities on a "fee for service" basis. These are commonly seen in vineyard management and golf course management companies. A management firm should not be confused with a "partner" which has an ownership interest in the operation. If part of the service provided includes pest control for hire, management firms must be licensed as a pest control business (See also Section 4.4 below).</p> <p>If a management firm makes agricultural recommendations as part of that service, the individual making those recommendations must be a licensed PCA. This individual may be either an employee of the management firm or an independent PCA under a contractual arrangement with the management firm.</p>
<b>Landscape architects</b>	Any landscape architect who includes pesticide use specifications in landscape architectural plans (except plans concerning the immediate landscaping environment of a residential dwelling or commercial business office, shopping centers, and other similar institutional settings) must be licensed as an agricultural PCA. Included within the scope of the PCA licensing requirement are those recommendations (specifications) concerning landscaping of parks and recreation areas, golf courses, cemeteries, parkways, highways, and other similar settings.

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## Interpretation of Agricultural PCA Scenarios, Continued

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**Recommendation requirements**

**Interprets FAC section 12003, 3 CCR sections 6556 and 6558**

1. Operator of the property
2. Location of the property
3. Commodity, crop, or site to be treated
4. Pest (by accepted common name)
5. Name of each pesticide
6. Dosage (of pesticide per unit treated) or description of method recommended
7. Concentration (of the mix applied) per acre
8. Volume (of mix per unit treated) per acre
9. Total acreage (or units) treated
10. Schedule, time, or conditions of the treatment or other control method
11. Restricted entry interval applicable (label and/or regulation)
12. Preharvest or preslaughter interval (“preharvest interval – see label” is inadequate)
13. A warning of the possibility of damages that could occur that reasonably should have been known by the PCA to exist (including, but not limited to hazards known to exist, crop rotation, crop disposition, or plant back restrictions)
14. Criteria for determining need for the recommended treatment (e.g., pest count, history of infestation, preventative measures, etc.)
15. If the pesticide is a nonfumigant high VOC product utilizing an exemption under 6884(b), the exemption must be identified.
16. Certification that alternatives and mitigation were considered and, if feasible, adopted
17. Signature or mark of the individual making the recommendation or preparing the work order must also be included. A signature is any unique "mark" made by the PCA, or with his/her consent, that identifies that particular PCA (or grower in the case of a work order). This mark can be the PCA signature, printed name, or license number.
18. Date
19. Address
20. The name of the business represented

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## Interpretation of Agricultural PCA Scenarios, Continued

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**Recommendations -- hazards known to exist**

**Interprets FAC section 12003(f)**

Each recommendation must include, when applicable, a warning of the possibility of damages by the pesticide application that should have reasonably been known to exist at the time the recommendation was made. This requirement is designed to ensure that applications are made only under suitable conditions by alerting the applicator to hazards so that precautions may be taken to eliminate or minimize the hazards. Also, it serves to remind the PCA of this important consideration that should influence pest management decisions.

Advisers are responsible for familiarizing themselves with the area surrounding the intended application site. When a condition is known to exist that could result in damage, advisers must include it in their written recommendations. Examples of situations that could result in damage from pesticide applications include:

- Adjacent crops for which the recommended pesticide is not registered and which have no tolerance established;
- Labor intensive crops which are at or near a stage where field work crews may be in the field;
- Apiaries located within or adjacent to an intended treatment area;
- Bodies of water (including water return systems);
- Buildings (including residences), businesses, schools, etc.;
- Domestic animals or livestock, and wildlife nesting and grazing areas.

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## Interpretation of Agricultural PCA Scenarios, Continued

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**Work orders**      **Interprets 3 CCR section 6632**

Broadly speaking, work orders are distinct and separate from recommendations. A work order is created by the operator of the property (owner, renter, or lessee of the property or designated employee) without an agricultural pest control adviser license. The work order identifies the pesticides to be applied and provides application instructions to the pest control business or applicator. The work order may be extremely simple and may not even be written down.

A property operator may ask for or be provided a PCA's written recommendation for a pesticide application. The recommendation is written to the property operator. The property operator can convert any or all of the recommendation into a work order to provide to a licensed pest control business (PCB).

However, when a property operator is providing a work order to the PCB for a pesticide that requires a restricted material permit, 3 CCR section 6632(a) requires the PCB be provided with a recommendation or a work order which contains all the elements required of a recommendation from FAC section 12003 and 3 CCR section 6556. It is the property operator's responsibility to provide the PCB with this information.

See also *Internal Pest Control Decisions* below.

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**Property operators and work orders**

Employees working for a private firm (grower, golf course, etc.) may write the work order without being a PCA.

Employees of a public agency making recommendations must be licensed pest control advisers in the appropriate category(ies), unless exempted under *FAC section 12001*.

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## Interpretation of Agricultural PCA Scenarios, Continued

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**Public agency employees**

**Interprets 3 CCR section 6551**

FAC section 12001 exempts the following public employees from the PCA licensing requirements when making agricultural use recommendations in connection with their official duties:

- Federal, state, and county departments of agriculture personnel. All agricultural use recommendations must be in writing.
- University of California personnel and officials of districts. All agricultural use recommendations must be in writing.

3 CCR section 6551 requires that all other federal, state, county or local employees (other than those exempted by FAC section 12001) must have a PCA license when making recommendations in connection with their official duties.

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**Recommendations -- distribution of copies**

**Interprets FAC section 12003, 3 CCR sections 6426, 6566 and 6632**

The grower makes the final decision to apply a pesticide(s) resulting from a written recommendation. A signed and dated copy of each agricultural use recommendation must be furnished to the property operator prior to the application (soon enough to use the recommendation to make treatment decisions).

3 CCR sections 6426(b) and 6632(a) require that a PCB have a written recommendation available covering each agricultural use of a restricted material that requires a permit.

A copy of each recommendation must also be furnished to the pest control dealer and the applicator (i.e., PCB) in sufficient time to allow compliance with 3 CCR section 6566 (relative to supplemental labeling), but at no time later than the time of the delivery of the pesticide. Copies for the dealer and applicator, if they are unknown, shall be delivered to the property operator with his/her copy.

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## Interpretation of Agricultural PCA Scenarios, Continued

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### Internal Pest Control Decisions

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**Pest control  
business work  
requirement**

**Interprets FAC section 12003 and 3 CCR section 6632**

The pest control work requirements in 3 CCR section 6632 require a PCB to have a copy of the recommendation adopted by the operator of the property or a work order which contains the required elements before making an agricultural use application of a pesticide that requires a permit. Generally, this requirement will be met by the operator of the property passing on a copy of a recommendation made by a licensed PCA or a work order that has the criteria identified in FAC section 12003 and 3 CCR section 6556.

Generally, there is no requirement for the operator of the property to document his or her pest control decision-making process or to have a copy of a recommendation for any application<sup>1</sup>. Although it is a requirement of FAC section 12003 that a licensed PCA provide a copy of any recommendation he or she writes to the operator of the property, that copy usually does not have to be retained by the operator of the property.

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**Recommendation versus  
work order**

**Interprets 3 CCR section 6632**

These are two different documents:

1. A "recommendation" contains advice or suggestions from a PCA provided to, and for consideration by, the operator of the property in reaching a pest control decision.
2. A "work order" contains instructions or directions from the operator of the property to the PCB about how the application is to be made to implement the pest control decision of the operator of the property.

The PCB cannot alter these instructions regardless of their original source. They are, in effect, contract specifications for the pesticide application. However, the PCB can discuss any concerns about the recommendation or work order with the property operator or PCA prior to making the application.

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<sup>1</sup> However, per 3CCR section 6883 growers in the San Joaquin Valley ozone NAA (counties of San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and a portion of Kern County) are required to have a PCA recommendation for the use of a high-volatile organic compound nonfluigant product specified in 6881 when used on specified crops from May 1 to October 31. These recommendations must be kept for two years

## Interpretation of Agricultural PCA Scenarios, Continued

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**Recommendation versus work order,**  
(continued)

The document that begins as a recommendation to the operator of the property becomes a “work order” when it is adopted by the operator of the property and forwarded to the PCB. Alternatively, the “work order” can be internally prepared by employees and is acceptable as long as it contains the information required in a “recommendation.”

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**Interpretation of law**

**Interprets FAC section 12001**

The legal opinion of Chief Counsel for DPR, outlined in an August 27, 2003 memorandum to the Chief, Enforcement Branch, is that licensing as a PCA is not required of employees of a firm to participate in internal pest control decisions applicable to property operated by that firm. When a recommendation is distributed outside of the firm for consideration by a third party in making a pest control decision (which a PCB does not do), the recommendation must be signed by a licensed PCA, unless specifically exempt by FAC section 12001.

3 CCR section 6551 specifically requires public agency employees who make recommendations on pest control for use by that agency to be licensed PCAs.

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## Section 3

### Dealers, Brokers and Designated Agents – Pesticide Sales

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#### Pest Control Dealer

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**Who needs the pest control dealer license**

Per *FAC section 11407*, Any individual or business, including Internet and mail order businesses, whether inside or outside of California, who:

- Sell agricultural use and “dual use” products to users.
  - Sell any method or device for the control of agricultural pests, such as biological control agents, lures or insect trapping devices.
  - Solicit sales of pesticides by making agricultural use recommendations through field representatives or other agents.
  - Sell restricted materials or pesticides requiring the supervision of a certified applicator to users.
- 

**Exemptions to the pest control dealer license requirements**

- Federal, state, or county agencies providing pesticide materials for agricultural use are exempt from the pest control dealer licensing requirements. (*FAC section 12102*)
  - Licensed agricultural pest control and structural pest control businesses that apply pesticides that are recommended or sold by the business. (*FAC section 11407.5*)
- 

**What’s required to obtain a pest control dealer license**

An applicant for a new pest control dealer license must:

1. Complete the *Pest Control Dealer License Application* (DPR-PML-41) for each principal and branch location and submit it and all required fees to DPR.
  2. Each principal and branch location must have an individual who is responsible for the operation of the dealership and licensed/certified as a Dealer Designated Agent, PCA, Pest Control Aircraft Pilot, or a QAL. (*3 CCR section 6560*)
  3. Submit a Fictitious Business Name Statement obtained from the County Clerk's Office (if applicable)<sup>2</sup> (*FAC section 12103*)
  4. For a corporation, submit a Certificate of Good Standing from the Secretary of State. (*FAC section 12103*)
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<sup>2</sup> For a business owned by an individual, a “fictitious business name” is any name that does not include the last name (surname) of the owner, or which implies additional owners (such as "Company", "and Sons", etc.). In the case of a corporation, LLC or LP, a fictitious business name is any name other than the exact name that is on record with the Secretary of State's Office.

## Dealers and Brokers – Product Sales, Continued

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### Dealer requirements once licensed

Once licensed, each pest control dealer principal and branch location must:

- Have and maintain a designated agent to actively supervise all operations conducted by the location. (*3 CCR section 6560(a)*)
  - Retain records of all pesticides sold or delivered, except for pesticides labeled only for home use. (*3 CCR section 6562*)
  - Indicate "California mill assessment was paid" or "California mill assessment of (*amount established by FAC*) mills was paid" on all sales invoices. (*FAC section 12847*)
  - When a pesticide is sold for an agricultural use without a recommendation, the invoice or delivery slip must state that no recommendation has been made. (*3 CCR section 6562(a)(5)*)
  - Retain written recommendations for two years. (*3 CCR section 6562*)
  - When required, obtain restricted material permit or operator identification number (OIN) prior to sale or delivery of pesticides. (*3 CCR section 6568*)
  - Retain a copy of permits for restricted materials and OINs for two years. (*3 CCR section 6568*)
  - Retain a copy of the purchaser's QAL, QAC or PAC or a statement attesting to their certification for two years. (*3 CCR section 6568*)
  - Send a list of OINs with corresponding names of persons purchasing pesticides during the quarter to each CAC who issued the OIN other than the county where the dealer is located. (*3 CCR section 6568(d)*)
  - Obtain a copy of the ship vessel registration for tributyltin purchases and maintain record of sale for two years. (*3 CCR section 6574*)
  - For sales of pesticides containing clopyralid, retain a signed statement from the qualified applicator for two years. (*3 CCR section 6576*)
  - Provide information to purchasers of volatile organic compound pesticides for use within the San Joaquin Valley Ozone NAA and record that on the invoice (*3 CCR section 6577*)
- 

### Principal pest control dealer requirements

Once licensed, the **principal (main)** pest control dealer must:

- Retain at the principal place of business, records of purchases, sales and distribution of pesticides including those of its branch locations for four years. (*FAC section 12114(a)*)
  - Report assessable sales to DPR quarterly for the principal and all branch locations. (*FAC section 12114(b)*)
  - Report annually to the DPR all pesticides purchased from a person who is not a licensed pest control dealer or a registrant. (*FAC section 12115*)
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## Dealers and Brokers – Product Sales, Continued

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### Sales of federal restricted use pesticides or California restricted materials

Prior to the sale or delivery of a pesticide for which a restricted materials permit is required, the dealer must obtain a copy of the purchaser's restricted material permit. (3 CCR section 6568(a))

A dealer must also have proof that the purchaser is a certified applicator or a certified applicator is designated on a restricted materials permit. A copy of the current license or certificate will verify certification. Per 3 CCR section 6000, certified applicators include individuals possessing a qualified applicator license or certificate (QAL or QAC), private applicator certificate (PAC), Structural Pest Control Operators (OPR) and Field Representatives (FR), Pest Control Aircraft Pilot Certificate (PCAPC), or Vector Control Technician.

Prior to the sale of a federal restricted use pesticide (3 CCR section 6400(a)) or a pesticide with potential to pollute ground water (3 CCR section 6400(d)) that does not require a permit for possession or use, the dealer must obtain a copy of the purchaser's certification or signed statement.

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### Duties of the designated agent

#### **Interprets FAC section 12101.5 and 3 CCR section 6560**

Each licensed pest control dealer must have a designated agent at the principal office and an agent at each branch location to actively supervise all operations conducted by the location. The designated agent performs the following duties for the pest control dealer:

- Actively supervises employees who sell pesticides.
- Exercises responsibility in carrying out the business of a pest control dealer.

The designated agent needs to be available to direct and control sales of pesticide products by unlicensed dealer employees. The availability of the designated agent should be directly related to the hazards of the products sold and the volume of pesticide sales.

An individual may be a designated agent for only one location. The designated agent cannot work full time as a PCA while “overseeing” dealer operations remotely.

A designated agent must be an individual who possesses a Dealer Designated Agent (DDA) license, a PCA license, a PCAPC, or a QAL.

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## Dealers and Brokers – Product Sales, Continued

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**“Branch location” defined**

As defined in 3 CCR section 6000, a “Branch location” means “any location, other than the principal place of business, operated by a pesticide dealer or an agricultural pest control business to carry out licensed activities in California.”

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### Pest Control Dealer Designated Agent (DDA)

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**Who needs the DDA license**

An individual needs a DDA license if he/she is responsible for supervising the operations of a licensed pest control dealer business and does not possess a PCA license, QAL, or PCAPC.

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**What’s required to obtain a pest control dealer designated agent license**

An applicant for a pest control dealer designated agent license must:

1. Complete the *Pest Control Dealer Designated Agent License Application* (DPR-PML-043).
2. Submit the completed application with the initial application fee and examination fee to DPR.
3. Pass a written examination on the sale and use of pesticides and pest control dealer responsibilities. (*FAC section 12253*)

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**Requirements once licensed**

No continuing education is required to renew the DDA license.

The DDA license is valid for up to two years. Prior to the license expiring, a renewal fee is due to DPR to renew the license.

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## Dealers and Brokers – Product Sales, Continued

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### Pesticide Broker

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**Who needs the pesticide broker license** Any individual or business, including Internet and mail order businesses, whether inside or outside of California, who first sells or distributes pesticides into California other than registrants and licensed pest control dealers (FAC section 12400).

The pesticide broker requirements apply to **all pesticide products sold into California**. The requirements apply to both agricultural pesticides and pesticides sold for non-agricultural use (e.g., home residential, industrial, and institutional settings).

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**Exemptions to the pesticide broker license requirements**

- Persons licensed as pest control dealers. A pest control dealer license is required if sales of agricultural use products are direct to end-users.
- Registrant selling its own registered product or other registrant's product.

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**What's required to obtain a pesticide broker license**

An applicant for a pesticide broker license must:

1. Complete the *Pesticide Broker License Application* (DPR-PML-217) for each principal and branch location and submit it to DPR.
2. Branch locations include a broker's distribution center(s), not individual retail outlets.
3. There are no fees required to obtain this license. (3 CCR section 6502)
4. Submit a Fictitious Business Name Statement obtained from the County Clerk's Office, if applicable<sup>3</sup> (FAC section 12401), or
5. Certificate of Good Standing obtained from the Secretary of State. Corporations incorporated out-of-state must submit a Certificate of Good Standing from that state. (FAC section 12401)

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<sup>3</sup> See *Pest Control Dealer* above for information on the Fictitious Business Name Statement

## Dealers and Brokers – Product Sales, Continued

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**Requirements  
when licensed**

Once licensed, the pesticide broker must:

- Sell only pesticide products that have been registered for sale in California by DPR.
  - Sell pesticides in California labeled for agricultural use or considered a California restricted material only to registrants, licensed brokers, or pest control dealers (*3 CCR section 6302*)
  - Submit a quarterly report to DPR of the total dollars of sales (including zero sales) and total pounds or gallons of pesticides sold into or within California. (*FAC section 12406(b)*).
  - Pay a quarterly mill assessment to DPR *if the mill assessment has not been paid by the registrant or pest control dealer*. The mill assessment is based upon the total dollars of sales for sales into or within California of registered pesticides. (*FAC sections 12841 and 12841.1(a)*). Sales invoices shall show the mill assessment will be paid. (*FAC section 12847*)
  - Keep and retain records of all purchases, sales, and distribution of pesticides into or within California for four years at the principal place of business which may be outside of California. (*FAC section 12406(a)*)
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## Section 3.1

### Pest Control Dealer Interpretation Scenarios

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<b>Introduction</b>	This section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.
<b>Beneficial organism dealers</b>	<b>Interprets FAC section 11407(b)</b>  Businesses that sell predators (lacewings, ladybird beetles, etc.), parasites, or disease-producing organisms for agricultural use are required to be licensed as pest control dealers.
<b>Cooperative supplying pesticides</b>	If a cooperative handles agricultural use pesticides or restricted use pesticides, it is responsible to meet certain specific requirements in order to be exempt from the pest control dealer license requirement. The cooperative can meet these requirements by the following: <ul style="list-style-type: none"><li>• They must act only as a central receiving point for orders or billings and provide the licensed pesticide dealer that actually supplies the agricultural use pesticide or restricted use pesticide with information required in 3 CCR sections 6562 and 6568.</li><li>• The supplier must invoice the purchaser to specific purchases.</li><li>• The cooperative must maintain the ownership identity of any pesticide it stores for its members.</li></ul>
<b>Dealer records location</b>	<b>Interprets 3 CCR sections 6562(b), 6568(e), 6574(d), 6576, 6577</b>  If all sales occur outside of California (i.e., on the web), there is no requirement in law or regulation for a dealer to store invoices or other records in-state for inspection. However, should a CAC or DPR request a dealer's records (invoices, dealer's copy of a restricted material permit/OIN, certified applicator information or certified applicator statement, etc.) the dealer is required to provide the record.

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## **Pest Control Dealer Interpretation Scenarios, Continued**

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**In-ground pole, railroad tie or wood treatment and wood preservatives**

**Interprets FAC section 11407(d)**

Pesticides can be used to treat utility poles, fence poles, railroad ties, or wood to control or prevent wood destroying pests. Some of these may be federal restricted use pesticides (RUPs). Any retail store selling RUPs must be licensed as a pest control dealer in order to sell them to the end-user.

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**Dual-use pesticide products**

**Interprets FAC sections 11407(a) and 12101**

The term "dual-use products" refers to those pesticide product labels that have directions for both non-agricultural (usually home) and agricultural use and are packaged in a manner that is compatible with both uses. Only licensed pest control dealers may sell agricultural use pesticides regardless of the other uses that may appear on this labeling. A licensed dealer may sell dual-use products for non-agricultural uses, provided the sales record displays the purchaser's name and address and documents that the pesticide is for non-agricultural use.

The mere possibility that an agricultural use product could be used for the second use without a violation of FAC section 12973 is not sufficient to determine it is a dual use product. A determination of dual-use considers the apparent intent of the manufacturer, as well as any advertising or product presentation in the market place.

For example, a product's labeling has use directions for gopher burrows with no other site restrictions. This product can legally be used to treat gopher burrows on agricultural sites and non-agricultural sites based on this labeling. However, it is packaged in one pound containers and is commonly marketed in retail nurseries. If there is no evidence that the manufacturer has advertised it for agricultural use, the presence of this product in this sales setting (retail nursery) is insufficient to classify it as a dual-use product. In some cases, it is up to the registrant to fix the problem by separating the pesticide into two products – the method preferred by U.S. EPA.

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## Pest Control Dealer Interpretation Scenarios, Continued

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**Dual-use  
pesticide  
products,  
(continued)**

Other evidence of a dual-use product may include:

- A “Worker Protection Standard” agricultural use requirements block.
- Non-agricultural listed sites such as: garden crop, ornamental and landscape plantings; interiorscapes; and recirculatory, aeroponic, and hydroponic systems located on residential (home) and industrial sites.
- The product labeling has rates from fluid ounces/acre to ounces per 1,000 square feet. These label rates indicate this product can be used both for agricultural and non-agricultural use respectively. Directions for use on pesticide labeling given on a “per acre” basis are generally used to indicate an intention for commercial, rather than, homeowner (consumer) use. Homeowner-use pesticides have directions to use the product at a rate of so much material “per 1,000 square feet,” or amount of material per gallon, pint, etc.
- The size of the product container is an indication that the product may be marketed for non-agricultural and agricultural uses. For example, if the product could be purchased via internet in 4 ounce, 16 ounce, quart and one gallon containers.

Tack and saddle shops and western wear stores that carry small container pesticide products labeled for use on or around horses are not required to obtain a pest control dealer's license. It is appropriate to inform retailers that they do have potential liability if they sell these products with dual-use labels without a license.

See also Compendium Volume 8, Section 1.1 *Agricultural and Non-Agricultural Pest Control Use* and Section 4.11 *Homeowner (Consumer) Use Products*.

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## Pest Control Dealer Interpretation Scenarios, Continued

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**Livestock  
sprays and  
spray devices**

### **Interprets FAC section 11701**

If a licensed pest control dealer sells and services spray devices for fly control in commercial stables, the dealer is performing pest control for hire. The process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device is considered to be providing a service and requires such persons to be licensed as a pest control business (PCB). If the sales of pesticides and pest control devices are always in connection with providing such a service, then the PCB license supersedes the need to have a pest control dealer license. However, if they also sell such products without providing the service, a pest control dealer license is required.

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**Pesticide sales  
without a  
recommendation**

### **Interprets 3 CCR section 6564(a)**

A dealer must ensure that the pesticide delivered corresponds to any recommendation which has been provided. When the individual making a sale of an agricultural use pesticide is not a licensed agricultural PCA, he/she may not give any instruction or advice on its use. When a pesticide is sold but no recommendation is made or provided, the invoice or delivery slip must state, "*No recommendation has been made by, or provided to, the seller concerning the use of the material covered by this invoice*" or similar notice. This notice must be delivered to the customer no later than the time the pesticide is delivered.

It is a violation of FAC section 12121(d) for any person subject to dealer licensing requirements to make false or fraudulent statements. It is a violation to state on an invoice delivery slip that no recommendation was made when, in fact, one was made by a PCA employed by the pest control dealer. Disciplinary action may be taken. It is the pesticide dealer's responsibility to know if his/her employees have made a recommendation.

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**Sales to  
structural pest  
control  
businesses**

See Section 9 *Structural Pest Control Licenses*.

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*Continued on next page*

## **Pest Control Dealer Interpretation Scenarios, Continued**

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**Veterinarians  
selling  
pesticides**

**Interprets FAC sections 11407(d) and 11408(d)**

Veterinarians selling pesticides requiring a restricted material permit or the supervision of a certified applicator must be licensed pest control dealers even though they may be writing prescriptions for the use of these pesticides.

Veterinarians selling only non-restricted or general use pesticides do not need a dealer license provided they are writing prescriptions for the "agricultural use" pesticides sold.

Normally, livestock supply stores selling "over-the-counter" to the general public must be licensed even if owned and run by a veterinarian.

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## Section 4

### Pest Control Business (PCB) Licensing

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**Pest control businesses require a DPR-issued license**

**Interprets FAC sections 11701 and 11701.5**

FAC section 11701 requires that any person who may “advertise, solicit, or operate as a pest control business” be licensed by DPR as a pest control business.

See Compendium Volume 8, pages 1-2 and 1-3 for a discussion of “pest control.” See *Business defined* in Section 4.4 below.

Each principal and branch location must have one individual in a supervisory position with an appropriate license or certificate. The individual’s categories on his/her must be in the proper categories to match the work performed by the company. See *Qualified individuals* below.

---

**“Branch location” defined**

As defined in 3 CCR section 6000, a “Branch location” means “any location, other than the principal place of business, operated by a pesticide dealer or an agricultural pest control business to carry out licensed activities in California.” “Licensed activities” include, but are not limited to mixing and loading pesticides and storage of opened pesticide containers after application.

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**Qualified individuals**

Each licensed pest control business must have at least one individual with a QAL in a supervisory position with the appropriate pest control categories that relate to the work performed by the business, responsible for the pest control operations of each location. The qualified applicator cannot supervise the operations of more than one location at a time. (*FAC section 11701.5*)

Each licensed maintenance gardener pest control business may designate a QAL/QAC holder with Category B or a QAC holder Category Q as the responsible person. The QAL/QAC must be actively responsible for the legal and safe operation of pest control activities conducted by the business location and supervise the pest control operations performed by employees attached to the business location. (*FAC section 11704(a)*)

Businesses that perform pest control using an aircraft must employ an individual who holds a valid Journeyman Pest Control Aircraft Pilot Certificate (PCAPC). (*FAC section 11901*)

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## Section 4.1 Agricultural Pest Control Business (PCB)

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**Who needs the PCB license**

Any person who advertises, solicits, or operates as a pest control business (see discussion of "business" in Section 4.4). This includes the following FAC sections 11403 and 11701:

- Ground and aerial pest control operations, including individuals performing pest control for the accommodation of their neighbors.
- Management companies (e.g., vineyard management or golf course management) when their services include pest control.
- Packinghouses, shippers, storage facilities, and other processors who treat agricultural commodities owned by another person or firm.
- Maintenance gardeners who engage in pest control for hire (more than incidental to that business's activities).

**Exception:** Cooperatives are excluded; see discussions on "Business Defined" and "Packing Houses and Other Processors" in Section 4.4.

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**Exemptions to the PCB license**

- Structural pest control activities conducted within the scope of, and pursuant to, a valid structural pest control business license. (*FAC section 11531(a)*)
  - Preservation treatment of fabrics or structural materials. (*FAC section 11531(b)*)
  - Tree surgery involving the removal of diseased or infested tissues or applying disinfectants to wound cavities incidental to tree surgery, including woodcutters treating stumps. (*FAC section 11710*)
  - Household or industrial sanitation services. (*FAC section 11531(c)*)
  - Seed treatment incidental to regular business. (*FAC section 11531(d)*)
  - Live capture or removal of certain vertebrate pests, bees, or wasps without the use of pesticides. (*FAC section 11531(e)*)
  - Gardeners and landscape maintenance service companies, if no pest control work is included as part of their services.
- 

*Continued on next page*

## Agricultural Pest Control Business (PCB), Continued

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### What's required to obtain a PCB license

An applicant for a PCB or Maintenance Gardener(MG) PCB license must:

1. Complete the *Pest Control Business License Application* (DPR-PML-042) for each principal and branch location **or** the *Pest Control Business License Application, Maintenance Gardener Only* (DPR-PML-004)<sup>4</sup> location and submit it and all required fees to DPR.
  2. Identify an individual who is responsible for the operation of the pest control business for each location listed on the application.
  3. Fulfill financial responsibility requirements. (*FAC section 11702(c)(2) and 3 CCR section 6524*)
  4. Submit a Fictitious Business Name Statement from the County Clerk's Office, if applicable<sup>5</sup> (*FAC section 11702(a)*).
  5. For a corporation, submit a Certificate of Good Standing from the Secretary of State. (*FAC section 11702(a)*)
  6. Submit the initial license fees for the PCB's principal location and for each branch location **or** the initial license fee for a MG PCB license.
  7. Submit the *Supplemental Application Information for Maintenance Gardener Pest Control Business License* (DPR-PML-143) if applicable.
- 

### Requirements once licensed

Once licensed, each principal and branch PCB and MG PCB must:

- Register with the CAC in each county where business is conducted. (*FAC section 11732*)
- Retain agricultural pest control application completion notice records for two years. (*3 CCR section 6619*)
- Retain pesticide use records for two years. (*3 CCR section 6624*)
- Submit pesticide use reports (PURs) to the CAC. In addition, school and daycare PURs must be submitted to DPR annually. See Chapter 4 Section 3. (*3 CCR sections 6625, 6626(b), 6627 and 6628*)
- Have a copy of the restricted materials permit during the application.\* (*3 CCR section 6632*)
- Retain written recommendations and work orders for one year.\*(FAC section 12004)
- If the business performs pest control using an aircraft, have an individual who holds a valid Journeyman PCAPC (*FAC section 11901*).

\* Obtaining permits and retaining work orders/recommendations do not apply to MG PCBs

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*Continued on next page*

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<sup>4</sup> MG PCBs by default do not have branch locations.

<sup>5</sup> See *Pest Control Dealer* in Section 3 for information on the Fictitious Business Name Statement

## Section 4.2

### Maintenance Gardener Pest Control Business (MG PCB)

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**Maintenance gardener pest control business license scope**

**Interprets FAC section 11704 and 3 CCR section 6531**

The Maintenance Gardener (MG) Pest Control Business (PCB) License applies to all landscaped areas without regard to location provided that the use of a pesticide for pest control is a minor, or complementary, aspect of the physical landscape maintenance work.

Generally, these businesses provide routine landscape care indoors, around public structures and commercial parks. They are required to obtain a MG PCB license and to have a qualified applicator in a supervisory position if they apply general use pesticides incidental to the primary business operations.

A “full” PCB license is required if pest control landscape maintenance is performed at cemeteries, parks, golf courses or similar areas or if pest control is too great a part of the MG PCB’s services.

A MG PCB supervised by an individual holding a Qualified Applicator Certificate (QAC) with Subcategory Q **can** use or supervise the use of general use pesticides. This individual **cannot** use or supervise the use of federal restricted use pesticides or California restricted materials. A MG PCB supervised by a QAL or QAC with Category B can use or supervise the use of federal restricted use pesticides or California restricted materials

By default, MG PCBs have one location.

---

**Definition of “incidental”**

**Interprets FAC section 11704(a)**

The term “incidental” has common dictionary meanings of “minor items that are not particularized” or “being likely to ensue as a chance or minor consequence.” Thus “pest control for hire incidental to that business” is pest control that ensues from, or is a minor consequence of, a business’ overall landscape maintenance activities. This definition does not limit a MG PCB to a certain type of pesticide or number of applications. However, it requires that each pest control activity is obviously subordinate to, generated by, and done in conjunction with, the business’ main purpose of landscape maintenance.

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*Continued on next page*

## Maintenance Gardener Pest Control Business (MG PCB), Continued

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**Interpretation** FAC section 11704(b) includes the terms “commercial parks” and “surrounding structures.”

For purposes of interpreting those terms, a *commercial park* can be defined as “a tract of land where several commercial establishments (e.g., stores, offices, restaurants, warehouses, or factories) are located. Business parks, industrial parks, office parks, and shopping centers or malls are commercial parks. A *surrounding structure* applies to “structures such as buildings, brick walls, fountains, fences, statues, etc. that are incidental to and placed near or close to ornamental or turf plantings.”

---

**Difference  
between the  
MG and “full”  
PCB License**

DPR requires applicants with the “full” PCB license to have at least one individual in a supervisory position who holds a QAL in the proper pest control category(ies) (*FAC section 11701.5*). By contrast, MGs can qualify for a MG PCB license by performing pest control incidentally to their maintenance gardener work and having a QAC in the pest control subcategory Q or by having a QAL or QAC category B (*FAC section 11704*). Individuals taking the QAC exam for category Q do not have to take the separate Laws and Regulations exam to obtain the certificate as applicable laws and regulations information have been incorporated into the examination.

This two-tiered licensing system matches regulatory requirements to the potential (or expected) level of threat posed to the public and the environment by specific types of pest control operations. DPR believes the lower qualification standard allowed to obtain the MG PCB license adequately protects the public and the environment because “incidental” pest control, as used in FAC section 11704, does not pose the same potential for harm as larger scale pest control operations.

See also *Maintenance gardeners and landscape services* in Section 4.4 below.

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**What’s  
required...**

See “*What’s required to obtain a pest control business license*” and “*Requirements once licensed*” in Section 4.1.

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## Section 4.3

### County Registration of PCBs and MG PCBs

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**Counties register pest control businesses**

In addition to DPR’s licensing of each PCB main and branch location and each MG PCB, the law requires annual registration with the CAC of each county prior to the business carrying out any licensed activity in that county.

County registration is necessary to ensure the Commissioner knows:

- Who is operating a PCB/MG PCB in the county;
  - Where PCBs/MG PCBs are operating in the county;
  - What types of licensed pesticide application activities are occurring in the county;
  - Where pesticide-related records, pesticides, and equipment are stored in the county; and
  - Where to send various notices and updates concerning regulatory issues that affect businesses, licensees, and individuals performing work in their county.
  - *This list is not all-inclusive.*
- 

**County registration authority and fees**

**Interprets FAC sections 11732 and 11734**

FAC section 11732 requires PCBs/MG PCBs operating in a county to register with the CAC, provide a list of equipment and any other information the CAC may require.

FAC section 11734 allows the county board of supervisors to establish “reasonable fees” for the registration of PCBs. MG PCBs are limited to a maximum registration fee of twenty-five dollars (\$25) per year.

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**CAC registration of the pest control business**

Each PCB location (principal and branch) must register with the CAC in each county where business is performed before advertising, soliciting, or operating in that county. A separate registration form must be completed for each branch and each county. MG PCBs by default have only one location.

CACs must retain a copy of the business license for their files.

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## County Registration of PCBs and MG PCBs, Continued

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**Home county registration (business license address)**

The registration of a licensed business in its home county should be done in-person. Only the QAL/QAC responsible for the pest control activities of that business should be allowed to register the business.

*Note:* The valid dates of the business license and the individual's QAL or QAC may differ. Check that both are valid before registration. CACs can also check DPR's list of valid licenses at:

<http://www.cdpr.ca.gov/docs/license/currlic.htm>.

Using the reproduction template (Appendix A), the CAC can make its own form for registering the business, as long as it contains the information from DPR's *Pest Control Business County Registration* (DPR-PML-059). Check for completeness of provided information, including:

- Business license valid for the year of intended operation
- Certified applicator with appropriate pest control category(ies)
- Completed *Pest Control Equipment Registration* form (DPR-ENF-058) or similar

PCBs based in the county and registering for the first time should have equipment inspected before completing registration. This doesn't preclude the need to inspect equipment while used in field.

Emphasize the following topics when you review pest control and pesticide regulations with the licensee, as applicable:

- New regulations or laws
- Pesticide worker safety requirements; storage, rinsing, and disposal of pesticides and emptied containers; required records and reports
- Restricted material permit conditions
- County policies, requirements and regulations
- Prior noncompliance documented by inspections

Collect the registration fees, if required by the county. The original signed form should be kept for county records. Registration may be amended later at no charge to add agents (QALs or QACs) or additional categories obtained by the qualified applicator.

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## County Registration of PCBs and MG PCBs, Continued

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**Home county registration (business license address)**  
(continued)

If an applicant plans to register in additional counties, check the latest *County Registration Requirements and Fees* on DPR's website at <http://www.cdpr.ca.gov/docs/license/liccert.htm> to determine which counties accept mail-in registration. Make a copy and process, but do not sign additional forms for mailing to counties that accept mail-in registrations. Be sure your county name is on the hard copy of the registration form as the imprinting county.

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**Out-of-county locations registration -- processing mailed-in applications**

PCBs and MG PCBs located outside your county may register by mail if county policy permits.

1. Check the business's home county registration form for completeness.
2. Check the completed form to make sure the business and individual licenses are valid for the year the applicant is registering.
3. Verify the appropriateness of the certified applicator categories.
4. Verify registration includes a completed *Pest Control Equipment Registration* form (DPR-ENF-058) or similar.
5. Make sure the registration applies to the location from which the operation will be conducted in your county.
6. Make sure the appropriate fee (if one is required) accompanies the form.
7. Check the records to see if the applicant previously registered in the county and if there were any problems.
8. The CAC or authorized person should sign and date the form.
9. Keep the original for county records, and provide the applicant a copy of the registration form.
10. Provide a list of current county policies and regulations.

Registrations may be amended later, with no added charge, to add agents (QALs or QACs) or additional categories obtained by the qualified applicator.

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## Section 4.4

### Pest Control Business Interpretation Scenarios

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**Introduction** This section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.

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**Aquatic pest control (Category F)** Persons who are in the business of applying pesticides to standing or running aquatic sites (e.g., lakes, ponds, canals, and similar water bodies) must:

- Hold a QAL with the Aquatic Pest Control Category, and
- Be licensed as an agricultural pest control business.

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**Microbial pest control (Subcategory P)** Persons who are in the business of applying:

- algaecides and antimicrobial pesticides to treat potable water lines (systems), dairy milk lines (systems), industrial and institutional cooling towers and evaporative condensers and similar sites
- sulfur dioxide (SO<sub>2</sub>) fumigant pesticides to sanitize wooden barrels and corks used in wine production
- algaecides and antimicrobial pesticides to treat water features such as indoor and outdoor fountains, ponds, cascades, waterfalls and streams

... must:

1. Hold a QAL with Category A or Subcategory P, and
2. Be licensed as a PCB.

*Note:* Category A - Residential, Industrial and Institutional, is broader and more comprehensive than Subcategory P. A business wishing to work outside of the scope of Subcategory P must have Category A.

---

**Biological control agents**

#### **Interprets FAC section 11701**

Persons in the business of releasing biological control agents, such as predators, parasites, and disease-producing organisms, must have a PCB license.

Persons engaged strictly in cultural practices to control a pest (cultivating, discing, or hoeing fields for weed control) do not require a PCB license.

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## **Pest Control Business Interpretation Scenarios, Continued**

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**Business,  
defined**

**Interprets FAC section 11701**

Historically, DPR has defined "business" in terms of having an "at risk" ownership in what is being treated or protected. In the mid-1970s, DPR set 5% as the level of ownership to meet the definition of or to qualify as a business. This was principally related to closed systems, rather than licensing, but is the only standard ever adopted. DPR has applied this basic ownership test to carrots (Grimmway and Bolthouse decisions), landscape installation (treatments during warranty period), right-of-way holders (having an interest in the right-of-way), and probably others over the years.

Providing goods or services (pest control services) for compensation (a fee for service) constitutes a business. A person is not engaged in the "business" of pest control when they treat or protect things they own, such as the growing crop. They may own the crop even if they don't own the land upon which it is being grown.

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**Chemical  
liability**

**Interprets 3 CCR section 6524(a)**

“Chemical liability” means liability for personal injury and property damage resulting from the use of pesticides, typically discovered immediately or within a few days or few months following the pest control work.

---

**Operator of the  
property**

Operator of the property is defined in 3 CCR section 6000 as “a person who owns the property and/or is legally entitled to possess or use the property through terms of a lease, rental contract, trust, or other management arrangement.”

The term "operator of the property" is not related to the scope of PCB licensing. That term does not appear in FAC section 11701. The activity prohibited without a license by FAC section 11701 is "pest control business."

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## **Pest Control Business Interpretation Scenarios, Continued**

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### **Management firms**

#### **Interprets FAC section 11701 and 3 CCR section 6000**

For purposes of this discussion, a "management firm" is a business that provides operational assistance, support, or other activities on a "fee for service" basis. Common examples include vineyard management companies and golf course management companies. A management firm should not be confused with a "partner" which has an ownership interest in the operation.

Management firms using pesticides within the scope of their operations have long posed licensing challenges: are they considered the operator of the property, a pest control business, or both? Phrased another way, when does the activities of a management firm cross over into an activity that is a pest control business, and therefore, requires a PCB license from DPR?

Management firms are required to hold a PCB license when the management firm contracts with the owner or lessee of the property and performs services that include pest control operations. The license would still be required even though the management firm may not advertise or represent itself as doing pest control. A separate charge for agricultural pest control would not have to be made for the use to be considered advertising, soliciting, or operating as a pest control business.

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### **Fee exempt neighborhood operator**

#### **Interprets FAC section 11709**

The purpose of the Fee Exempt (Neighborhood Operator) PCB license is to allow equipment sharing and cooperation between neighboring growers and to provide for pest control on small acreage and in areas where it is economically unfeasible to hire a licensed PCB. It is not designed to allow a grower to operate as a PCB in competition with licensed PCBs. The relationship of the acreage and number of the neighboring parcels and the intent must be considered in relation to the requestor's own farming operation in order to determine whether the applicant qualifies for a fee exempt PCB license.

Applicants complete the *Pest Control Business License* (DPR-PML-042) application and check the appropriate box to request fee-exempt status. They also submit the *Fee Exempt Pest Control Business* form (DPR-PML-006) which includes supplemental information about their operations and the location of their neighbor's property. The business license will indicate "fee exempt" to avoid confusion.

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## Pest Control Business Interpretation Scenarios, Continued

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**Fee exempt neighborhood operator**  
(continued)

All other aspects of the fee-exempt pest control business license are similar to the regular pest control licensing procedures. The fee exempt operator must:

- Have financial liability insurance
  - Have a qualified individual to supervise all applications
  - Register in the county
  - Maintain records
  - Comply with all other laws and regulations that pertain to pest control businesses.
- 

**Foliar nutrient spray application**

Individuals or firms who apply only foliar nutrient sprays as a service are not required to have a PCB license, as these products are not pesticides (*FAC section 12756*). However, if a foliar nutrient spray product is intended for use as a pesticide, registered as a pesticide, contains a pesticide, or is mixed with a pesticide, then a PCB license is required.

---

**Landscape contractors**

Landscape contractors are generally responsible for replacing any plants that die within a warranty period. Therefore, they are considered to still have an ownership interest in those plants. Any pest control is on property they "own" and a license is not required.

If the contract is for more than one year or is renewed for continued maintenance work, a PCB license would be required.

---

**Landscape work at construction sites**

Pest control is sometimes done in conjunction with construction work such as paving parking lots or driveways, establishing new landscape, or building homes or other structures. If this is done by the contractor incidental to his/her construction, a PCB license would not normally be required. In this situation, the pest control is on property (ground, plants, or materials) considered to be "owned" or "operated" by the contractor and incidental to the construction.

Firms regularly doing this kind of pest control as subcontractors to construction or landscaping companies are required to be licensed.

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## Pest Control Business Interpretation Scenarios, Continued

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**Livestock  
sprays and  
spray device  
dealers**

A business that services spray devices for fly control in commercial stables, dairy barns, etc., must have either a PCB license or a structural pest control business license. Such services include the process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device.

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**Maintenance  
gardeners and  
landscape  
services**

**Interprets FAC sections 11701 and 11704**

Gardeners and landscape maintenance companies, including indoor plant maintenance companies, must be licensed as a PCB if they use pesticides or use other pest control methods to maintain the garden or landscaped areas.

The *Maintenance Gardener Pest Control Business License* can only be used if the pest control work, including pesticide use, is incidental to the maintenance activities. If the MG PCB is supervised by a QAC with subcategory Q, **only general use pesticides may be used under this certification; restricted materials may not be purchased or used.** If maintenance gardeners wanted to use restricted pesticides they would need a QAC or QAL in category B.

If maintenance gardeners or landscape maintenance companies engage in pest control work separate from the maintenance gardening or landscape maintenance activities, they must be licensed as “full” PCBs. This includes “occasional” pest control work with a small hand-sprayer or hose-end sprayer and the use of snail bait or pesticides provided by a homeowner if done as part of the service. These situations are more than “incidental” use as described in Section 4.2 above.

Whether or not an itemized charge is made for the pest control work has no bearing on the licensing requirement. A maintenance gardener who maintains a supply of pesticides shows evidence of offering pest control as part of his/her service.

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## Pest Control Business Interpretation Scenarios, Continued

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**Packing houses  
and other  
processors**

Processors (packing houses, hullers, driers, etc.) applying pesticides (such as fungicides or fumigants to fruits, nuts, grains, or vegetables) must be licensed as PCB if, at the time of treatment, the commodity is owned by the other party and pest control is part of the service provided for compensation. This also includes fungicides or insecticides applied to seeds if it is more than incidental to the regular business (i.e., a company who is in the business of treating seed).

A cooperative is owned by its members and if it handles only commodities from members a license would not be required.

---

**Structural  
sprays and  
spray device  
dealers**

A business that services spray devices in locations such as restaurants, offices, etc., requires a structural pest control business license (*B&PC section 8552*). Such services include the process of mixing and diluting the pesticide concentrate and cleaning, calibrating, or otherwise servicing the automatic spray device. If you find a company in violation of this section, refer the information to the Structural Pest Control Board.

---

**Swimming pool  
service  
companies**

**Interprets FAC section 11531(c)**

Persons engaged in the business of servicing swimming pools with a pesticide are exempt from the licensing requirement and are not required to obtain a PCB license. Worker safety requirements must still be followed. Additionally, the company must still follow the requirements of the local health department relative to the safe use of chlorine in the swimming pool.

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**Vertebrate pest  
control**

**Interprets FAC section 11531(e)**

Trappers engaged in the business of controlling vertebrate pests in areas outside of structures must be licensed as a PCB. *Division 6, Pest Control Operations (except Chapter 6 starting with FAC section 12001)* does not apply to any person while engaged in live capture and removal or exclusion of vertebrate pests, bees, or wasps, without the use of pesticides. Vertebrate pests include bats, raccoons, skunks and squirrels, but not mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5, Division 3, of the California Fish and Game Code.

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## Pest Control Business Interpretation Scenarios, Continued

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**Woodcutting:  
incidental pest  
control**

**Interprets FAC section 11701**

Pest control is sometimes done in conjunction with woodcutting activities, such as a woodcutter who simply harvests a tree and then treats the stump with a pesticide. Examples include a growth inhibitor or herbicide soon after to control the re-sprouting of the stump or a fungicide applied to prevent root disease. This activity is generally exempt from requiring a pest control business license, regardless of the intent of the landowner for future use of the site. (This is an extension of the intent of the exemption provided for those individuals engaged in tree surgery in *FAC section 11710*.)

However, the PCB license exemption above is nullified if any of the following are true:

- Per FAC section 11701, if the woodcutter or logging contractor is advertising that it will apply pesticides, soliciting pest control for hire or operating as a pest control business, the woodcutter or logging contractor needs to be licensed by DPR as a PCB.
- If stump treatment takes place after a reasonable amount of time has passed from tree harvest and stump treatment this application would no longer be “incidental” to the harvest and a PCB license is required. For example, if the logging crew moves to another area within the harvest or leaves the site, and another crew arrives later to treat the stumps.
- If the woodcutter or logging contractor hires a sub-contractor to apply pesticides, the sub-contractor is required to be a PCB licensed by DPR.

The removal of trees or brush with pesticides as a service, which might include all or some of the wood in payment, primarily to promote timber or grass production or other use, is considered pest control for hire. Therefore, a person engaged in this type of work is required to have a PCB license.

See also Chapter 4, Section 3 *Operator ID and Site ID numbers*.

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## **Pest Control Business Interpretation Scenarios, Continued**

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**Wood,  
in-ground pole,  
railroad tie  
treaters, wood  
treatment and  
wood  
preservative**

The service of treating utility poles, fence poles, railroad ties, or wood with pesticides to control or prevent wood destroying pests is considered pest control and requires a pest control business license. The pest control category for the QAL is Subcategory L, *Wood Preservatives*.

A business that applies preservative pesticides to wood in a permanent treatment plant is exempt from the pest control business license (*FAC section 11531*). Such treatments include the use of pesticides in the manufacture of utility poles, fence posts, stakes, etc. If the pesticide requires supervision of a certified applicator a QAL or QAC is still required.

Any treatment to existing structures is considered structural pest control.

See also Section 3.1 *Pest Control Dealer Interpretation Scenarios* and Section 7 *Private Applicator Certificate*.

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**Work orders  
vs.  
recommenda-  
tions**

See Section 2.2 *Interpretation of agricultural PCA scenarios*.

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## Pest Control Business Interpretation Scenarios, Continued

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### Pest Control Equipment Rental

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**Basic principles** A company that only sells, leases, or rents pest control equipment is not required to be licensed as a PCB. It may do initial setup and calibration of the equipment. Maintenance or repairs (changing oil, fueling, replacing spark plugs, fixing a flat tire, etc.) required to keep the equipment running and are not related to pest control may also be performed. Any further calibration or "in-field" adjusting would require a PCB license.

*Note:* If an employee works with or contacts equipment potentially contaminated with pesticides, the employee must be trained as a handler.

A PCB license is required of all persons who lease, rent, or provide pest control equipment **and** who mix and dilute the pesticide concentrate, or clean, calibrate, or otherwise service the equipment on the renter's property. When this service is provided as part of a lease or rental agreement, the service is covered by a part of the fee.

If the only service provided is mechanical repair and initial calibration performed on the property of the person who owns the equipment, a PCB license is not required.

If the spray equipment is loaned and the above-described services are provided at no cost, a PCB license is not required.

Occasionally, an equipment owner will provide an operator (applicator) along with the equipment. If the equipment owner pays the operator's salary and worker's compensation, the owner would have to be a licensed PCB. The equipment owner is not required to be licensed if the renter of the equipment pays the operator's salary and compensation.

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## Pest Control Business Interpretation Scenarios, Continued

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### Mold Remediation

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**Background** The Structural Pest Control Board (SPCB) position regarding SPCB licensees is that, "Molds and mildew are not structural pests and do not fall within the scope of our licensees identification activities. Licensed structural pest control operators and field representatives are not required to identify and report the presence of molds and/or mildew. They are required to report conditions that may foster molds and/or mildew growth. Examples of these conditions are, but are not limited to: shower leaks, roof leaks, plumbing leaks and other excessive moisture conditions within or under structures."<sup>6</sup>

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**SPCB licensing requirements** The SPCB interprets B&PC section 8505 as not applicable to mold remediation, and therefore, SPCB licensing is not required of companies doing this work.

Based on EPA's assessment, DPR finds that businesses using pesticides to eliminate or control mold or fungi pest invasions/infestations such as on exterior stucco walls, interior dry wall/wallboard, and ceilings in residences and other structures should be licensed with the SPCB. However, DPR acknowledges SPCB's authority to interpret the B&P Code.

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**U.S. EPA publications on mold and mildew** U.S. EPA has issued various publications regarding mold in homes and other structures. They make various statements about mold and the damage it can cause; for example stating "... mold may be in places such as drywall, wallpaper, paneling, inside walls around pipes, the surface of walls behind furniture, inside ductwork, and in roof materials." and that "Mold damages what it grows on. The longer it grows, the more damage it can cause ...."

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*Continued on next page*

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<sup>6</sup> Letter July 25, 2001 from Chief Enforcement Officer, Structural Pest Control Board, *Identification and remediation of molds and mildews by structural pest control licensees*.

## **Pest Control Business Interpretation Scenarios** Continued

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**U.S. EPA  
publications on  
mold and  
mildew,  
(continued)**

In the U.S. EPA publication, *Mold Remediation in Schools and Commercial Buildings*, U.S. EPA states that "... one purpose of mold remediation is to prevent damage to building materials. Molds gradually destroy the things they grow on .... Mold growth can eventually cause structural damage to a school or large building .... In the case of a long-term roof leak, for example, molds can weaken floors and walls ...." To view the entire document, go to the U.S. EPA web page at [http://www.epa.gov/mold/mold\\_remediation.html](http://www.epa.gov/mold/mold_remediation.html).

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**DPR licensing  
requirements**

DPR finds that businesses doing mold remediation are exempt from an agricultural pest control business license pursuant to FAC section 11531(a). DPR does, however, apply pesticide registration and use requirements to mold remediation.

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## Section 5 Pest Control Aircraft Pilot

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### Who needs the pest control aircraft pilot certificate (PCAPC)

Any individual who operates any aircraft for the purpose of pest control. This includes the following (*FAC section 11901*):

- Pilots employed by a licensed pest control business.
- Pilots employed by vector control agencies or regions.
- Pilots who do pest control on their own property (private applicators).

Starting in 2018, there will be a change in the law for Unmanned Aerial System (UAS) pilots and vector control technician UAS pilots. This section (and Section 5.2) will be updated as more guidance is provided to CACs.

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### Apprentice pilot and journeyman pilot certificates

There are two levels of PCAPCs in California that allow individuals to apply pesticides by aircraft – the apprentice pilot (AP) certificate and the journeyman pilot (JP) certificate.

#### Apprentice Pilot

California law requires that any individual who applies pesticides by air must first serve as an apprentice pilot for one year (*FAC section 11907*) and meet other requirements as specified below. This applies even though the pilot may have considerable aerial pest control experience in other states.

An apprentice pilot may only conduct pest control activities under the direct and personal supervision of an individual who holds a journeyman's certificate (*FAC section 11909*).

#### Journeyman Pilot

A journeyman's certificate shall be issued to an applicant who:

1. Currently holds an apprentice certificate, submits all required information and fees to DPR, and passes a written examination, or
2. Has held a journeyman's certificate within the previous two calendar years.

In addition, the journeyman pilot applicant must have operated a fixed-wing aircraft for a minimum of 150 hours or a nonfixed-wing aircraft (helicopter) for a minimum of 50 hours.

Pest Control Businesses that perform pest control using an aircraft must employ an individual who holds a valid journeyman PCAPC. (*FAC section 11901*).

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## Pest Control Aircraft Pilot, Continued

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**What's  
required to  
obtain a pest  
control aircraft  
pilot certificate**

An applicant for an **apprentice** pilot certificate must:

1. Submit a completed *Aircraft Pilot Pest Control Certificate Application*, DPR-PML-005. (*FAC sections 11903 and 11502.5(b)*)
2. Submit proof of a valid Federal Aviation Administration (FAA) Commercial Pilot Certificate, or if spraying his/her own property, a valid FAA Private Pilot Certificate. (*FAC section 11901*)
3. Submit proof of a valid FAA Medical Certificate. (*FAC section 11901*)
4. Submit an initial application fee.
5. Submit an examination fee for each examination to be taken.
6. Pass the Laws and Regulations and the Apprentice Pilot Examinations. (*FAC section 11905*)

An applicant for the **journeyman** pilot certificate must:

1. Submit a completed *Aircraft Pilot Pest Control Certificate Application*, DPR-PML-005. (*FAC sections 11903 and 11502.5(b)*)
2. Submit proof of a valid FAA Commercial Pilot Certificate, or if spraying his/her own property, a valid FAA Private Pilot Certificate. (*FAC section 11901*)
3. Submit proof of a valid FAA Medical Certificate. (*FAC section 11901*)
4. Submit proof that within the last two years, served as either a:
  - California JP (*FAC section 11906*); or
  - AP for one year, and a *Pest Control Aircraft Pilot Statement of Supervision and Apprenticeship by Journeyman* form (DPR-PML-010) and have at least 150 hours in a fixed wing aircraft or at least 50 hours in a helicopter. (*FAC section 11907*)
5. Submit the examination fee for the Journeyman Pilot Certificate Examination.
6. Pass the Journeyman Pilot Certificate Examination. (*FAC section 11905*)

An apprentice pilot may submit more than one *Statement of Supervision and Apprenticeship* form to meet the requirements for the Journeyman Pilot Examination. This information must be documented by the signature of the journeyman pilot(s) responsible for supervision of the apprentice pilot's flying time in pest control activities.

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## Pest Control Aircraft Pilot, Continued

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### Requirements once licensed

Once licensed, the apprentice pilot or journeyman pilot must:

- Accumulate at least 20 hours of approved continuing education every two years before certificate renewal. Of the 20 hours, at least four hours pertaining to pesticide laws and regulations and at least four hours pertaining to aerial pest control equipment and application techniques must be included. (*3 CCR section 6511(a)*)
  - Register with the CAC in each county where aerial pest control is performed. (*FAC section 11921*)
- 

### Supervision of apprentice pilots

FAC section 11909 prohibits an apprentice pilot from operating a pest control aircraft without the direct and personal supervision of a journeyman pilot. To promote uniformity among the various situations where supervision is required, DPR policy regarding apprentice supervision is that the standards for supervision of non-certified applicators should apply. (*3 CCR section 6406*)

The journeyman pilot must be aware of conditions at the application site and be available to direct and control the application. The actual or potential hazards or sensitivity of the application must be considered in determining how close or available the journeyman pilot must be.

In some cases, it may be necessary that the supervising journeyman pilot be "on site" while the application is taking place. In all cases, the apprentice pilot must be able to contact the supervising journeyman pilot immediately.

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### Medical certificate and supervision

If the journeyman pilot is not medically cleared to fly (does not provide proof of a current FAA Medical Certificate), the journeyman pilot **cannot** apply pesticides by air. However, the journeyman pilot may continue to supervise and communicate with other pilots employed by the PCB.

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## Section 5.1

### County Registration of Pest Control Aircraft Pilots

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**County registration of pilots**

Prior to conducting pest control operations in any county, all pilots must register with the CAC (*FAC section 11922*). Registration is not required if the pilot is only involved in agricultural operations such as seeding or fertilizing.

Review the pilot's pest control performance record for the past year. Discuss any problems with the pilot and ask what mitigating measures will be taken to avoid repeat problems. A letter may be used if registering by mail.

Apprentice pilots must list the names of journeymen pilots who will supervise them. The journeyman named on the form must be currently registered in that county. (*FAC section 11909*)

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**In-person county registration**

Be sure the PCAPC issued by DPR is valid for the year the applicant is registering or check DPR's list of valid licenses at:  
<http://www.cdpr.ca.gov/docs/license/currlic.htm>.

1. Using the reproduction template (Appendix A), the CAC can make its own form for registering the Pilot, as long as it contains the information from *Pest Control Aircraft Pilot Registration* form (DPR-PML-009). Check the registration form for completeness.
2. Check for an appropriate and valid FAA commercial pilot's certificate and a current medical certificate. The medical certificate is valid for only one year after the date of issuance. Make a copy and attach it to *your* copy of the pilot's completed county registration form.
3. Collect a registration fee, if charged by your county.
4. The CAC or authorized person should sign and date the form.
5. Keep the original for county records, and provide the applicant a copy of the registration form.

If necessary, process the registration forms the applicant needs to register in additional counties. Do not sign them. Give the forms to the applicant to send, with a reminder that other counties may require fees for registration.

Review county policies and regulations (or mail the information) with the applicant.

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## County Registration of Pest Control Aircraft Pilots, Continued

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**Registration by  
mail**

1. Check the Pilot's home county registration form for completeness.
  2. Check the completed form to make sure the license is valid for the year the applicant is registering.
  3. Make sure the appropriate fee (if one is required) accompanies the form.
  4. Check the records to see if the applicant previously registered in the county and if there were any problems.
  5. The CAC or authorized person should sign and date the form.
  6. Keep the original for county records, and provide the applicant a copy of the registration form.
  7. Provide a list of current county policies and regulations.
-

## Section 5.2

### Pest Control Aircraft Pilot Interpretation Scenarios

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**Introduction** This section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.

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**Private pilots** Pilots performing pest control on their own property are required to be certified as pest control aircraft pilots. If beginning as an apprentice, they must have a certified journeyman pilot provide the required supervision. (*FAC section 11901*)

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**Vector control district pilots** Pilots employed by public agencies, such as vector control districts, must be certified and meet the same supervision requirements as the private pilots above.

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**Unmanned aircraft systems** An unmanned aircraft system (UAS) is comprised of two parts:

1. an unmanned aerial vehicle (UAV) without a human pilot onboard, which is
2. controlled from an operator (the pilot) on the ground.

Assembly Bill 527 (Caballero), Chapter 404, Statutes of 2017, was signed into law on October 2, 2017. It amended FAC sections 11901, 11902, 11905, and 11910 and added section 11902.5, the FAC for licensing requirements for UAS pilots and UAS vector control technicians.

DPR is studying requirements related to UAS applying pesticides. This section will be updated as more guidance is provided to CACs.

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## Section 6

# Qualified Applicator License and Qualified Applicator Certificate

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**Introduction** DPR issues licenses and certificates to businesses and individuals to perform pest control. This section describes requirements for two types of commercial applicators: Qualified Applicator Licenses (QAL) and Qualified Applicator Certificates (QAC).

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### Qualified Applicator License (QAL)

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**Who needs the qualified applicator license (QAL)** Any individual who supervises the application of either a restricted use or a general use pesticide made by a licensed pest control business, and is responsible for the safe and legal operation of the pest control business. (*FAC sections 11701-11709*)  
**OR,**  
Any individual who uses or supervises the use of federally restricted use pesticide or California restricted material for any purpose or on any property other than that provided by the definition of a "private applicator." (*3 CCR section 6000*)

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**What's required to obtain the QAL** An applicant for a qualified applicator license must:

1. Submit a completed *Qualified Applicator License Application*, DPR-PML-001. (*FAC section 12201*)
2. Submit an initial application fee and an examination fee for each examination to be taken. (*FAC sections 12201 and 11502.5*)
3. Pass the Laws and Regulations examination and at least one pest control category examination.

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## Qualified Applicator License and Qualified Applicator Certificate, Continued

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**Pest control categories under the QAL**

The pest control categories and subcategories available for the QAL (*FAC section 12203*):

- A. Residential, Industrial, and Institutional
  - B. Landscape Maintenance
  - C. Right-of-Way
  - D. Plant Agriculture
  - E. Forest
  - F. Aquatic
  - G. Regulatory
  - H. Seed Treatment
  - I. Animal Agriculture
  - J. Demonstration and Research
  - K. Health-Related
  - L. Wood Preservative
  - M. Antifouling Tributyltin
  - N. Sewer Line Root Control
  - O. Field Fumigation
  - P. Microbial Pest Control
- 

**Continuing education**

**Interprets 3 CCR section 6511**

Once licensed, a QAL shall accumulate continuing education hours to renew the license. These hours must be collected while the license is valid before certificate renewal:

- A QAL holder with only subcategories M, N or P needs only 8 hours of approved continuing education (including at least two hours pesticide laws and regulations). A QAL holder with only category H needs 4 hours (including at least two hours laws and regulations)
  - For all other categories, the QAL holder needs at least 20 hours of approved continuing education. Four of the 20 hours must cover the topic of pesticide laws and regulations.
- 

**Maintenance gardener that does NOT apply pesticides**

If the maintenance gardener does **not** apply **any** pesticides, then a maintenance gardener business license and an individual qualified applicator certificate or license is not required from DPR; however, be sure the applicant checks local licensing requirements.

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## Qualified Applicator License and Qualified Applicator Certificate, Continued

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### Qualified Applicator Certificate (QAC)

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**Who needs the qualified applicator certificate (QAC)**

Any individual who uses or supervises the use of federal restricted use pesticides or California restricted materials for any purpose or on any property other than that provided by 3 CCR section 6000 definition of "private applicator."

This certificate is also required by anyone who is in the business of maintenance gardening and performs **pest control that is incidental to such business**. In this situation, the qualified applicator certificate holder must possess the landscape maintenance pest control category (Category B) or the maintenance gardener pest control category (Subcategory Q) on their certificate, and must also obtain a Maintenance Gardener Pest Control Business License.

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**What's required to obtain the QAC**

An applicant for a qualified applicator certificate must:

1. Submit a completed *Qualified Applicator Certificate Application*, DPR-PML-001A. (FAC section 14152)
  2. Submit an initial application fee and an examination fee for each examination to be taken. (FAC sections 14152 and 11502.5)
  3. Pass the Laws and Regulations examination (except Subcategory Q) and at least one pest control category examination.
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## Qualified Applicator License and Qualified Applicator Certificate, Continued

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**Pest control categories under the QAC**

The pest control categories and subcategories available for the QAC (*FAC section 14153*):

- A. Residential, Industrial, and Institutional
  - B. Landscape Maintenance
  - C. Right-of-Way
  - D. Plant Agriculture
  - E. Forest
  - F. Aquatic
  - G. Regulatory
  - H. Seed Treatment
  - I. Animal Agriculture
  - J. Demonstration and Research
  - K. Health-Related
  - L. Wood Preservative
  - M. Antifouling Tributyltin
  - N. Sewer Line Root Control
  - O. Field Fumigation
  - P. Microbial Pest Control
  - Q. Maintenance Gardener
- 

**Requirements when licensed**

**Interprets 3 CCR section 6511**

Once licensed, a QAC must accumulate continuing education hours to renew the license. These hours must be collected while the license is valid before certificate renewal:

- A QAC holder with only subcategories M, N, P or Q need only 8 hours of approved continuing education (including at least two hours pesticide laws and regulations). A QAC holder with only category H needs 4 hours (including at least two hours laws and regulations)
  - For all other categories, the QAC holder needs least 20 hours of approved continuing education. Four of the 20 hours must cover the topic of pesticide laws and regulations.
- 

**Maintenance gardener that does NOT apply pesticides**

If the maintenance gardener does **not** apply **any** pesticides, then a maintenance gardener business license and an individual qualified applicator certificate or license is not required from DPR; however, be sure the applicant checks local licensing requirements.

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## Section 6.1 QAL and QAC Categories

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### Introduction

The following is intended to assist CAC staff with general information to help pest control applicators identify the most appropriate category for the type of pest control they will be conducting and to properly enforce business supervision licensing requirements. See also Section 10 *Quick Reference Charts*.

These pest control applicator categories apply to both qualified applicator licenses and qualified applicator certificates with the exception of the Maintenance Gardener certificate (Subcategory Q).

---

### Category A, Residential, Industrial, and Institutional

This category includes the use of pesticides in and around human dwellings, industrial establishments (including packing plants, manufacturing and processing plants, warehouses, grain elevators, and factories), or institutions (including schools, hospitals, and office buildings). Non-landscaped outside areas (such as storage yards or tank farms) directly related to the operation of the building may also be treated under this category.

Structural pest control as a business is not allowed within the scope of this category. Structural pest control businesses are licensed by the Structural Pest Control Board.

This category does not allow the use of pesticides for landscape maintenance (see Category B, *Landscape Maintenance*) or treatment to control or prevent insects or fungi from infesting wood (see Subcategory L, *Wood Preservation*).

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### Category B, Landscape Maintenance

This category includes the use of pesticides to establish or maintain natural or planted ornamental and turf landscape areas and other outside areas around buildings. Typical areas included in this category are residential yards (including home gardens and orchards), parks and other recreation areas, schoolyards, vacant lots, storage yards, cemeteries, golf courses, green belts, and similar sites. It may also include landscaped street medians and sidewalk areas, and also areas such as walkways and parking lots directly related to landscaped areas. This category also includes the use of pesticides in landscaped areas in enclosed shopping malls, and indoor plants.

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## QAL and QAC Categories, Continued

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**Category C,  
Right-of-Way**

This category includes the use of pesticides in the maintenance of roads, highways, power lines, telephone lines, pipelines, canals, railroads, or other similar areas except for direct application to running or standing water. It may include landscaped right-of-way areas.

This category does not allow wood treatment to control termites or fungi-infested wood. Subcategory L is the proper category for those treatments.

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**Category D,  
Plant  
Agriculture**

This category includes the use of pesticides in the production of food, fiber, or ornamental crops as well as on grasslands and non-crop agricultural areas except when directly applied to running or standing water. It includes applications to rice and similar crops grown in wet or flooded fields.

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**Category E,  
Forest**

This category includes the use of pesticides in forests, forest nurseries, and forest seed-producing areas **except** for direct application to running or standing water.

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**Category F,  
Aquatic**

This category includes the use of pesticides purposefully applied to standing or running water **except** for health-related, regulatory, demonstration and research, sewer line root control purposes, or applications to rice or similar crops grown in wet or flooded fields.

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**Category G,  
Regulatory**

This category includes the use of pesticides in official programs for the control of regulated pests. “Regulated pest” means a specific organism considered by a State or federal agency to be a pest, requiring regulatory restrictions or control procedures in order to protect the host, public, or the environment.

This category is not required of contractors who apply pesticides provided that they hold all categories necessary to cover the types of pest control to be done. Additionally, this category is not required of any individual as long as he/she holds specific categories covering the types of pest control being done even though the pests may coincidentally be regulated pests.

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## QAL and QAC Categories, Continued

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**Category H,  
Seed Treatment**

This category includes the use of pesticides to protect seed for planting.

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**Category I,  
Animal  
Agriculture**

This category includes the use of pesticides on animals and to places where animals are confined **except** when applied directly to running or standing water. Barns, sheds, and corrals can be treated under this category to control animal-infesting pests. Treatment to control termites or other pests infesting barn or corral wood are under Subcategory L or a structural license.

---

**Category J,  
Demonstration  
and Research**

This category includes individuals who demonstrate proper techniques of application or conduct field research with pesticides. This category is not required of applicators who demonstrate proper techniques provided they all hold specific categories covering the types of pest control being done. Additionally, licensing is not required of contractors who apply pesticides for research provided that the appropriate specific category is held. Note that a Research Authorization (RA) may also be required for those doing experimental pesticide applications.

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**Category K,  
Health-Related**

This category includes use of pesticides in official programs for management and control of pests having medical and public health importance.

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**Subcategory L,  
Wood  
Preservation**

This subcategory includes the use of pesticides to protect wood from wood-damaging pests. This subcategory allows application of wood preservation materials within the scope of Categories A (Residential, Industrial, and Institutional), C (Right-of-Way) or I (Animal Agriculture).

---

**Subcategory M,  
Antifouling  
Paints or  
Coatings  
Containing  
Tributyltin**

This subcategory of Category A (Residential, Industrial, and Institutional) allows the use of antifouling paints or coatings containing tributyltin (a restricted use pesticide) to control the growth of aquatic organisms on the hulls of ships. Although a vessel may be considered a structure, a structural license cannot be used to treat vessels with tributyltin. The sole licensing authority to certify the individual who is using or is responsible for the supervision of the use of antifouling tributyltin paint lies with DPR.

**Note:** As of October 2017, there are no tributyltin products with active registration in California.

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## QAL and QAC Categories, Continued

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**Subcategory N,  
Sewer Line  
Root Control** This subcategory of Category A (Residential, Industrial, and Institutional) allows the use of pesticides, or certain substances, methods, or devices to control roots in sewer lines.

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**Subcategory O,  
Field  
Fumigation** This subcategory allows the use of restricted use fumigants to control pests in field soil only. It is mandatory for all PCB-applied field fumigations (*3 CCR section 6536*). Holding this category also exempts the individual from having to complete additional training on the fumigant required by labels. This category does not include fumigation of potting soil, soil in greenhouses, or tree/vine hole sites.

For more information, see *Licensing Requirements for Field Fumigant Applications* at [http://www.cdpr.ca.gov/docs/emon/vocs/vocproj/lic\\_req.htm](http://www.cdpr.ca.gov/docs/emon/vocs/vocproj/lic_req.htm).

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**Subcategory P,  
Microbial Pest  
Control** This subcategory of Category A allows the use of sulfur dioxide fumigant to treat corks and wooden barrels used in wine production, disinfection of potable water systems, industrial cooling towers and evaporative condensers, and other settings in pesticide labeling.

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**Subcategory Q,  
Maintenance  
Gardener** This subcategory of Category B (Landscape Maintenance) allows the incidental use of general use pesticides, or certain substances, methods, or devices to control pests in landscape areas for hire only under the scope of a maintenance gardener pest control business license. Subcategory Q is only available under the QAC, and QACs possessing only Subcategory Q ***cannot purchase or use federal restricted use pesticides or California restricted materials.***

Maintenance gardening activities include mowing lawns, engaging in general yard cleanup, and/or taking care of plants and turf and the incidental application of general use pesticides in:

- Outdoor ornamental and garden areas surrounding public structures, such as buildings, brick walls, fountains, fences, statues;
  - Outdoor ornamental and garden areas surrounding commercial parks, such as, offices, restaurants, warehouses, factories, stores, shopping centers, malls;
  - Parks, golf courses, cemeteries, but only on ornamental or turf plantings near buildings (clubhouses, pro shops, restrooms) that are distinct and separate from the plantings that constitute open space landscaping.
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## Section 6.2

### QALs/QACs and “Not for Hire” Supervision of Restricted Pesticides

Interprets FAC section 14015 and 3 CCR sections 6000, 6406 and 6428

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**Background** State law requires a “commercial applicator” to be licensed in the correct category when performing pest control for hire as part of a licensed pest control business (see FAC section 11705).

State law (FAC section 14015) also requires that restricted materials “only be possessed or used by, or under the direct supervision of” a private or commercial applicator. These California restricted materials (RMs) are found in 3 CCR section 6400 and include federal restricted-use pesticides (RUPs).

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**Licensing** The prospective licensee must pass the pesticide laws and regulations exam provided by DPR to obtain the QAL or QAC\*. This exam is more rigorous than the exam taken by private applicators.

In addition, the applicant must pass at least one category. It is most logical to study for the exam in the applicant’s chosen field (i.e., a golf course superintendent would want to study for the Category B exam).

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**Interpretation** Subject to the restrictions (\*) below, if an individual will use or supervise the use of RUPs or RMs on property owned, leased or rented by him/her or his/her employer, this individual can be issued the restricted materials permit (RMP) or operator identification number (OIN) and/or be the supervising certified applicator if the individual:

1. Has a valid QAL or QAC\* issued by DPR, and
2. **The applications are not “for hire,”** that is the individual is not conducting applications as part of activities for which licensing as a PCB is required (for example, not an employee of a vineyard or golf course management company)

An individual with a valid QAL or QAC\* includes the required laws and regulations needed to issue the OIN or RMP and purchase, use or supervise these use, regardless of the category held by the individual.

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## QALs/QACs and “Not for Hire” Supervision of Restricted Pesticides, Continued

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- \*Restrictions**      There are restrictions on what a QAL/QAC holder can purchase and use:
1. The purchase/use is related to activities of a pest control business. In those instances, the “commercial applicator” is limited to purchasing and using pesticides within the scope of the category(ies) on the license (*FAC section 11705*).
  2. QAC holders with subcategory Q are not certified applicators and cannot purchase, use, or supervise the use of RUPs or California restricted materials (*3 CCR section 6531*).
  3. If the purchase/use is related to field fumigation, then category “O” is required (*3 CCR section 6536*).
- 

- Examples**      Examples include:
- Production Ag: A permit applicant with a property growing an agricultural commodity with a valid QAL or QAC does not need Category D to be issued a production ag RMP or OIN.
  - Golf course: A superintendent on a golf course (not operated by a management company) with a valid QAL or QAC does not need to have Category B to be issued a RMP or OIN for the course.
  - Winery: An individual holding a valid QAL or QAC does not need to have Categories A or P to supervise the use of sulfur-dioxide in a winery and can be issued the OIN for the facility.
  - Employees of a health department do not need to have Category K to use or supervise the use of pesticides for medical or public-health importance.

Notwithstanding the above, CACs should evaluate each situation and ensure that the use of restricted pesticides is adequately supervised following the guidance found in Compendium Volumes 4 and 8.

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**Note**      U.S. EPA on January 4, 2017, proposed amendments to 40 CFR part 171—Certification of Pesticide Applicators. These changes were subsequently delayed by U.S. EPA until May 22, 2018, and may undergo revision.

The regulation, as adopted, would have required a certified applicator (private or commercial) when supervising the use of a restricted pesticide by a non-certified applicator to be certified in each category applicable to the supervised pesticide use. Should 40 CFR part 171 be revised in the future, DPR will update CACs on those changes.

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## Section 7

### Private Applicator Certificate (PAC)

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**Who needs the PAC**

**Interprets 3 CCR section 6000**

- An individual who uses or supervises the use of a restricted use pesticide or California Restricted Material for the purpose of producing an agricultural commodity<sup>7</sup> on property owned, leased, or rented by that individual or the individual's employer.
  - A householder who uses or supervises the use of a restricted use pesticide or California Restricted Material outside the confines of a residential dwelling for the purpose of controlling ornamental, plant or turf pests on residential property owned, leased, or rented by that householder.
- 

**Additional information**

For detailed information on Private Applicators, please see Compendium Volume 3, *Restricted Materials and Permitting*, Chapter 4, *Private Applicator Certification*.

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**Property management company**

The definition of "private applicator" from 3 CCR section 6000 allows applications on property the private applicator leases or rents, or works as an employee of the owner, lessor, or renter of the property. The definition does not include the person(s) managing the property under a management agreement. See the section on *Management Firms* in Section 4.4 above.

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**Wine barrels and corks**

Wine barrels and corks are not an "agricultural commodity." The PAC does not cover the application of sulfur dioxide (SO<sub>2</sub>) in commercial processing of wine (barrels or corks). A QAL or QAC is required for this industrial use. See DPR's SO<sub>2</sub> flier at: <http://www.cdpr.ca.gov/docs/dept/factshts/so2.pdf>

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<sup>7</sup> As defined by 40CFR section 171.2(a)(5) on July 1, 2013: any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

## Private Applicator Certificate (PAC), Continued

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**In-ground pole, railroad tie treaters, wood treatment and wood preservation**

Pesticides can be used to treat utility poles, fence poles, railroad ties, or wood to control or prevent wood destroying pests. A householder looking to use a restricted use pesticide as a wood preservative would not meet the definition of “private applicator” in 3 CCR section 6000 and must instead obtain a QAC or QAL.

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## Section 8

### Farm Labor Contractor (FLC)

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**Who needs the FLC license?**

The law considers the following individuals or organizations “farm labor contractors”:

- any person/legal entity who, for a fee, employs people to perform work connected to the production of farm products to, for, or under the direction of a third person.
  - any person/legal entity who recruits, supplies, or hires workers on behalf of someone engaged in the production of farm products and, for a fee, provides board, lodging, or transportation for those workers, or supervises, times, checks, counts, weighs, or otherwise directs or measures their work, or disburses wage payments to these persons.
  - A “day hauler” who is employed by a farm labor contractor to transport, or who for a fee transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person.
- 

**Exemptions from the FLC license**

Farm labor contractor does not include:

- A commercial packing house engaged in both the harvesting and the packing of citrus fruit or soft fruit for a client. (Labor Code (LC) section 1682.4)
  - A “nonprofit” corporation or organization performing services for its members (LC section 1682.5(a))
  - Individuals who are actually employees and not independent contractors (LC section 1682.5(b))
  - Custom harvesters (DIR Guidance)
- 

**Verifying if the FLC is licensed**

Use the online FLC license verification database at:

<[https://permits.dir.ca.gov/FLC\\_External/CreateVerificationSearchForm.do](https://permits.dir.ca.gov/FLC_External/CreateVerificationSearchForm.do)>

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## Farm Labor Contractor (FLC), Continued

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### To become licensed in California

Department of Industrial Relations (DIR) Labor Commissioner's Office's (also known as the Division of Labor Standard Enforcement [DLSE]) website explains the steps to become licensed and an explanation of how to fill out the forms. Please see: <<https://www.dir.ca.gov/dlse/Obtainalicense.html>>

One of the steps is to have registered with the federal government as a FLC and received a federal registration certificate. Please fill out the application at: <[https://www.dol.gov/whd/forms/fts\\_wh530.htm](https://www.dol.gov/whd/forms/fts_wh530.htm)>

DLSE has an online system for applying for a license. Please visit <[https://www.dir.ca.gov/DLSE/FLC\\_new\\_license.htm](https://www.dir.ca.gov/DLSE/FLC_new_license.htm)>

New applicants must take an exam, and licensed FLCs are required to take the exam every two years, or sooner if the FLC violated a law related to labor contracting or at the request of the Labor Commissioner. Please see [https://www.dir.ca.gov/DLSE/FLC\\_Exams\\_and\\_Continuing\\_Education.htm](https://www.dir.ca.gov/DLSE/FLC_Exams_and_Continuing_Education.htm)

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### County Registration

LC section 1695(a)(8) requires a FLC to register annually with the CAC of the county or counties where the FLC has contracted with a grower or growers.

LC section 1695(b) allows the board of supervisors of a county to establish a registration fee.

One of the purposes of registering with the CAC is to provide an opportunity to inform the FLC about field worker safety as it relates to pesticide use. For example, there are regulations that require farm labor contractors to inform or train their employees about the hazards of pesticides as it relates to them working in fields.

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## Section 8.1 FLC Interpretation Scenarios

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**Introduction** This section contains interpretations and descriptions of some situations and scenarios to assist CACs in determining when to contact the Department of Industrial Relations (DIR) Labor Commissioner's Office (also known as the Division of Labor Standard Enforcement [DLSE]).

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**DIR-DLSE jurisdiction** DIR-DLSE has authority to regulate FLCs and interpret the Labor Code and determine who is or is not a FLC.

CACs conducting fieldworker safety inspections or illness investigations are primarily looking for compliance with pesticide laws and regulations. However, CAC or DPR staff may come across situations where the status of the employer as a FLC is unclear or the CAC or DPR believes the employer should be licensed as a FLC. In those cases, CAC or DPR staff should refer the situation to DIR's DLSE for a determination.

CAC staff can send an email to [FLC@dir.ca.gov](mailto:FLC@dir.ca.gov) and should get a response the next business day. As an alternative, DLSE has two offices that handle FLC licensing inquiries. CACs can contact the licensing units at DLSE's Fresno office at (559) 248-1893 or Oakland office at (510) 285-3399.

When contacting DLSE, CACs are requested to provide the following information:

- a) Legal entity name (sole proprietor, partnership, LLC, corporation) of acting FLC (licensed or unlicensed)
- b) Name of individual, partner, LLC member, corporate officer
- c) Address of business if known
- d) Grower information if any and address location (so DLSE's enforcement unit can stop by and check)
- e) Phone number if known

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## FLC Interpretation Scenarios, Continued

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### **DIR-DLSE interpretation**

The nomenclature given to the operation or entity or the primary business of the operation or entity is not the determining factor of whether an FLC license is required. The issue is whether the entity performs any of the duties described in Labor Code section 1682(b) for a fee. If a fee is paid and there is no specific exclusion contained in the law, the entity is a FLC and must be licensed.

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### **Planting, harvesting & management**

An “agricultural employer” who provides ground preparation, planting harvesting, and/or other related services and also provides plants, fertilizer, equipment, expertise, labor, fuel, chemicals and other incidental materials. This employer may receive in compensation:

- a percentage of the planting or harvest;
- a set dollar amount per ton harvested;
- a set dollar amount per acre prepared, planted, or harvested; or
- reimbursement of certain non-labor expenses plus one of the above options

DLSE has interpreted that each of these results in employment for the benefit of a third party (owners or lessees of the land), the compensation is a “fee” as defined by LC section 1682(e) and thus the “agricultural employer” is required to be licensed as a FLC.

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### **Management companies**

In this scenario, there is agreement between the manager (i.e., a farm or vineyard management company) and the owner for the manager to provide the labor, equipment, materials and supplies and perform the farming duties. Whether the manager would have to consult with the owner and keep the owner advised on the status of the crop would not have any bearing on whether the person or entity was a FLC. The management company would be required to have a FLC license.

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## FLC Interpretation Scenarios, Continued

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### **Sharing employees**

In this scenario, three growers have agreed that one of the growers will employ all of the workers and perform all of the operations on the land owned by all three growers. In this example, the employing entity must be licensed as a FLC. DLSE found that the “employing entity” falls into the FLC category inasmuch as that entity would employ workers to render personal services in connection with the production of farm products under the direction of a third person (the other two growers).

It does not matter that the employer may also employ those same workers on his own land, the important consideration is the category of that employer when he uses those employees to perform the described services on the land of a third person or under the direction of a third person.

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## Section 9

### Structural Pest Control Licenses

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#### **Introduction**

Structural pest control applicators and businesses are required to obtain a license or certificate to conduct pest control from the Structural Pest Control Board (SPCB). The laws and regulations are in the Business and Professions Code (B&PC).

The type of license or certificate required is dependent on what pest control activity is being done, by whom, and in what setting.

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#### **Structural pest control, defined**

Structural pest control is defined in B&PC section 8505, in part, as follows: ‘Structural pest control’ and ‘pest control’ as used in this chapter are synonymous. With certain exceptions, it is, with respect to household pests and wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following: identification of infestations or infections; the making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms.

B&PC section 8555(b) exempts “persons engaged only in agricultural pest control work under permit or license by DPR or a CAC.” However, this does not mean that regulation under the Structural Pest Control Act may be circumvented by performing structural pest control under an agricultural pest control license.

Thus, both laws recognize that certain activities can be construed as either “structural” or “agricultural” pest control, and the effect of the exemptions in such cases is to require one or the other class of license, but not both.

Control of pests invading structures is strictly structural pest control, whether carried on, within, or outside of the structure. Control for the purpose of eliminating ants or earwigs as garden or orchard pests, or to assist in the control of honeydew-producing insects, is strictly agricultural pest control, even where treatment is applied adjacent to a structure, and incidentally prevents invasion of the structure.

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## Structural Pest Control Licenses, Continued

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**Structural pest control, defined**  
(continued)

Any application of a pesticide to plants, irrespective of their location in respect to a structure, is agricultural pest control, except for incidental contact of foliage or plants with a pesticide arising from structural pest control activities. Pesticide applications made to indoor plants in malls, offices, etc., would be agricultural pest control. Control of fleas, mosquitoes, and similar pests to humans and their pets, in or around a structure, including treatment of lawn areas nearby for fleas, is structural pest control.

Depending on the intent of the application, control of pests infesting a structure and its contents is structural pest control. See also Section 10, *Quick Reference Charts*.

Removal of live bees from a structure does not require a structural pest control license. The use of a pesticide to destroy diseased bees in a structure to prevent infection of an apiary, however, can be construed as agricultural pest control.

Businesses that treat roofs with a pesticide(s) to control fungi, algae, bacteria, etc., would require a structural pest control registration.

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**“License” vs “Register”**

The B&PC uses the term "**register**" when referring to the state licensing procedure for structural pest control businesses. It uses the term "**license**" when referring to the state licensing procedures for individuals. FAC sections 15204 and 15205 require licensed Structural pest control companies and designated individuals to register with the CAC of each county where they work.

*Note:* To maintain consistency between Sections 9, 9.1 and 9.2 and the rest of this chapter, the term "**license**" is used to describe the state requirements and "**register**" to refer to the county requirements.

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## Structural Pest Control Licenses, Continued

### Categories of structural pest control

The SPCB licenses both businesses and individuals to perform specific types or categories of structural pest control work. A company and individual may only perform work defined within each category for which they are licensed. The following are categories of structural pest control (*B&PC section 8560*) in which the company engages:

- Branch 1 - Fumigation
- Branch 2 - General Pest Control
- Branch 3 - Termite Control

Each structural pest control company must have a qualifying manager for each category (branch) of pest control in which the licensed company is engaged in business. (*B&PC section 8560*)

### License period and renewal cycle

SPC License Type	License Period	Renewal/Expiration Date
Company, Principle	Lifetime	N/A
Company, Branch	Lifetime	N/A
Operator	3 years	June 30
Field Representative	3 years	June 30
Applicator	3 years	June 30

### Restricted materials sales to Structural Pest Control licensees

#### Interprets FAC section 14006.6(d)

Restricted material permits are not required for licensed Structural Pest Control Businesses. This exemption applies only to pesticides used in structural pest control, such as methyl bromide, chloropicrin, and Avitrol. However, structural pest control businesses are not exempt from applicator certification requirements, and a copy of the license, certificate, or signed statement required by 3 CCR section 6568(b) is still mandatory for the purchase of federal restricted use pesticides.

## Section 9.1 Structural Pest Control Business Licenses

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**Who needs the business license**

A pest control company must be licensed (registered) with the SPCB if it:

- Secures structural pest control work.
  - Submits bids for or contracts for structural pest control work.
  - Identifies pest infestations or infections.
  - Conducts inspections.
- 

**Exemptions from the business license**

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (*B&PC section 8555(a)*)
  - Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (*B&PC section 8555(b)*)
  - Pest control performed by persons on property owned, leased, or rented by them. (*B&PC section 8555(c)*)
  - Government agencies, authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (*B&PC section 8555(d)*)
  - Certified architects and registered civil engineers acting within their professional capacity. (*B&PC section 8555(f)*)
  - Licensed contractors preserving wood. (*B&PC section 8556*)
  - Persons engaged in live capture and removal of vertebrate pests, bees or wasps without the use of pesticides (*B&PC section 8555(g)*)
- 

**Qualifying manager**

Each structural pest control business must designate an individual or individuals who hold a Structural Pest Control Operator's license to act as the qualifying manager or managers. The qualifying manager supervises the daily business of the company and must be available to supervise and assist the company's employees.

The qualifying manager(s) must be licensed as a Structural Pest Control Operator in one or any combination of the following categories of structural pest control (*B&PC section 8560*) in which the company engages:

- Branch 1 - Fumigation
  - Branch 2 - General Pest Control
  - Branch 3 - Termite Control
- 

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## Structural Pest Control Business Licenses, Continued

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**Qualifying manager**  
(continued)

There must be a qualifying manager for each category (branch) of pest control in which the licensed company is engaged in business. (*B&PC section 8610*)

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**What's required to obtain the company license**

After an individual obtains an Operator's license or is in the process of obtaining an Operator's license, a completed application form is submitted to the SPCB. Once the company's name is approved, the SPCB will mail a company registration packet to provide additional information and allow the company to pay the required fees.

See the SPCB's website at <http://www.pestboard.ca.gov/howdoi/pr.shtml> for the required forms and more information.

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**Branch offices**

**Interprets B&PC sections 8611 and 8612**

Each branch office must have a separate license. The structural pest control company business shall submit a separate application for branch office registration for each branch office location and pay the required fee.

The registered company must designate an individual licensed by SPCB to supervise each branch office. The branch supervisor shall be an individual who is licensed as a Structural Pest Control Operator or a Field Representative. The branch supervisor shall be available to assist employees in that office.

---

**Requirements once licensed**

Once licensed, each principle and branch structural pest control business must:

- Register with the CAC in each county where business is conducted. (*FAC section 15204(a) and/or 15204.5(a)*)
  - Retain fumigation log or pesticide use records for three years. (*16 CCR section 1970*)
  - Submit monthly summary pesticide use reports (*B&PC section 8505.17(c)*) or negative pesticide use reports (*3 CCR section 6628(b)*) by the 10<sup>th</sup> of the following month to the CAC.
  - Each pesticide use report shall have a pesticide use stamp or stamp number that is purchased from the SPCB. (*B&PC section 8505.17*)
-

## Section 9.2 Structural Pest Control Individual Licenses

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### Fingerprint (Live Scan) & background check

As a consumer protection measure, the SPCB verifies the identity and the accuracy of an applicant's criminal history.

All new applicants for a Structural Pest Control Operator (OPR), Field Representative (FR), and Applicator licenses shall submit fingerprint identification and undergo a background investigation.

The SPCB recommends that applicants complete the Live Scan/Fingerprint process before taking the examination since the SPCB must receive the Live Scan/Fingerprint results prior to issuing a license. The Live Scan/Fingerprint process can take from two weeks to two months or more.

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### Continuing education requirements once licensed

The applicant must provide proof of completing the required continuing education hours or pass a continuing education examination (and pay the required renewal fee) when renewing his/her license.

The number and types of continuing education hours is dependent on the branch(es) of license held. Information can be found on the SPCB website at <http://www.pestboard.ca.gov/howdoi/renew.shtml>.

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### County registration

Branch 1 structural pest control OPRs and FRs must register each calendar year with the CAC's office in each county in which fumigation work is conducted. In-person or mail registration varies by county.

Structural pest control OPRs who serve as the qualifying manager for Branch 2 and Branch 3 pest control companies must also register each calendar year with the CAC's office in each county in which work is conducted.

Branch 2 and Branch 3 structural pest control applicators **do not** have to register with the CAC's office.

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## Structural Pest Control Individual Licenses, Continued

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### Structural Pest Control Operator (OPR) License

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**Who needs the structural pest control operator license**

Any individual who:

- Serves as the qualifying manager of a structural pest control company.
  - Secures structural pest control work, submits bids for, or contracts on behalf of a structural pest control company.
  - Identifies pest infestations or infections.
  - Conducts inspections.
- 

**Exemptions from the structural pest control operator license**

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (*B&PC section 8555(a)*)
  - Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (*B&PC section 8555(b)*)
  - Pest control performed by persons on property owned, leased, or rented by them. (*B&PC section 8555(c)*)
  - Government agencies, authorized representatives of an educational institution or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (*B&PC sections 8555(d-e)*)
  - Certified architects and registered civil engineers acting within their professional capacity. (*B&PC section 8555(f)*)
  - Persons engaged in live capture and removal of vertebrate pests, bees or wasps without the use of pesticides (*B&PC section 8555(g)*)
- 

**What's required to obtain the operator license**

To obtain an **initial** OPR license an applicant must:

1. Complete the required “Board Approved Pre-Operator Courses”
2. Complete the Live Scan/Fingerprint and Background Investigation
3. Submit an application for examination, with required fee
4. Pass an Examination
5. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

See the SPCB’s website at <http://www.pestboard.ca.gov/howdoi/pr.shtml> for the required forms, fees and exam information.

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## Structural Pest Control Individual Licenses, Continued

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### Structural Pest Control Field Representative (FR) License

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**Who needs the structural pest control field representative license**

Any individual who:

- Secures structural pest control work, submits bids for, or contracts on behalf of a structural pest control company.
  - Identifies pest infestations or infections.
  - Conducts inspections.
- 

**Exemptions from the structural pest control field representative license**

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (*B&PC section 8555(a)*)
  - Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (*B&PC section 8555(b)*)
  - Pest control performed by persons on property owned, leased, or rented by them. (*B&PC section 8555(c)*)
  - Government agencies, authorized representatives of an educational institution or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (*B&PC section 8555(d-e)*)
  - Certified architects and registered civil engineers acting within their professional capacity. (*B&PC section 8555(f)*)
  - Persons engaged in live capture and removal of vertebrate pests, bees or wasps without the use of pesticides (*B&PC section 8555(g)*)
- 

**What's required to obtain the field representative license**

To obtain an **initial** FR license an applicant must:

1. Complete the Live Scan/Fingerprint and Background Investigation
2. Submit an application for examination, with required fee
3. Pass an Examination
4. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

See the SPCB's website at <<http://www.pestboard.ca.gov/howdoi/fr.shtml>> for the required forms, fees and exam information.

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## Structural Pest Control Individual Licenses, Continued

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### Structural Pest Control Applicator

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**Who needs the structural pest control applicator license**

Any individual not a FR or OPR applying pesticides in Branch 2 or Branch 3 employed by a licensed company with SPCB. (*B&PC section 8564.5*)

*Note:* An individual licensed as a structural pest control applicator is not a certified applicator (*3 CCR section 6000*) for purposes of using or supervising the use of restricted materials. Consequently, these individuals also must receive annual pesticide handler training per *3 CCR section 6724*.

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**Additional information**

After passing the written examination in Branch 2 or 3, a licensed applicator may apply any chemical for a period not to exceed three years, at which time the individual must pay a renewal fee. (*B&PC section 8564.5(c)*)

Current law does not authorize a general applicator to apply any chemical in Branch 1 - Fumigation.

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**What's required to obtain the applicator license**

To obtain an **initial** structural pest control applicator license an applicant must:

1. Complete the Live Scan/Fingerprint and Background Investigation
2. Submit an application for examination, with required fee
3. Pass an Examination
4. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

See the SPCB's website at <<http://www.pestboard.ca.gov/howdoi/app.shtml>> for the required forms, fees and exam information.

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## Section 10

### Quick Reference Charts

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**Introduction-  
Chart of Types  
of Licenses and  
Certificates –  
Scenarios**

The following charts summarize the type of license or certificate required for pest control businesses in various example scenarios. This is just a quick reference guide.

These determinations are based on:

- the specific pest control activity,
- who is performing the pest control, and
- the specific setting.

These examples of various scenarios are only a guide. For further clarification contact the EBL assigned to your county.

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*Continued on next page*

## Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control <b>Agricultural Pesticide Use<sup>8</sup></b>			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
<b>Adjacent to structure, garden, or orchard pest</b>	QAL Cat A, Cat B or QAC Subcat Q	FAC §§ 11701 or 11704	Control (for the purpose of eliminating ants, earwigs, garden or non-crop orchard pests, or to assist in the control of honeydew producing insects) even where treatment is applied <b>adjacent</b> to a <b>structure</b> and incidentally prevents invasion of the structure.
<b>Landscape Plants &amp; Turf</b>	QAL Cat B or QAC Subcat Q	FAC §§ 11701 or 11704	Any application of a pesticide to existing landscape <b>plants &amp; turf</b> , <u>irrespective of their location in respect to a structure</u> , except for incidental contact of foliage or plants with a pesticide arising from structural pest control activities.  Any pesticide application made directly to interiorscapes in business buildings, office complexes, malls, houseplants within households.
<b>Diseased bees, apiary</b>	QAL Cat A or Cat I	FAC § 11701	The use of a pesticide to destroy <b>diseased bees</b> to prevent infection of an <b>apiary structure</b> . Category depends on setting (e.g.: landscape vs. nursery vs. industrial).
<b>Africanized honeybees, agricultural use setting</b>	QAL Cat A or Cat I	FAC §§ 11701 & 12203(b)	Use of a pesticide for control and removal of <b>Africanized honeybees</b> in an “ <b>agricultural use</b> ” setting. (See definitions of “agricultural use”)  Category depends on setting (e.g.: managed apiary vs. residential).
<b>Public health-related</b>	QAL Cat K	FAC § 11701	Businesses who work under a contract with an official program (i.e., Vector Control Agency, County Health Department, etc.) to apply public-health related pesticides to non-production ag and agricultural use settings.
<b>Sprinkler and drip irrigation lines</b>	QAL Cat A or Cat P	FAC § 11701	Use of algacides and antimicrobials used to treat interior walls of sprinkler and drip irrigation systems (irrigation lines) found in fields, vineyards and orchards.

<sup>8</sup> This is based on the definition of “Agricultural Use” from FAC 11408. See also Compendium Volume 8, Section 1.1

## Quick Reference Charts, Continued

<b>Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control Structural Pesticide Use<sup>9</sup></b>			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
<b>Structures, interior or exterior (outside surfaces)</b>	Structural Branch 2 or 3	B&PC § 8550	<p>a. Control of ants, earwigs, cockroaches, silverfish, termites, birds, or rodents invading structures is strictly structural pest control, whether carried on <b>within or outside</b> of the <b>structure</b></p> <p>b. Application, with the intent to prevent invading pests, <b>within</b> storage structures when a commodity is not present is strictly structural pest control (i.e., pre-treatment of a storage area prior to storage of a commodity).</p> <p>c. Treatment of storage structure's <b>outside</b> areas (such as cracks, crevices, along outside baseboards and walls) to prevent infestation of stored commodities is considered structural pest control.</p>
<b>Structures, in or around</b>	Structural Branch 2	B&PC § 8550	Control of <u>pests to humans and their pets</u> , (it would apply to pests other than fleas, for example, mosquitoes) <b>in or around a structure</b> , including treatment of outside areas to control nearby nest or pest reservoir is considered structural pest control.
<b>Roofs</b>	Structural Branch 3	B&PC § 8550	Treatment to <b>roofs</b> of structures with a pesticide(s) to control fungi, algae, etc. would require a structural pest control license.
<b>Removal of bees from Structures</b>	Structural Branch 2	B&PC § 8550	The use of a pesticide to control or remove <b>bees</b> from a <b>structure</b> would require a structural pest control license. However, live removal of bees, wasps, and certain vertebrate pests ( <b>without</b> the use of a pesticide) from a structure does <b>not</b> require a structural or agricultural pest control license per <b>B&amp;PC § 8555(g)</b> and FAC § 11531.
<b>Africanized honeybees in structures</b>	Structural Branch 2	B&PC §§ 8550 & 8565.6	Control and removal of <b>Africanized honeybees</b> from <b>structures</b> is structural pest control. The Pest Control Operators of California is SPCB-approved to offer certification in Africanized honeybee control, but it is not required to obtain the license.
<b>Mold in residential or institutional structures</b>			<p>Control of non-wood destroying organisms (mold).</p> <p>At this time neither the SPCB nor DPR require a license for this type of work.</p>

<sup>9</sup> Structural pest control is the control of household pests (including but not limited to rodents, vermin and insects) and wood-destroying pests and organisms or such other pests which may invade households or structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof.  
<http://www.pestboard.ca.gov/about/whatis.shtml>

## Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control Non-Agricultural Pesticide Use <sup>10</sup>			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
<b>Structures or its contents</b>	Branches 1, 2, or 3  QAL Cat A	B&PC §§ 8550 & 8555  FAC § 11701	The intent of the application is the primary determinant: a. When treating <b>structures</b> , incidental treatment of any contents (commodities) is okay and is strictly structural pest control b. Direct treatment of <b>non-food or non-feed commodities</b> (e.g., dunnage, furniture), can be done under <u>either</u> license c. Direct treatment of postharvest or stored <b>agricultural commodities</b> is agricultural pest control
<b>Servicing devices</b>	Branch 2  QAL Cat I	B&PC § 8505  FAC § 11701	<b>Servicing spray devices in:</b> a. Structures such as warehouses, restaurants, office buildings is <u>structural pest control</u> b. Structures located on a farm (such as stables and barns) are an agricultural use but can be done under <u>either</u> license.
<b>Africanized honeybees, non-ag use setting</b>	QAL Cat A	FAC §§ 11701 & 12203(b)	Use of a pesticide for control and removal of <b>Africanized honeybees</b> in a “ <b>non-agricultural use</b> ” setting. (See definitions of “agricultural use” and “non-agricultural use”)
<b>Potable water lines, dairy milk lines</b>	QAL Subcat P or Cat A	FAC § 11701	Sanitizing institutional and industrial potable water lines, dairy milk lines, and other similar facilities. (See definition of “non-agricultural use”)
<b>Cooling towers &amp; evaporative condensers</b>	QAL Subcat P or Cat A	FAC § 11701	Treatment of cooling towers and evaporative condensers in Institutional and industrial sites. (See definition of “non-agricultural use”)
<b>Wine barrels and corks</b>	QAL Subcat P or Cat A	FAC § 11701	Use of sulfur dioxide (SO <sub>2</sub> ) to disinfect wine barrels and corks.
<b>Water features</b>	QAL Subcat P or A	FAC § 11701	Use of algacides and antimicrobial pesticides to treat water features such as indoor and outdoor fountains, ponds, cascades, waterfalls, and streams.

<sup>10</sup> Includes six exemptions from Agricultural use listed in FAC section 11408: Home, Institutional, Industrial, Structural, Vector Control, Veterinarian. See also Compendium Volume 8, section 1.1

**Quick Reference Charts, Continued**

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control Non-Agricultural Pesticide Use			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
<b>Public health related</b>	QAL Cat K	FAC § 11701	Businesses who work under a contract with an official program (i.e., Vector Control Agency, County Health Department, etc.) to apply public-health related pesticides to non-agricultural use settings.
<b>Post-harvest fungicides</b>	QAL Cat A	FAC § 11701	A company renting, leasing, or providing equipment and services for applying post-harvest fungicides in a packing house.

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## Chapter 4

# Pesticide Use Reporting and Operator Identification Numbers

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## Section 1 Overview

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**Introduction** Title 3 of the California Code of Regulations (3 CCR) sections 6622 – 6628 addresses pesticide use record keeping, operator identification numbers, site identification numbers, and reporting requirements for property operators and pest control businesses.

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**CAC collects pesticide use data** The county agricultural commissioners (CACs) and their staff provide an enforcement role to carry out the laws and regulations of the Department. Relative to the pesticide use reporting program, including restricted materials permits and notices of intent, counties:

- Assign operator identification numbers (OINs)
- Review grower maps and maintain a list of site identification (site ID) numbers
- DPR contracts with the California Agricultural Commissioner and Sealer Association (CACASA) for pesticide use report (PUR) data entry. CACASA sub-contracts with the individual CACs. The contract requires CACs to:
  - Review electronic PURs and collect and enter paper PURs in CalAgPermits
  - Transmit PURs to DPR (as required by *FAC section 14012(b)*) through CalAgPermits
  - Address PUR data errors identified by CalAgPermits or validation errors returned to the CAC by DPR
- Respond to public information requests for county PUR data

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**DPR collects pesticide use data from CAC** DPR has the responsibility to collect pesticide use data from the CACs and:

- Review, validate, and transfer the data to a central DPR database
- Identify errors and return to CAC for corrections
- Compile the data for annual reports
- Respond to public requests for data
- Place the data on DPR's web site for queries and reports through the California Pesticide Information Portal (CalPIP) at <http://calpip.cdpr.ca.gov/main.cfm>.
- Place a copy of the data used in annual reports on DPR's File Transfer Protocol (FTP) site at [ftp://transfer.cdpr.ca.gov/pub/outgoing/pur\\_archives](ftp://transfer.cdpr.ca.gov/pub/outgoing/pur_archives)

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## Overview, Continued

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**Public Records Act disclosures** Any information required to be recorded on a pesticide use report is subject to public disclosure under provisions of the California Public Records Act, with some exceptions which the law requires to be kept confidential.

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**DPR annual PUR report** DPR collects the submitted PUR data from the CACs and generates an annual report including statewide and county summary reports by chemical (active ingredient) and commodity, top five chemical and commodity reports, a top 100 chemical report, and a trends analysis of certain chemical and commodity categories.

These reports and other related informational materials are available on DPR's web site at <http://www.cdpr.ca.gov/docs/pur/purmain.htm>.

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**How the PUR data is used** The PUR data are used by many groups such as governmental agencies, educational institutions, environmental groups, public interest organizations, and research companies. The data is used to make decisions affecting human health, ground and surface water, air, and the environment, including:

- Estimating dietary risk
- Ensuring compliance with clean air laws and ground water regulations
- Analyzing how, when, and where pesticides are used on crops when considering reduced-risk pest management alternatives
- Determining potential endangered species habitat issues using geographic data
- Calculating the amount of VOC emissions in nonattainment areas
- Evaluating possible human illness clusters in epidemiological studies

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**CalPIP** DPR offers an interactive website called the California Pesticide Information Portal (CalPIP) where interested parties can conduct a customized query of select information in the pesticide use reporting database. The result of the query is sent directly to their e-mail address. Many of the most commonly used data fields in DPR's PUR data are available. CalPIP is available at <http://calpip.cdpr.ca.gov/main.cfm>.

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## Section 2

### Operator Identification and Site Identification Numbers

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**Operator identification number**

The operator identification number (OIN or Op-ID) requirement was adopted in 1990 to implement the full use reporting program, using authority for the pesticide residue monitoring program (Chapter 1200, Statutes of 1989). It is not a stand-alone licensing program.

An OIN is an “identification” number issued to property operators and entered on their pesticide use report. The OIN is issued specifically for management of pesticide use data to identify a unique entity.

The CAC issues an OIN to the operator of the property (or the operator’s authorized representative) in order to purchase and use pesticides for a specified period not to exceed 36 months.

The OIN is recorded on the restricted material permit.

OINs are required prior to the purchase and use of pesticides for:

- Production of an “agricultural commodity” (3CCR section 6000)
- Non-production agricultural use and certain non-agricultural uses where:
  - Agricultural pesticides are used (see exceptions below)
  - Any pesticide in 3CCR section 6400 (including federal restricted use pesticides)
  - Industrial post-harvest commodity treatment
  - Groundwater pesticides for industrial or institutional use

**Why can’t OINs be refused or revoked?**

3CCR section 6622 states the operator of the property to be treated shall be issued an OIN from the CAC of each county in which the operator intends to perform pest control. The regulation allows anyone to apply for and receive an OIN. There are no provisions to revoke, deny, or suspend an OIN. Much like a social security number is necessary to secure employment and report wages and earnings, an OIN is strictly an identification number. The OIN is necessary to purchase pesticides and report pesticide use. Without an OIN, the property operator cannot purchase agricultural or restricted-use pesticides or perform pesticide work and DPR could not track the pesticide use.

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## Operator Identification and Site Identification Numbers, Continued

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**Exemptions to operator ID number**

An OIN is not required when:

- When the property is not involved in the production of an agricultural commodity **and** pesticides are purchased and applied by a licensed pest control business.
- When pesticides are applied by a licensed pest control business.
- Livestock – See “Livestock producing facility” in Section 4

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**Management firms**

When a management firm (such as a vineyard manager or golf course manager) licensed as a pest control business obtains a restricted material permit or OIN, it is acting as the operator of the property or its authorized representative.

At CAC discretion, the firm can obtain separate permits/OINs for each individual operation (with some operations having multiple sites), or if all sites are to be managed under one permit/OIN, then only one OIN is required.

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**Site identification number**

Prior to the use of a pesticide for production agricultural pest control, the operator of the property shall obtain site identification (ID) numbers from the CAC for each site where pest control work will be performed. It is issued concurrent with an OIN.

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**Property operator responsibilities**

As applicable, the property operator must obtain an operator ID and site ID numbers from the CAC of each county in which pest control work is to be performed.

The property operator shall provide the CAC with a list of all counties in which pest control work is to be performed.

The property operator shall provide each pest control business applying pesticides to their property with his/her operator ID and site ID numbers.

The property operator shall submit use reports to the CAC in accordance with the timelines for the specific type of pesticide use (production agriculture, non-production agriculture, and non-agriculture). See Section 3 *Reporting timelines*.

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## Section 3

### Pesticide Use Report Requirements

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**Reportable  
pesticide use**

**Interprets 3 CCR sections 6622 and 6624**

Pesticide applications for which pesticide use records and pesticide use reports must be made include:

- Most “agricultural use” pesticide applications:
  - All pesticides used in the production of an “agricultural commodity” (3CCR section 6000)
  - Non-production agriculture pesticide treatments in poultry and fish production, as well as some livestock applications
  - All pesticides used in non-production agricultural use settings (such as cemeteries, golf courses, parks, ditch banks, and rights-of-way)
- Post-harvest pesticide treatments of agricultural commodities (whether on-farm or industrial use)
- Any restricted material as listed in 3 CCR section 6400 (including all federally restricted use pesticides).
- All pesticide applications by pest control businesses (agricultural or structural)
- Pesticides listed in the Groundwater Protection List (3 CCR section 6800(b)) for any outdoor institutional or outdoor industrial used.

See Compendium Volume 8, Section 1.1 for a discussion of agricultural and non-agricultural use.

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**Not reportable  
pesticide use**

General-use pesticide applications not reported include:

- Home and garden use (see *Home gardens* in Section 4.4 for an exception)
  - Most industrial and institutional uses
  - The control of an animal pest under the written prescription of a veterinarian
  - Vector control districts operating under a cooperative agreement with the Department of Public Health (however, this use is reported to CACs, see *Vector control* in Section 4 below)
  - FIFRA 25b pesticides
  - Pesticides applied by federal employees on federal land
- 

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## Pesticide Use Report Requirements, Continued

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**What type of information is reported**

**Interprets 3 CCR sections 6626 and 6627**

There are various PUR reporting forms and information, depending on the pesticide application (<http://www.cdpr.ca.gov/docs/pur/forms/purforms.htm>).

The data required to be reported for Production Agriculture PUR includes:

- Date and time the application was completed
- Name of the operator of the property treated and OIN
- Location of the property treated (site ID number, county, meridian-township-range-section)
- Crop, commodity, or site treated
- Total acreage or units treated at the site
- Total planted acres or units at the site
- Name, U.S. EPA or State registration number, amount and units of the undiluted product used.
- Method of application (air, ground, fumigation, other)
- Fumigation method code (if a fumigant was applied)
- Preplant (if applicable)
- Pest control business name, if pesticide applied by a business

The REI, Rate Per Acre and Dilution fields are optional.

The data required to be reported on the *Monthly Summary Pesticide Use Report* form includes:

- Month of application
- Name of the operator of the property or pest control business
- Permit / operator ID number OR agricultural or structural business license number
- County name and number
- Pesticide product name, U.S. EPA or State registration number, number of applications (except for structural uses), amount and units of the undiluted product used for the month by crop, commodity, or site

Note: Pesticide use records for each application required to be maintained by 3CCR section 6624 or 16CCR 1970 are more detailed than what is reported on the *Monthly Summary* use report form.

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## Pesticide Use Report Requirements, Continued

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### Pesticide use records

#### Interprets 3 CCR section 6624 and 16 CCR section 1970

Pesticide use records must be retained by the applicator (e.g., grower, pest control business) for two years (three years for structural applications) and made promptly available to the director or CAC upon request.

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### Reporting timelines

#### Interprets 3 CCR sections 6626 and 6627 and B&PC section 8505.17(c)

- Production agricultural PURs must be submitted to the CAC of the county where the pest control was performed by the 10<sup>th</sup> day of the month following the month in which the work was performed.
  - Production agriculture pest control business applications must be reported to the CAC within seven days of completion. The grower or property operator *should not* include applications made by pest control businesses on his/her use report to the county.
  - A pest control business, in addition to assuring the grower receives a completion notice within 24 hours of a production agricultural pesticide application (3CCR section 6619), shall send a copy of the PUR to the operator of the property within 30 days of completion of the pesticide application.
  - Monthly Summary PURs are submitted to the CAC of the county where the pest control was performed by the 10<sup>th</sup> day of the month following the month that the work was performed.
- 

### School and daycare pesticide use reporting

#### Interprets 3 CCR section 6625 and 6627

Pest control businesses (including maintenance gardeners) must include pesticide applications at school sites on their monthly report form to the CAC.

At least annually (by January 30), pest control businesses (including maintenance gardeners) and school staff must submit a detailed report of pesticide use at school sites directly to DPR. School pesticide use reporting to DPR is maintained in a separate database.

Information, training, and the reporting form and instructions are available on DPR's School and Child Care IPM website at <http://apps.cdpr.ca.gov/schoolipm/main.cfm>.

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## **Pesticide Use Report Requirements, Continued**

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**Negative  
pesticide use  
reports**

**Interprets 3 CCR section 6628**

Licensed agricultural and structural pest control businesses must submit negative (or “no use”) PURs for months in which no pesticides were applied. Negative PURs must be submitted to CACs the business has registered with by the 10<sup>th</sup> day of the following month.

Negative PURs are not required of property operators.

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## Section 4 Interpretations and Scenarios

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**Introduction** The Pesticide Use Reporting program requires reporting a variety of use sites, types of use, locations of use, and by a variety of users. This section contains interpretations and descriptions of some exceptional situations.

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**Agricultural research** See Compendium Volume 8, Section 8.3 *Pesticide Use Reports for Research*.

---

**Apiaries** Applications to apiaries are an agricultural use per FAC section 11408, however, Apiaries are not an “agricultural commodity” per 3CCR section 6000. As such, beekeepers must obtain an OIN before purchasing and using pesticides, but do not need to be issued a site ID number. Report on the *Monthly Summary Pesticide Use Report* using the beehive commodity code (61008).

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**Aquatic treatment** Aquatic treatments can be categorized as either industrial or non-production agricultural use, depending on the situation. Reporting should be done on the *Monthly Summary Pesticide Use Report*.

*Industrial:* These uses do not require reporting unless the pesticide is California or federally restricted or applied by a licensed pest control business. Examples:

- Treatment of settling ponds at sewage treatment plants
- Chlorination of drinking water at a water treatment facility
- Reservoirs located on property associated with an industrial site or used in an industrial activity (as part of an industrial complex or a processing plant)

*Non-production agriculture:* These uses require an OIN and PURs. Examples:

- Pesticides on or around reservoirs used for irrigation of crops or livestock watering. Treatment of water in recreational areas to control aquatic weeds or other pests
  - Application of pesticides to control vegetation in the marshland areas of hunting clubs or wildlife
- 

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## Interpretations and Scenarios, Continued

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**Band, spot, or strip treatments**

Band, spot, or strip treatments are reported as total acreage treated at the site.

*Example:* Grower applies a four-foot strip of herbicides to the tree rows of a 100 acre almond orchard (*Note:* the width of the treated strip is unimportant). Report this as 100 acres of almonds treated. If half of the tree rows of the total 100 acres were strip treated, report this as 50 acres of almonds treated.

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**CAC pest control**

The CAC reports rodenticide and right-of-way herbicide applications on the *Monthly Summary Pesticide Use Report*.

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**Caltrans reporting**

The California Department of Transportation (Caltrans) submits PUR data directly to DPR and not to the CAC. They use “CALTRANS” as the license number and commodity code 40 for all of their reporting.

Prior to the use of agricultural pesticides in a county, the Caltrans District Landscape Specialist will obtain an OIN from each of their counties where pest control work will be performed. The Caltrans statewide-designated pesticide purchaser must provide the dealer who was awarded the statewide contract with Caltrans’ OINs.

For a printout of pesticides applied, contact the District Landscape Specialist in your county. If this information is requested by the CAC, do not enter it into CalAgPermits.

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**Chlorine**

*Post-harvest commodity treatment:* When the pesticide label and the use clearly indicate that chlorine is being used as a post-harvest commodity rinse, dip, or wash, it is reported on a *Monthly Summary Pesticide Use Report* indicating the specific commodity being treated.

*Industrial Use:* Chlorinating products used in food processing facilities and packing houses as sanitizing agents for equipment, in flume water for slime control, for water treatment to reduce microbial build up, are considered industrial uses and therefore do not need to be reported.

*Pool use:* There are no reporting requirements.

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## Interpretations and Scenarios, Continued

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**Construction site**

Most construction sites are residential or institutional and thus are exempt from the operator ID and the PUR requirements.

Construction sites that are considered non-production agriculture (such as right-of-way or golf course or have restricted materials applied) require an OIN and reporting on the *Monthly Summary Pesticide Use Report* form. In these cases, the contractor is considered to be the operator of the property.

---

**Dairy milking structures and equipment**

The definition of “agricultural commodity” specifically exempts livestock. However, these sites are still considered “agricultural use” under *FAC section 11408*. Prior to the purchase and use of pesticides for the below examples, the property operator needs an OIN. A site ID number is not required. These uses are reported on the *Monthly Summary Pesticide Use Report*.

Pesticide use on dairy milking structures and equipment is non-production agricultural use. Pesticide applications of sanitizers and cleansers to milk-handling equipment or in the immediate vicinity of a dairy milking structure or to the dairy equipment are also considered non-production agriculture treatments.

Pesticide applications in and around farm buildings such as corrals, loafing sheds, hay barns, etc. on a dairy are considered non-production agricultural use.

---

**Egg-laying facility**

The definition of “agricultural commodity” specifically exempts poultry. However, these sites are still considered “agricultural use” under *FAC section 11408*. Pesticide use in and around buildings at the egg-laying facility or on egg handling equipment is non-production agricultural use. The property operator needs an operator ID to purchase and use pesticides. A site ID number is not required. These uses are reported on the *Monthly Summary Pesticide Use Report*.

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## Interpretations and Scenarios, Continued

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### Exempt pesticide products

#### Interprets 3 CCR sections 6624, 6626 and 6627

Although considered pesticides, certain products exempt from pesticide product registration (see *FIFRA section 25(b)* and *3 CCR section 6147*) are exempt from PURs. However, users required to maintain use records per *3CCR section 6624* must still maintain pesticide use records detailing the use of these exempt pesticide products.

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### Federal facilities

As discussed in Chapter 1, persons who are:

- hired by a federal agency to perform pest control on federal property, or
  - persons who lease or contract for the use of federal lands for private activities (such as growing crops) are subject to California laws and regulations and must submit PURs to the CAC.
- 

### Fish ponds

The definition of “agricultural commodity” specifically exempts fish. However, these sites are still considered “agricultural use” under *FAC section 11408*. A fish producing facility that applies pesticides (such as algacides, bactericides or fungicides) to the water is non-production agricultural use and an OIN is required. A site ID is not required. These uses are reported on the *Monthly Summary Pesticide Use Report*.

Materials fed to fish to control parasites and diseases are considered drugs and are not reportable.

---

### Fumigation

*In the field:* Fumigations that occur in the field prior to planting or in greenhouses are agricultural applications and are date, time, and commodity specific. Pesticide use is reported on one of the Production Agriculture use report forms. The fumigation method code is required to be reported.

*Post-harvest:* Fumigations to a stored commodity are non-production agricultural applications and are reported on the *Monthly Summary Pesticide Use Report*. If multiple commodities are fumigated at the same time in a chamber, they are reported separately. The total product used is reported for each commodity in the chamber at the time of application.

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## Interpretations and Scenarios, Continued

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### **Livestock producing facility**

The definition of “agricultural commodity” specifically exempts livestock. Thus applications made directly to livestock, as defined in *FAC section 18663* (“cattle, sheep, swine, goat, or any horse, mule or other equine, whether live or dead.”), are exempt from the requirements of an OIN, site ID number, recordkeeping, and reporting (*3 CCR sections 6622 – 6624 and 6627*).

However, pesticide use around livestock producing facility sites are still considered “agricultural use” under *FAC section 11408*. Pesticide applications made around livestock buildings/areas to control flies or weeds are considered non-production agricultural use and an OIN is required. A site ID is not required. Report on the *Monthly Summary Pesticide Use Report* form.

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### **Qualifier codes and commodity reporting**

If desired by the property operator, the CAC can allow the permit/OIN and PUR to use qualifier codes to differentiate between crops grown for fresh market and those grown:

- For processing (-89).
- For seed (-04)
- As a “seedless” variety (-07)
- Organically (-60)

In general, the specific crop/commodity code should be used with the qualifier. For example, the commodity code for carrots is 29111, but if it is grown for processing the code is 29111-89, etc.

Tomatoes, Grapes and Plums are exceptions to the “-89” qualifier rule:

- The commodity code for fresh market tomatoes is 11005; the commodity code for processing tomatoes (canning, juicing, etc.) is 29136.
- The commodity code for fresh market grapes (including table grapes, raisins, canning, and juicing) is 29141; the commodity code for wine grapes is 29143.
- The commodity code for fresh market plums is 5005; the commodity code for prunes is 5006.

These designations (particularly for tomatoes, grapes, and plums) allow specific reports to be made available for accurate scientific risk assessments.

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## Interpretations and Scenarios, Continued

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**Home gardens/  
ranchettes/  
farmer's  
market**

Home gardens and ranchettes that produce commodities only for personal consumption are exempt from the reporting requirements. This includes pesticide use on pastures for the production of livestock for personal consumption. DPR considers these situations home use, not agricultural.

Home and ranchette pesticide uses along fence lines and on large landscaped or unimproved areas are exempt from the reporting requirements, as these are considered home use.

The home gardens or ranchettes producing commodities for sale (including at the local farmers' market, roadside stands, etc.) fall under commercial production of an agricultural commodity. The homeowner or operator of the property is required to obtain an OIN and site ID number and report the use of pesticides applied to those crops as agricultural use, regardless of the size of the production area.

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**Logging  
contractors and  
stump  
treatments**

In some forests, pesticides such as growth inhibitors, herbicides or fungicides may be applied to the stumps soon after cutting. Pesticide treatments to stumps (after the logs have been removed from the site of growth) are agricultural use under FAC section 11408 and fall in the non-production agricultural use sub-category (See Compendium Volume 8, Section 1.1).

Once the logging contractor is legally entitled to possess the timber stand through a contract, lease or similar agreement, the contractor becomes the "operator of the property" for that short window of time. If the logging contractor is exempt from obtaining a PCB license (See Chapter 3, Section 4.4 *Pest Control Business Interpretation Scenarios*) and wishes to use pesticides on those stumps, it is required to obtain an OIN from the CAC prior to purchase and use of pesticides, maintain pesticide use records, and submit *Monthly Summary Pesticide Use Reports* to the CAC.

If the logging contractor is a licensed PCB and applies pesticides, it must submit *Monthly Summary Pesticide Use Reports* to the CAC.

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**Non-food / non-  
feed commodity  
fumigation**

Fumigations of railcars with lumber, furniture, wine barrels, etc. are reported as non-food/non-feed using commodity code 91 on the *Monthly Summary Pesticide Use Report*.

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## Interpretations and Scenarios, Continued

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**Packing house** Pesticide applications in a packing house are considered industrial applications. Pesticides applied to machinery, conveyor belts or other utensils or equipment are not reported, unless restricted materials are used.

Post-harvest treatments applied directly to a commodity and restricted material uses are required to be reported

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**Parks and recreation commodity/site reporting** Applications made by employees of the California Department of Parks and Recreation or by a private pest control company hired by the California Department of Parks and Recreation should add qualifier “-20” to the commodity/site codes.

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**Pheromones** **Interprets FAC section 12753**

Pheromones are considered pesticides and are subject to all pesticide use reporting requirements. Report the total amount of formulated product used. For a liquid pheromone “puffer” this could be either 13.5 fluid ounces or 399 ml. For twist ties, multiply the number of dispensers used by the dispenser content (not the active ingredient per dispenser) to get ounces or grams.

---

**Post-harvest commodity fumigation** The use report must indicate the specific name of the commodity. If multiple commodities are fumigated at same time, they are reported on separate lines.

The total product used is to be reported for each commodity in the chamber at the time of application. Use the *Monthly Summary Pesticide Use Report*.

---

**Rodenticide sales by CACs** CACs who sell rodenticides to persons who have OINs from neighboring counties are not required by regulation to submit the quarterly report to those other counties since CACs are not licensed pest control dealers. DPR encourages that such quarterly use reports be sent as a courtesy to applicable counties to inform them of pest control activities and that pesticide use reports could be expected.

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## Interpretations and Scenarios, Continued

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**Seed treatment** Seed treatment is an industrial use and is generally exempt from pesticide use reporting. However, if restricted materials or *Groundwater Protection List* pesticides are used reporting is required. If a company, as part of its business practices, advertises, solicits or treats seed with pesticides for hire (more than incidental use), the business needs to be a licensed PCB and submit PURs.

The application of pesticides to the seed should be reported showing the amount of pesticide used. The commodity treated should show the type of seed and be reported using pounds or tons as the unit treated. This is reported on the *Monthly Summary Pesticide Use Report*.

---

**Structural applications**

**Interprets B&PC section 8505.17 and 3 CCR section 6627**

Pesticide use reports for code 10 (Structural) have to contain the name and registration number of each pesticide, the undiluted amount used and the units on the *Monthly Summary Pesticide Use Report*. The number of applications is not required for these uses.

---

**Vector control**

The Memorandum of Understanding (MOU) between DPR, the CACs, and the California Department of Public Health (CDPH) addresses pesticide applications made by agencies with established cooperative agreements with CDPH, pursuant to Health and Safety Code section 116180.

Per FAC section 11408(e), vector control agencies that have entered into a cooperative agreement with CDPH (per Health and Safety Code 116180) are considered non-agricultural use. As such, normally these uses would be not reportable, unless restricted materials or groundwater protection pesticides were used. However, the CDPH cooperative agreements require districts to “voluntarily” report all pesticide use. Pesticide applications are reported on a *Monthly Summary Pesticide Use Report* using commodity code 50.

Vector control districts that have entered into a cooperative agreement with CDPH should submit Monthly Summary Pesticide Use Reports to the CAC. The CAC enter these reports in CalAgPermits and transmits the data to DPR.

Per the MOU, DPR summarizes the data and annually reports the pesticide use to CDPH.

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## Chapter 5

### Activity Reporting to DPR

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**Introduction** This chapter outlines CAC activity reporting requirements to DPR.

CACs are an important partner in implementing California’s pesticide regulatory program. DPR has the responsibility of compiling information on the activities of the program for use in statewide decision-making and for distribution to the public, the media, and the Legislature. DPR obtains this information through the various reports, inspections, investigations, and other documentation submitted by the CACs.

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## Section 1

# Pesticide Regulatory Activity Monthly Report

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**Background** DPR’s Pesticide Regulatory Activities Monthly Report (PRAMR) tracks California’s statewide pesticide regulatory activity summary information. The data are submitted each month by CACs to DPR. PRAMR is used by DPR to record workload for allocation of mill assessment revenues and to keep statistics of work completed for enforcement of the State Pesticide Regulatory Program.

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**CalPEATS and PRAMR** CACs use monthly PRAMRs to report to DPR on over 150 different pesticide use enforcement program activities and elements. Historically, CACs would mail to DPR a monthly PRAMR along with copies of all the inspections and enforcement actions for that month. With statewide adoption of CalPEATS for fiscal year 2017/2018, CACs must submit PRAMRs through CalPEATS and CalPEATS automatically tracks many of the elements reported in PRAMR (e.g., number of Use Monitoring Inspections). A few program elements, such as work hours and number of exams given need to be separately tracked outside of CalPEATS and manually entered monthly into CalPEATS.

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**CalPEATS PRAMR instructions** In CalPEATS, PRAMR is accessed through the Monthly Activity module. In this module, CACs can view monthly summaries of all PRAMR activities, manually enter work hours and certification and training activities for a specific month, and submit PRAMRs to DPR.

When the CAC “closes” a month in the CalPEATS Monthly Activity module, the monthly PRAMR will then be visible to DPR and is considered submitted to DPR. CACs may still go back and reopen a closed month and make updates if needed.

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**Monthly activities in CalPEATS** Only inspections, investigations, and enforcement responses that have a status of “closed” in CalPEATS are counted in the Monthly Activity Module.

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## Pesticide Regulatory Activity Monthly Report, Continued

**Year-end summary timeline**

To meet a reasonable schedule for finalizing PRAMR data for mill assessment allocation and disbursement annually in March–April, all PRAMR data submissions must meet the timeline.

Date	Activity
October 1	DPR e-mails a summary of all open and closed months for the prior fiscal year to each CACs for review.
December 1	Final date for CACs to make any PRAMR edits and close out the entire fiscal year.
February 1	All final PRAMR edits must be entered and the fiscal year closed in CalPEATS by the CACs. DPR will use the PRAMR data that is current as of February 1 to distribute the mill assessment. Changes to PRAMR after February 1 will not change the mill assessment distribution.
March 1	Fiscal Year summary PRAMR from CalPEATS will be sent to the Mill Assessment Unit for mill disbursement.
April 1	Fiscal Year summary reports will be posted to DPR’s external website. DPR will e-mail the CACs to advise them when posted to the external website.

**Making amendments to PRAMR in CalPEATS**

DPR accepts amendments to the PRAMRs in CalPEATS throughout the current fiscal year. Entering back-dated inspections, investigations, and enforcement actions into CalPEATS automatically updates the values in the Monthly Activity Summary.

In addition, the manually entered values (e.g., work hours) can be adjusted, within a fiscal year, even after closing a month by reopening the month and updating the value. After an entire fiscal year is closed out, the manual entry values are locked.

**Mill disbursement**

DPR disburses a portion of the mill assessment revenues based on the total number of **complete** pesticide use enforcement program inspections conducted in accordance with the plan agreed upon by the Director and the CACs per 3 CCR section 6393(b)(1).

**Questions**

If you have questions, please contact the Enforcement Branch Data Unit at via e-mail at [enfddataunit@cdpr.ca.gov](mailto:enfddataunit@cdpr.ca.gov).

## Section 2

### Illness Investigation Reporting (Non-priority Episode)

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**Background** The CAC investigates pesticide human illness or injury and pesticide environmental injury incidents. Some of the incidents reach the level of a Priority Episode.

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**Conducting Investigations** For detailed information on conducting a pesticide illness investigation, see Compendium, Volume 5, *Investigation Procedures* on the DPR web site at: [http://www.cdpr.ca.gov/docs/enforce/compend/vol\\_5/invstprc.htm](http://www.cdpr.ca.gov/docs/enforce/compend/vol_5/invstprc.htm).

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**DPR's PISP database** DPR's Pesticide Illness Surveillance Program (PISP) in the Worker Health and Safety Branch maintains a database of pesticide-related illnesses and injuries. Analysis of illness and injury trends from a particular pesticide or activity provides direction for the Exposure Monitoring, Industrial Hygiene, and Exposure Assessment and Mitigation programs.

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**Timeline to submit non-priority illness investigation report** CACs are required to submit completed Pesticide Episode Investigation Reports directly to the Worker Health and Safety (WHS) Branch within 120 days of case assignment. "Closing" any human illness investigation report within CalPEATS satisfies the WHS submittal requirement

If the CAC cannot complete and submit the investigation report within the timeframe, they notify their EBL using the time extension form PR-ENF-097 with an explanation. The EBL must approve any extension.

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**Submitting documents in CalPEATS** In CalPEATS, for Non-priority illness investigations, the closed investigation records must have investigation reports and supporting documents attached to the record. Any files and documents that contain HIPPA-protected information should be flagged in CalPEATS as containing HIPPA information. HIPPA-flagged files are only readable by WHS and county staff that created the investigation record. In an investigation that is closed in CalPEATS, all unflagged files are viewable by everyone.

If you have questions, please contact the PISP program coordinator at (916) 445-4222, [PISP@cdpr.ca.gov](mailto:PISP@cdpr.ca.gov).

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## Section 3 Priority Episode Reporting

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**Introduction** A Priority Episode is an incident that meets the criteria outlined in the cooperative agreement between U.S. EPA, DPR, and the County Agricultural Commissioners and Sealers Association.

The cooperative agreement is available at:  
<http://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2005/2005019.htm>.

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**Conducting Investigations** For detailed information on conducting an investigation, see Compendium, Volume 5, *Investigation Procedures* available on the DPR web site at:  
[http://www.cdpr.ca.gov/docs/enforce/compend/vol\\_5/invstprc.htm](http://www.cdpr.ca.gov/docs/enforce/compend/vol_5/invstprc.htm).

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**CalPEATS and Priority Episodes** In CalPEATS investigation records marked as Priority Episodes are immediately viewable by DPR. In contrast, non-priority episode investigations are viewable by DPR only when a CAC closes the investigation record in CalPEATS.

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**Timeline for Reporting a Priority Episode** The CAC must promptly report to the EBL a pesticide incident that appears to meet one or more of the pesticide Priority Episode criteria, and there is a reasonable possibility that it could have resulted from pesticide use.

CACs are required to commence a priority episode investigation within three (3) workings days of notification.

The EBL promptly sends a Pesticide Episode Notification Record (PENR) to all agencies with regulatory responsibility.

The EBL, within 15 days of the PENR, sends an updated report to all agencies with regulatory responsibility. This report includes updates to initial findings, updates to the initial suspected violations, projected investigation completion date, and potential enforcement actions.

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## Priority Episode Reporting, Continued

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**Timeline for submitting a Priority Episode Investigation Report**

The CAC submits the completed investigation to the EBL within 45 days of completing the investigation.

If the CAC cannot complete and submit the investigation report within the timeframe, the CAC notifies their EBL on time extension form PR-ENF-097 with an explanation. The EBL must approve any extension.

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**HIPPA reminder**

Any files and documents that contain HIPPA-protected information should be flagged in CalPEATS as containing HIPPA information. HIPPA-flagged files are only readable by WHS and county staff that created the investigation record. In an investigation that is closed in CalPEATS, all unflagged files are viewable by everyone.

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**Questions**

If you have questions, please contact your Enforcement Branch Liaison.

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## Section 4 Inspection Reporting

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<b>Introduction</b>	The CACs conduct approximately 18,000 field use monitoring, structural, worker protection, and records inspections annually. In addition, counties conduct another 8,000 pre-application site inspections under the restricted material permitting program. CACs submit inspection reports through CalPEATS to DPR.
<b>Conducting inspections</b>	For detailed information on conducting inspections, see Compendium Volume 4, <i>Inspection Procedures</i> , on DPR’s web site at: <a href="http://www.cdpr.ca.gov/docs/enforce/compend/vol_4/inspect_procedures.htm">http://www.cdpr.ca.gov/docs/enforce/compend/vol_4/inspect_procedures.htm</a>
<b>DPR’s evaluation of inspections in CalPEATS</b>	<p>DPR periodically reviews closed inspections in CalPEATS to assess documenting of compliance with DPR’s regulatory programs and consistency in following DPR’s inspection procedures. This information is used in part in county effectiveness evaluations, identify trends and program changes, and improve inspection compliance.</p> <p>When using CalPEATS, please ensure that each inspection form is complete and review any identified errors before “closing” and inspection. Only by marking an inspection as “closed” in CalPEATS allows DPR to view the inspection. CAC inspection with any other inspection status categories (e.g., in progress) are not visible to DPR in CalPEATS.</p>
<b>PRAMR and Inspections</b>	Only “closed” complete inspection reports are counted in PRAMR. Inspections that are performed and documented in accordance with the procedures in Compendium Volume 4, <i>Inspection Procedures</i> are considered complete.
<b>Questions</b>	If you have questions, please contact the Enforcement Branch Data Coordinator/Liaison at <a href="mailto:sbenson@cdpr.ca.gov">sbenson@cdpr.ca.gov</a> .

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## Section 5

# Compliance and Enforcement Action Reporting

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**Introduction** A non-compliance observed during an inspection or investigation is a violation of a law or regulation. The county should review the criteria outlined in 3 CCR sections 6128(c)(1-3) to determine the appropriate action to be taken, i.e., enforcement action or compliance action, and when a decision report is required.

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**Reporting in CalPEATS** CalPEATS was developed to centralize and track violations from cradle to grave (i.e., from the incident to the disposition of the incident). In CalPEATS the Enforcement Response module summarizes the disposition of any violations noted during inspections and investigations.

When using CalPEATS to report compliance and enforcement actions to DPR, the violation must also be in CalPEATS. In other words, either the inspection or investigation report indicating a violation must be a record in CalPEATS before reporting on an associated compliance action or enforcement action. Similarly, in CalPEATS, any violation noted on an inspection or investigation report should have an enforcement response record, either an associated compliance or enforcement action.

CACs may use CalPEATS to view violation histories for persons and businesses across the state. The information is available to the CACs to provide a regional and statewide profile of a violator's compliance history. Only final (closed) enforcement and compliance actions are visible to other counties and DPR.

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**CalPEATS Enforcement Response Module** Creating an Enforcement Response from a violation noted in CalPEATS, allows the CAC to record the classification and disposition of that violation. In CalPEATS, individual violations can be disposed of in multiple ways including compliance and enforcement actions, and/or outside agency referral.

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## Compliance and Enforcement Action Reporting, Continued

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**Decision reports** In addition to tracking compliance actions, the Enforcement Response module in CalPEATS allows CACs to create and submit decision reports to DPR for acceptance that contain all the information outlined in 3 CCR section 6128(d). When submitting a decision report to DPR through CalPEATS, DPR will be electronically notified of this action and will review the decision report in CalPEATS.

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**DPR review of decision reports** Decision reports will be reviewed by the regional office to determine its acceptance, need for additional information, or denial.

The regional office will notify the CAC upon acceptance of decision reports no later than 30 days after receipt of the decision report. If no response is provided to the CAC within the 30 days, the decision report is considered accepted. In CalPEATS, decision reports that are accepted by DPR will either be marked as “approved” by DPR or the 30-day countdown indicator for the decision report will have expired (i.e., no response).

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**Enforcement Actions in CalPEATS** The CAC staff must include (i.e., attach) any final versions of relevant documents to CalPEATS enforcement action records including Notice of Proposed Action, Notice of Final Decision, and signed Stipulation and Waiver to Order.

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**Formal referrals** The CAC may refer a case to other venues for civil or criminal action. A copy of any formal referral to a City Attorney, District Attorney, Circuit Prosecutor, or Attorney General by the CAC must either be included in the Enforcement Response record in CalPEATS or sent to directly to DPR.

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**DPR’s access to CalPEATS Enforcement Responses** In CalPEATS, only after a CAC closes an enforcement response (status changed to “Closed) will information on a CAC’s response to a violation be visible and reviewable by DPR.

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## Compliance and Enforcement Action Reporting, Continued

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**Structural civil penalty cases** The CAC should also send a copy of the NOPA and appropriate closing document for structural civil penalty cases to the Structural Pest Control Board (SPCB) at the following address or fax to (916) 263-2469:

Structural Pest Control Board  
2005 Evergreen Street, Suite 1500  
Sacramento, CA 95815

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**Questions** If you have questions on the NOPA process, please contact your Enforcement Branch Liaison.

If you have questions on the Enforcement/Compliance Action reporting, please contact the Enforcement Branch Data Coordinator/Liaison at [sbenson@cdpr.ca.gov](mailto:sbenson@cdpr.ca.gov).

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## Chapter 6

# Training and Tools for County Agricultural Commissioners

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## Section 1

### Training Information for CACs

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**Introduction** To ensure statewide uniformity and consistency in implementing and enforcing pesticide laws at the county level, DPR provides training and technical expertise to CAC staff on a regular basis. Other programs in DPR are responsible for registering products, monitoring pesticides in the environment, and evaluating human health mitigation.

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**Frequency and selection of training topics** DPR staff develops training sessions and materials as a result of newly enacted pesticide laws or regulations, for updates or changes to existing DPR policies and procedures outlined in the Compendium volumes, or as a result of establishing memoranda of understanding (MOU) with other agencies. Although most of the training is conducted by DPR Enforcement Branch staff, other DPR branches can also develop and provide training.

Some training sessions are developed and conducted formally on a statewide basis. These can be followed by refresher classes conducted by the DPR regional office Enforcement Branch Liaison (EBL) at the county level.

Specific training for structural pest control CAC inspectors is conducted annually. This course is to prepare inspectors for the complex inspections of structural fumigations and other structural pest control applications.

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**Training information available online** Information and modules from recent trainings conducted by DPR are available on the DPR website at <http://www.cdpr.ca.gov/docs/county/training/trngmenu.htm>.

Training modules consist of PowerPoint presentations, copies of newly-enacted regulations, exercises and scenarios, and additional handouts.

The website also announces upcoming trainings.

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## Training Information for CACs, Continued

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### Compendium updates

As new pesticide laws, regulations, and DPR policies and procedures are adopted, the affected Compendium volumes are updated to reflect these changes. DPR develops and conducts training to address the content of these volumes.

The PUE Program Standards Compendium web page is available for review at <http://www.cdpr.ca.gov/docs/enforce/compend.htm>.

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### Training developed as the result of a Memoranda of Understanding (MOU) with another agency

DPR and the CACs have established several Memoranda of Understanding with other state, federal, or county agencies to ensure pesticide laws are properly implemented and enforced. See Chapter 1 section on Memoranda of Understanding. An MOU is an agreement between DPR, CACASA, and other agencies that defines the scope of the agreement, the authority, and the responsibilities of each party where both agencies may have jurisdiction.

One example is the annual structural pest control inspector training conducted as a result of the MOU with the Structural Pest Control Board, to ensure uniform and coordinated enforcement in accordance with Business and Professions Code section 8616.

Another example is the Pesticide/Wildlife Incident Response Plan MOU between DPR, the Department of Fish and Game, (*now* Department of Fish and Wildlife), and CACASA, found at <http://www.cdpr.ca.gov/docs/county/training/pstwild/pestwild.htm>.

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### Other topic-specific trainings

DPR may develop other trainings when they are deemed necessary to improve the continued effectiveness of CAC programs, provide guidance, or assist in program planning and evaluation.

**Breaking Barriers Training:** Developed in 2009 in conjunction with U.S. EPA, Region 9, Breaking Barriers training assists non-Spanish-speaking inspectors who conduct safety inspections and agricultural pesticide monitoring inspections (such as pesticide use, field fumigation and commodity fumigation) and interview non-English-speaking field workers and applicators.

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## Training Information for CACs, Continued

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**Training provided by the California Environmental Protection Agency (CalEPA)**

As a department within the California Environmental Protection Agency (CalEPA), DPR staff participates in developing and conducting training provided by the agency. The four-day Basic Inspector Academy (BIA) is a popular training available to CAC staff, designed to teach environmental agency inspectors and other environmental compliance professionals to conduct quality inspections. California Government Code section 12812.2 requires CalEPA to ensure all boards, departments, offices, and other agencies that implement CalEPA's laws and regulations "take consistent, effective and coordinated compliance and enforcement actions" and that the program include cross-training of inspection and enforcement personnel...."

In order to sign up for the BIA, CAC staff must first complete the Fundamental Inspector Course (AP106)

The training schedule and how to sign up for the CalEPA training is through the California Air Resources Board's website at:  
<https://ssl.arb.ca.gov/training/training.htm>.

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**Travel expenses for attending DPR training**

DPR does not reimburse CAC staff for expenses related to attending training. Occasionally, DPR offers travel cost reimbursement; the instructions will accompany the training announcement. The amount of reimbursement cannot exceed the allowance for state employee travel.

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## Section 2

### Obtaining Information from DPR

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#### A. DPR Branch Programs

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**Introduction** DPR branches and programs provide a comprehensive program to register and evaluate pesticide products, conduct environmental monitoring, protect worker safety, provide oversight to the CACs, issue licenses, and enforce laws and regulations.

For detailed contact information of DPR branches and programs, see <http://www.cdpr.ca.gov/dprcontact.htm>

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**Pesticide Registration Branch** Before a pesticide can be used, possessed, or offered for sale in California, the pesticide must be registered (licensed) with DPR. The Pesticide Registration Branch coordinates the required evaluation process and serves as primary liaison to pesticide registrants regarding determinations of health effects of pesticides; manages all data received; maintains product label files; and provides information on registered pesticides and label instructions to pesticide enforcement agencies and the public. Branch scientists share data review responsibilities with staff scientists in other branches.

The Branch maintains chemical ingredient and product/label databases that the public can access on DPR's external web page. This web page is available at <http://www.cdpr.ca.gov/docs/label/labelque.htm>.

Questions regarding labeling, label changes, product registration, and other related topics should be directed to the Pesticide Registration Branch Ombudsman at [Registration.Ombudsman@cdpr.ca.gov](mailto:Registration.Ombudsman@cdpr.ca.gov).

See Pesticide Registration Branch at: <http://www.cdpr.ca.gov/docs/registration/funcmenu.htm>

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## Obtaining Information from DPR, Continued

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### **Worker Health and Safety Branch**

The Worker Health and Safety (WH&S) Branch is responsible for assessing safety of workers and consumers where pesticides are used, and developing mitigation mechanisms when needed. A link to WH&S programs is available at: [http://www.cdpr.ca.gov/docs/whs/whs\\_homepage.htm](http://www.cdpr.ca.gov/docs/whs/whs_homepage.htm).

WH&S staff develops exposure-monitoring methods and provides medical advice and assistance to practicing physicians on pesticide exposures, and assist CACs with illness investigations when necessary. Branch staff also investigates unsafe work conditions detected by the Pesticide Illness Surveillance Program.

- The Exposure Monitoring Program staff designs and conducts field studies to characterize workplace exposure to pesticides.
- The Industrial Hygiene Program evaluates pesticide products and labeling for effectiveness in controlling exposure hazards and recommends additional safety measures when needed.
- The Pesticide Illness Surveillance Program (PISP) analyzes investigations of pesticide-related illnesses and injuries conducted by County Agricultural Commissioners. The PISP database helps validate the effectiveness of exposure control measures and identifies areas where improvements are needed.
- The Worker Protection Program evaluates implementation of the State's worker safety regulations and provides input on changes to the federal Worker Protection Standard. They also develop outreach materials including the Pesticide Safety Information Series (PSIS).

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### **Pest Management and Licensing Branch**

The Pest Management and Licensing (PML) Branch has five major programs:

- Pest Management Analysis and Planning
- Pesticide Use Reporting Program
- Endangered Species Project
- Licensing and Certification Program
- School and Child Care IPM Program

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## Obtaining Information from DPR, Continued

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### **Environmental Monitoring Branch**

The Environmental Monitoring (EM) Branch monitors the environment to determine the fate of pesticides, protecting the public and the environment from pesticide contamination through analyzing hazards and developing pollution prevention strategies. It also takes the lead in implementing many of DPR's environmental protection programs.

Their staff is available to provide technical expertise and assistance to CAC staff on VOC emissions from field fumigants, ground water, and surface water protection. The EM Branch provides environmental monitoring data required for emergency eradication projects and environmental contamination assessments.

- Air Program: <http://www.cdpr.ca.gov/docs/emon/airinit/airmenu.htm>  
Fumigant Regulatory Issues:  
[http://www.cdpr.ca.gov/docs/emon/methbrom/fum\\_regs.htm](http://www.cdpr.ca.gov/docs/emon/methbrom/fum_regs.htm)  
  
Toxic Air Contaminant Program:  
<http://www.cdpr.ca.gov/docs/emon/pubs/tacmenu.htm>  
  
Volatile Organic Compound (VOC) emissions from pesticides:  
<http://www.cdpr.ca.gov/docs/emon/vocs/vocproj/vocmenu.htm>
  - Ground Water Program: <http://www.cdpr.ca.gov/docs/emon/grndwtr/>
  - Surface Water Protection Program:  
<http://www.cdpr.ca.gov/docs/emon/surfwtr/>
- 

### **Human Health Assessment Branch**

The Human Health Assessment (HHA) Branch has two major functions: review of toxicology studies and preparation of risk assessments. DPR requires a pesticide registrant to submit data on a product's potential chronic, subchronic, and acute health effects, and characterizing human exposure.

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### **Enforcement Branch**

The Enforcement Branch oversees compliance with pesticide use requirements, has overall responsibility for pesticide incident investigations, administers the nation's largest state monitoring program for analyzing domestic and imported produce for pesticide residues, and ensures compliance with pesticide product registration and labeling requirements.

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## Obtaining Information from DPR, Continued

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### **Enforcement Branch Regional Offices**

The DPR Enforcement Branch has three Regional Offices (located in West Sacramento, Clovis, and Anaheim) to ensure statewide availability of DPR staff throughout the state. Each county is assigned an Enforcement Branch Liaison (EBL) as their primary DPR contact. It is recommended that CAC inquiries go through their assigned EBL.

The regional office addresses and a map of counties in each region is found at <http://www.cdpr.ca.gov/docs/enforce/romap.pdf>.

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### **Enforcement Branch Liaison role**

DPR provides each county with an Enforcement Branch Liaison (EBL) to assist in their performing their daily job requirements:

- Available to answer CAC staff questions
- Collect information to assist the Department in its assessment of the performance of each program area and the overall CAC Pesticide Use Enforcement (PUE) program
- Collect and organize information developed by the Enforcement Branch, other branches of DPR, the Structural Pest Control Board, and other agencies relative to the performance of the CAC's PUE program
- Inform the CAC and their regional office manager of any issues and associated corrective actions
- Prepare the county performance evaluation report and provide recommendations for review and approval by the regional office supervisor
- Provide local or regional training, as needed
- Stay informed of any issues relevant to the evaluation of the CAC's program including: the Pesticide Regulatory Activity Monthly Report (PRAMR) data, information from the Compliance database, assessments of environmental programs, information on licensing issues, Section 18s, Special Local Needs SLNs, research authorizations, and human illness report evaluations.
- Coordinate activities between the CAC and other State, local, and federal agencies involved in working with DPR and CACs under the guidelines of established Memoranda of Understandings (MOUs) with agencies such as:
  - U.S. Environmental Protection Agency
  - Structural Pest Control Board
  - California Department of Fish and Wildlife
  - County Environmental Health Departments
  - Department of Industrial Relations

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## Obtaining Information from DPR, Continued

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### B. Consulting DPR

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#### Background

DPR has a diversified pool of trained professionals, including toxicologists, chemists, investigators, lawyers, auditors, and environmental scientists. The Regional Office EBL is the first point of contact between DPR and the CAC to obtain technical expertise. If additional consultation is needed, the EBL can assist with directing CAC staff to the appropriate headquarters staff. Examples of assistance from the regional office EBL includes the following:

1. **Pesticide-related human effects episodes:** Compendium Volume 5, *Investigation Procedures*, Chapter 2, outlines the procedures for CAC staff to obtain assistance from the Worker Health and Safety Branch (WHS) on pesticide-related human effects episodes. In some cases, they can assist in collecting dislodgeable residue samples, coordinating the collection of clothing, urine, and blood samples, assisting CAC investigators in interviewing persons exposed to pesticides, and through a contract with the University of California, Davis (UCD) provide physician consultation services. This physician provides these services one day a week in the office and is on-call during the business hours to assist CACs and healthcare providers. To obtain assistance from the UCD physician, contact the WHS Pesticide Illness Surveillance Program staff, who will contact the UCD physician, when appropriate.
2. **Label Interpretation:** Compendium Volume 8, *Guidelines for Interpreting Pesticide Laws, Regulations, and Labeling*, Chapter 2, outlines the procedures for CAC staff to obtain assistance in label interpretations. Headquarters can prepare a response to address an issue.
3. **Legal Assistance:** DPR Enforcement Branch staff, with assistance from DPR's Office of Legal Affairs (OLA), can also assist in areas such as laws and regulations interpretation, elements of the violation, the administrative civil penalty process, and enforceability issues.

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## Obtaining Information from DPR, Continued

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### C. How to Obtain Legal Assistance from DPR

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**Legal assistance and analysis request** DPR's Enforcement Branch Headquarters staff and the Office of Legal Affairs (OLA) are available by request through their EBL to assist CAC staff.

OLA staff can provide legal assistance and analysis in the following areas:

- Laws and regulations interpretation and enforceability
- Documents prepared by, or in conjunction with, OLA that require further explanation, e.g., settlement agreements
- Code sections, pertaining to DPR or CAC activities shared with other agencies, which seem to conflict

DPR legal analysis requests are not intended to supersede or override any direction or advice provided to CACs by their County Counsel or their Board of Supervisors.

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**County Counsel** CACs are encouraged to contact their County Counsel for legal advice. Because California's pesticide regulatory program is complex and OLA may, in some instances, be better prepared to provide help or legal advice pertaining to the County's Pesticide Use Enforcement Program, the County Counsel is encouraged to directly contact OLA, when necessary.

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**Procedure to obtain legal assistance from DPR** Obtaining legal advice pertaining to the County's Pesticide Use Enforcement Program through OLA can be obtained by following this procedure:

1. Submit request to the EBL assigned to the county. CAC staff are encouraged to make an effort to solve the problem on their own using existing DPR resources.

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## Obtaining Information from DPR, Continued

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**Procedure to  
obtain legal  
assistance from  
DPR**  
(continued)

2. The EBL and the Regional Office supervisor or manager will review this information to determine if the question has already been addressed by existing DPR policy.
  - Regional Office will provide the CAC with a written response to a written question covered by existing interpretations.
  - A question not covered by an existing DPR policy will be forwarded with supporting information to DPR Headquarters who will prepare a response to address the issue. If needed, the Enforcement Branch will work directly with OLA staff.
3. Include the following information in any legal analysis request:
  - Requestor's name and affiliation
  - Identification of the issue and brief description of the scenario
  - Appropriate background materials
  - Code section(s) or specific authority believed to apply to the situation
  - Suggested solution or proposed answer (with explanation), and any problems created by your proposed response.

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## Obtaining Information from DPR, Continued

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### **Assistance to Hearing Officer during hearing**

Hearing Officers may occasionally need assistance pertaining to matters of law when hearing a case. In limited circumstances, only Hearing Officers (emphasis – *only* Hearing Officers) may contact OLA if a problem arises while they are hearing a case and the hearing cannot go forward without legal consultation.

As the hearing officer contacting OLA, ask to speak to OLA's Chief Counsel or Acting Chief Counsel and clearly state the following:

1. Your name
2. Your title
3. The county you are serving
4. Your telephone number
5. A brief description of the problem you have encountered which is making it difficult or impossible to continue the active hearing.

While, providing the description of the problem, be careful to not state any of the actual "facts" of the case, e.g., names of parties or witnesses, city or business names, etc. Stick to the actual problem that is preventing you from continuing the hearing.

This consultation is not an opportunity to discuss the facts of the case or obtain suggestions for writing the decision for this specific case or other matters related to the case. This consultation is specific to helping the Hearing Officer resolve a problem which is preventing or may prevent the completion of the hearing.

Do not send any e-mails or correspondence unless specifically instructed to do so by the attorney who responds to your call.

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## Section 3 DPR Forms

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### DPR forms

DPR has developed several forms used for inspections, violation notices, and other county enforcement activities. To see a list of available forms, go to: <http://www.cdpr.ca.gov/docs/enforce/preffrm/preffmnu.htm>.

There are also Pesticide Use Reporting (PUR) forms available on-line at: <http://www.cdpr.ca.gov/docs/pur/forms/purforms.htm>.

Most forms are in PDF format. They can be downloaded and then read using Adobe Acrobat Reader software.

In 2017, CACs began using the California Pesticide Enforcement Activities Tracking System (CalPEATS) to conduct and track inspections, investigations, and enforcement actions. Many of the forms are available through CalPEATS.

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### How to order DPR forms

All form orders must be submitted in writing; orders will not be taken over the telephone. CAC staff can order DPR forms by filling out the *Forms Requisition* form DPR-197 available at <http://www.cdpr.ca.gov/docs/enforce/preffrm/dpr-197.pdf>.

In order to accurately track orders, please send your completed *Forms Requisition* to the CAC Forms Coordinator by any of the following methods:

- Fax to: (916) 445-6845;
- Mail to:  
Department of Pesticide Regulation  
ATTN: CAC Forms Coordinator  
P.O. Box 4015  
Sacramento, CA 95812-4015; or
- E-mail to: <formscoordinator@cdpr.ca.gov>

Allow two weeks for processing your forms requisition order after receipt.

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## Section 4 Acronyms

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<b>Introduction to Acronyms</b>	This is intended as an informal guide to many of the acronyms and abbreviations used in the Department of Pesticide Regulation.
APCAC	Agricultural Pest Control Advisory Committee
CAAA	California Agricultural Aviation Association
CAPCA	California Association of Pest Control Advisers
CAPCOA	California Air Pollution Control Officials Association
CDFA	California Department of Food and Agriculture
CDPH	California Department of Public Health
CEQA	California Environmental Quality Act – statute mandating environmental impact review of development projects in California, adopted in 1970.
CIMIS	California Irrigation Management Information System
CRLA	California Rural Legal Assistance, Inc.
CWA	Clean Water Act – primary federal legislation addressing surface water quality.
DFW	Department of Fish and Wildlife
DIR	Department of Industrial Relations
DTSC	Department of Toxic Substances Control
DWR	Department of Water Resources
EIR	Environmental impact report. Required to be filed under the California Environmental Quality Act (CEQA) by all state and local agencies and private entities when their proposed projects would cause a significant environmental impact.
EPA	Environmental Protection Agency. Use “CalEPA” if referring to the California Environmental Protection Agency and “U.S. EPA” if referring to the U.S. Environmental Protection Agency.

ESA	Endangered Species Act – primary federal law governing protection of threatened and endangered species. Also, a similar state law.
FDA	U.S. Food and Drug Administration, the federal agency responsible for carrying out the provisions of the Federal Food, Drug, and Cosmetic Act (FFDCA), which includes pesticide tolerance enforcement. See also, Federal Food, Drug, and Cosmetic Act.
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act statute for the sale, distribution, and use of pesticides in the U.S.
FWS	U.S. Fish and Wildlife Service
GIS	Geographic information systems
GPS	Global positioning system
IGR	Insect growth regulator. A chemical substance.
IR-4	Interregional Research Project No. 4, a program sponsored by USDA. IR-4 provides coordination for information on the clearance of minor-use pesticides and generates data to support minor-use registrations. (Minor-use pesticides are generally those used on most fruit, nut, and vegetable crops.)
LC <sub>50</sub>	Lethal concentration of a chemical in air, water, or food that will kill 50 percent of test animals exposed to it. Usually used for birds or aquatic organisms, or for mammalian inhalation toxicity studies.
LD <sub>50</sub>	Lethal dose of a chemical that will kill 50 percent of the test animals receiving it. The chemical may be given by mouth (oral LD <sub>50</sub> ) or applied to the skin (dermal LD <sub>50</sub> ) and is a rough measure of acute toxicity. The lower the LD <sub>50</sub> number, the more toxic the chemical. For example, if a chemical has an LD <sub>50</sub> of 10 mg/kg, it is more toxic than one having an LD <sub>50</sub> of 100 mg/kg.
NIOSH	National Institute for Occupational Safety and Health – a federal agency that conducts research on occupational safety and health questions and recommends new standards to federal OSHA. Tests and certifies respirators.
NPIC	National Pesticide Information Center, located at Oregon State University, is a cooperative agreement between OSU and U.S. EPA from which the public can get answers to pesticide-related questions by calling their toll-free telephone number (1-800-858-7378) or going to their web site at <a href="http://npic.orst.edu/index.html">http://npic.orst.edu/index.html</a> .
OAL	Office of Administrative Law

OEHHA	Office of Environmental Health Hazard Assessment, part of CalEPA
OPP	Office of Pesticide Programs, part of U.S. EPA. OPP and the Office of Pollution Prevention and Toxics comprise the two offices within the Office of Prevention, Pesticides, and Toxic Substances.
OPPTS	U.S. EPA Office of Prevention, Pesticides, and Toxic Substances
OSHA	Occupational Safety and Health Administration – an agency in the U.S. Department of Labor that establishes workplace safety and health regulations. Many states, including California, have their own OSHA program.
PANNA	Pesticide Action Network North America advocate group.
PAPA	Pesticide Applicators Professional Association
PCOC	Pest Control Operators of California – a structural pest control trade association
PISP	Pesticide Illness Surveillance Program, DPR’s unique program whereby all pesticide-related illnesses are investigated, evaluated, and summarized in an annual report.
PMAC	Pest Management Advisory Committee for development and adoption of reduced-risk pest management practices. The committee includes representatives from agriculture, as well as government and academia.
PREC	Pesticide Registration and Evaluation Committee. As required by CEQA, DPR consults formally with other public agencies regarding proposed pesticide registrations through PREC committee meetings. It is chaired by DPR.
RA	Research authorization – required from DPR to conduct experimental testing of pesticides in California.
RCD	Risk characterization document (risk assessment)
RED	Reregistration Eligibility Decision document. The federal RED documents summarize the findings of U.S. EPA's reregistration review process for individual chemical cases, and decisions on risk assessment and risk management for the uses of pesticides.
RUP	Restricted use pesticide –This is a federal designation of a pesticide product due to potential human and/or environmental hazard; the pesticide product available for purchase and use only by certified pesticide applicators or persons under their direct supervision.

PUE Program Standards Compendium Volume 1  
General Administration of the Pesticide Use Enforcement Program

SDS	Safety Data Sheet - Written information required to be provided upon request by a chemical product supplier. Contains specific information regarding physical/chemical hazards of a chemical, as well as short- and long-term health effects.
SDWA	Safe Drinking Water Act. SDWA is the federal law to protect persons receiving drinking water from public drinking water systems from harmful contaminants. U.S. EPA sets standards for drinking water quality and oversees the states, localities, and water suppliers.
SMP	State management plan – State of California Management Plan for Pesticides and Ground Water Protection. Certain pesticides that U.S. EPA determines will leach into ground water can remain registered only when used under a U.S. EPA-approved Pesticide Specific State Management Plan.
SRP	Scientific review panel – a panel of scientists that makes independent recommendations or determinations. For example, SRP formed by AB 1807 reviews DPR reports on toxic air contaminants.
TAC	Toxic air contaminant
UAS	Unmanned aerial system. Used to apply pesticides aerially (formerly known as unmanned aerial vehicle, UAV, or drone).
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USFDA	U.S. Food and Drug Administration
USFS	U.S. Forest Service
USGS	U.S. Geological Survey
VOC	Volatile organic compound
WPHA	Western Plant Health Association – an industry trade association for pesticide and fertilizer companies.
WPS	Worker protection standard – the federal standard promulgated in 1992 for all workers who may be exposed to agricultural pesticides.

## Section 5 Useful Links

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- State agencies**
- California Department of Food and Agriculture: <https://www.cdfa.ca.gov/>
  - California Environmental Protection Agency (CalEPA):  
<https://calepa.ca.gov/>
  - DPR County Agricultural Commissioners Resources:  
<http://www.cdpr.ca.gov/docs/county/comenu.htm>
  - Structural Pest Control Board: <http://www.pestboard.ca.gov/>
- 

**DPR fact sheets** DPR has developed numerous facts sheets and other informational and outreach information to increase general public awareness about protecting their health and the environment from the effect of pesticides. These are available on the DPR website.

DPR Consumer Fact Sheets cover topics ranging from what defines a chemical a “pesticide,” to its safe use and reducing its use; they are available for downloading at: <http://www.cdpr.ca.gov/docs/dept/factshts/factmenu.htm>.

DPR has also developed other publications that cover enforcement and worker safety, environmental protection from pesticides, and the *Community Guide to Recognizing and Reporting Pesticide Problems*. These publications are available at: <http://www.cdpr.ca.gov/docs/dept/comguide/index.htm>.

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**Using an  
accredited  
laboratory**

If the CAC requires the services of an accredited laboratory, the Environmental Laboratory Accreditation Program (ELAP) provides evaluation and accreditation of environmental testing laboratories. ELAP-accredited laboratories ensure the quality of analytical data used for regulatory purposes meet requirements of the State's drinking water, wastewater, shellfish, food, and hazardous waste programs. Agencies which monitor the environment use analytical data from these accredited laboratories. ELAP-accredited labs have demonstrated capability to analyze environmental samples using approved methods.

ELAP is administered by the State Water Resources Control Board’s Division of Drinking Water.

To find a list of accredited lab, please visit:  
[https://www.waterboards.ca.gov/drinking\\_water/certlic/labs/index.html](https://www.waterboards.ca.gov/drinking_water/certlic/labs/index.html)

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## Useful Links, Continued

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### Federal agencies

- U.S. Department of Agriculture (USDA): <https://www.usda.gov/>
- U.S. Environmental Protection Agency (U.S. EPA):
  - U.S. EPA Databases: <https://developer.epa.gov/category/data/>
  - Envirofacts: <https://www3.epa.gov/enviro/>
  - U.S. EPA Federal Register Information: <http://www.epa.gov/fedrgstr/>
  - Federal Register Daily Contents: <https://www.gpo.gov/fdsys/search/getfrtoc.action>
  - U.S. EPA Office of Pesticide Programs (OPP): <https://www.epa.gov/pesticides/>
  - OPP Pesticide Regulation Notices: <https://www.epa.gov/pesticide-registration/pesticide-registration-notices-year>
  - U.S. EPA Advanced Search: <https://www.epa.gov/home/advanced-search>
- U.S. Department of Health and Human Services (DHHS):
  - DHHS National Toxicology Program: <https://ntp.niehs.nih.gov/>
  - DHHS Agency for Toxic Substances and Disease Registry (ATSDR): <https://www.atsdr.cdc.gov/>
- U.S. Food and Drug Administration (FDA): <https://www.fda.gov/>
- Code of Federal Regulations: <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>
- United States Code: <http://uscode.house.gov/search/criteria.shtml>

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## Useful Links, Continued

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### Academic institutions

- North Carolina State University/National Science Foundation:  
Center for Integrated Pest Management: <https://www.cipm.info/>
  
  - National Pesticide Information Center  
Pesticide Fact Sheets <http://npic.orst.edu/npicfact.htm>
  
  - Oregon State University in cooperation with U.S. EPA:  
National Pesticide Information Center: <http://npic.orst.edu/>
    - Pesticide Fact Sheets <http://npic.orst.edu/npicfact.htm>
    - Antimicrobials  
<http://npic.orst.edu/ingred/ptype/amicrob/index.html>
  
  - University of California:  
Division of Agriculture and Natural Resources:  
<http://ucanr.edu/index.cfm>  
UC Davis Statewide IPM Project: <http://ipm.ucanr.edu/>
  
  - Virginia Tech:  
Pesticide Links Database  
<http://www.vtpp.ext.vt.edu:8080/Plone/pesticide-safety-education-program/pesticide-links-database>
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## Appendices

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## Appendix A – County Registration Templates

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### **Introduction**

CACs can use the following “reproduction template” in conjunction with the appropriate DPR form to register Advisors, Businesses and Pilots. CACs can also develop their own form provided it captures all the required information. The *Application for Pest Control Equipment Registration* (DPR-ENF-058) follows the template.

After that are the registration forms for Structural Branch 1 and Branch 2/3 businesses. These forms may be used or reformatted to meet your county needs.

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*Continued on next page*

## REPRODUCTION TEMPLATE

County Registration Form copy Here  
(e.g., DPR-PML-009, DPR-PML-059, etc.)

Card copy here	<b>OTHER INFORMATION AS NEEDED</b>
	Licensee Information: Emergency Contact Phone No.:  Employer:  Street Address  City  ZIP Code  Telephone  Valid Medical Certificate? (For pilots only) <input type="checkbox"/> Yes <input type="checkbox"/> No

**APPLICATION FOR PEST CONTROL  
EQUIPMENT REGISTRATION**

DPR-ENF-058 (REV.4/95)

\_\_\_\_\_ COUNTY

FOR CALENDAR YEAR ENDING DECEMBER 31, \_\_\_\_\_

NAME - (UNDER WHICH APPLICANT IS ENGAGED IN BUSINESS)

LIST BELOW ALL EQUIPMENT TO BE USED IN THIS COUNTY. INDICATE APPLICABLE TYPE OF EQUIPMENT: FOR AIRCRAFT, SHOW FIXED WING OR HELICOPTER. FOR GROUND, SHOW SPEED SPRAYER, POWER DUSTER, HAND GUN, ETC.

MANUFACTURER	AIR	GROUND	EQUIPMENT TYPE	VEHICLE LIC. OR AIRCRAFT NO.	OTHER I.D.
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

I HEREBY CERTIFY THAT MY GROUND EQUIPMENT IS PROPERLY MARKED AND THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND CORRECT.

SIGNATURE	DATE
-----------	------

\_\_\_\_\_ COUNTY AGRICULTURAL COMMISSIONER

REGISTRATION FOR  
BRANCH 1 - STRUCTURAL FUMIGATION

Date Submitted: \_\_\_\_\_ For Year: \_\_\_\_\_

COMPANY INFORMATION:

Company Name: \_\_\_\_\_ Registration No. \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ E-mail: \_\_\_\_\_

Physical Address: \_\_\_\_\_  
(if different than above)  
\_\_\_\_\_ Zip: \_\_\_\_\_

OPR: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name of Operator)

SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)

QM: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

BS: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

REGISTRATION INFORMATION / FEES:

(Submit all pages with appropriate fees, and signatures)

Total Fees Submitted: \$ \_\_\_\_\_ Make check payable to: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

I certify that the information provided is TRUE and CORRECT

**THIS REGISTRATION WILL NOT BE VALID IF IT IS NOT ACCOMPANIED BY THE REQUIRED FEE**

(if applicable). Food and Agricultural Code section 15204.5(a) requires each licensed structural pest control operator field representative and (SPCB) registered company to register with the commissioner prior to conducting fumigations in any county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county Board of Supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or twenty-five dollars (\$25), whichever is less. Registrations may be amended to add operators, field representatives and locations during the year for a fee not to exceed ten dollars (\$10).

\_\_\_\_\_ COUNTY AGRICULTURAL COMMISSIONER  
REGISTRATION FOR  
BRANCH 1 - STRUCTURAL FUMIGATION

**ADDITIONAL BRANCH LOCATIONS**

Date Submitted: \_\_\_\_\_ For Year: \_\_\_\_\_

1) BRANCH OFFICE (list all) performing work in the County:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

BS: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

---

2) BRANCH OFFICE:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

BS: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

---

3) BRANCH OFFICE (list all) performing work in the County:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

BS: \_\_\_\_\_ License: \_\_\_\_\_ Exp: \_\_\_\_\_  
(Print Name)

REGISTRATION FOR  
BRANCH 1 - STRUCTURAL FUMIGATION

**LIST OF STRUCTURAL PEST CONTROL OPERATORS /  
FIELD REPRESENTATIVES**

Date: \_\_\_\_\_

Company: \_\_\_\_\_

Instructions: Use 1 sheet per location to record Operators & Field Representatives working in this county. Indicate the location from page 2; e.g., 1, 2, 3

	Last Name	First Name	Branch Location from Page 2	License Number	Exp. Date
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					



\_\_\_\_\_ COUNTY AGRICULTURAL COMMISSIONER  
STRUCTURAL PEST CONTROL BUSINESS / QUALIFYING MANAGER REGISTRATION  
BRANCH 2 & 3

Date Submitted: \_\_\_\_\_ For Year: \_\_\_\_\_

**COMPANY INFORMATION:** Performing work in:  Branch 2 &/or  Branch 3

Company Name: \_\_\_\_\_ Registration No. \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ E-mail: \_\_\_\_\_

Physical Address: \_\_\_\_\_  
(if different than above)  
\_\_\_\_\_ Zip: \_\_\_\_\_

OPR: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name of Operator)

---

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

BS: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

---

**REGISTRATION INFORMATION / FEES:**

(Submit all pages with appropriate fees, and signatures)

Total Fees Submitted: \$ \_\_\_\_\_ Make check payable to: \_\_\_\_\_

---

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

I certify that the information provided is TRUE and CORRECT

**THIS REGISTRATION WILL NOT BE VALID IF IT IS NOT ACCOMPANIED BY THE REQUIRED FEE**

**(if applicable).** Food and Agricultural Code section 15204(a) requires each licensed Branch 2 and Branch 3 structural pest control operator qualifying manager and (SPCB) registered company to register with the commissioner prior to operating a structural pest control business in the county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county Board of Supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or ten dollars (\$10), whichever is less. Registrations may be amended to add or change operator qualifying manager and/or branch location(s) during the year for a fee not to exceed ten dollars (\$10).

\_\_\_\_\_ COUNTY AGRICULTURAL COMMISSIONER  
STRUCTURAL PEST CONTROL BUSINESS / QUALIFYING MANAGER REGISTRATION  
BRANCH 2 & 3

**-----**  
**ADDITIONAL LOCATIONS**

Date Submitted: \_\_\_\_\_ For Year: \_\_\_\_\_

1) BRANCH OFFICE (list all) performing work in the County:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ Working in:  Branch 2 /  Branch 3

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

BS: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

2) BRANCH OFFICE (list all) performing work in the County:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ Working in:  Branch 2 /  Branch 3

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

BS: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

3) BRANCH OFFICE (list all) performing work in the County:

Branch Address: \_\_\_\_\_ Registration No. \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ Working in:  Branch 2 /  Branch 3

**SUPERVISION: Qualifying Manager (QM) and Branch Supervisor (BS) (Responsible Person)**

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

QM: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

BS: \_\_\_\_\_ Lic: \_\_\_\_\_ Exp: \_\_\_\_\_  Branch 2 /  Branch 3  
(Print Name)

## Appendix B--Disclosure of Public Records

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## Appendix B – Disclosure of Public Records

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<b>Introduction</b>	<p>This section summarizes the laws covering the handling of records and outlines some of the procedures that DPR follows. There are two principle California laws governing the handling of government-held records. These laws are the Public Records Act (PRA) (Government Code section 6250 et seq.) and the Information Practices Act (IPA) (Civil Code section 798 et seq.).</p> <p>In addition, Proposition 59 (Public Records, Open Meetings), passed in 2004, makes the public's right to records a constitutional right and requires that statutes be broadly construed if they further the public's access to records and narrowly construed if they limit that right.</p>
<b>CAC procedures</b>	<p>Each CAC should develop a procedure for handling requests for release of records and have it reviewed by county counsel. DPR is not in a position to provide case-specific legal advice to counties on this issue and only offers the following information as an example of how DPR handles requests for certain records.</p>
<b>Background</b>	<p><b>It should be presumed initially that all records, regardless of physical form or characteristics, including electronic records held by DPR and CACs, are public.</b> This would include such records as notices of violation and notices of warning. Records relating to pesticide use by any person or agency, county pest control business and individual records, finalized civil penalty actions, cease and desist, seizure or quarantine orders, litigation involving the agency that has been finally adjudicated or otherwise settled, and most correspondence and memoranda. Computer software programs are not considered to be "records" as defined by the IPA.</p>
<b>Certain records precluded from disclosure</b>	<p>Some records, such as medical information and personnel information, are normally precluded from disclosure (release) to protect the privacy of individuals. In addition, information collected under assurance of confidentiality (confidential business information or trade secrets) may be protected from disclosure, as well. Other records, such as investigation files and some predecisional documents, are permitted to be held in confidence to facilitate efficient operation of the agency. Records may not be withheld from disclosure simply to protect the image or avoid embarrassment of the agency.</p>

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## Disclosure of Public Records, Continued

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### **Governmental agencies withholding information**

Government Code section 6255 requires agencies to justify withholding any record by showing the record in question is exempt or by making a determination that the facts of the particular case show the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

When the PRA request is in writing and the agency decides to deny the request, in whole or in part, the agency must respond to the requestor in writing within ten days. Included in this section is a sample letter that may be used for withholding a specific document. This sample letter is not appropriate for responding to subpoenas or similar processes as described below. In those cases, you should immediately inform your county counsel.

#### **An agency may temporarily postpone or restrict inspection of public records under certain circumstances such as:**

- The records, at the specific time, are required by staff or other agency officials to perform their duties.
- Supervision of the requester's inspection is, at that specific time, not possible.
- Other members of the public are waiting to inspect the records.

---

### **Request to inspect a public record**

Any person who wishes to inspect a public record or obtain a copy of a public record must identify the record(s) specifically enough so it can be located. CACs may want to assist the requestor in limiting their request to focus on the records actually wanted.

The PRA requires the requestor to identify the time frame for which records are sought. CACs might also ask the requestor for such things as the particular chemical, a specific incident or incidents pertaining to a particular person or firm. It is not appropriate to ask a requestor about the reason why they want the requested document. The purpose for the request has no bearing on whether the document can be released pursuant to the PRA.

CACs may require the requestor to send a copy service to make copies if it is a large request that would be a burden for the agency to fulfill.

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## Disclosure of Public Records, Continued

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**Agency may impose record inspection procedures**

An agency may impose reasonable record inspection procedures such as requiring:

- Appointments for inspection of public records to ensure supervision of the inspection and availability of the records
  - Written requests to document more precisely for the record, what records are being requested
  - Advance notice as to which records will be inspected so that the agency can have the records available for inspection
  - That a staff member be present during the inspection for security of the records
- 

### A. Principal Laws

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**What the PRA covers**

The PRA covers how State and local government agencies maintain and disclose records. It encourages disclosure, although it contains approximately 30 specific exemptions. It is modeled after the Federal Freedom of Information Act. The agency must determine within ten days of receipt of the request whether to comply with the request and must "immediately" notify the requestor of that determination.

Some photocopy costs are reimbursable, e.g., **30** cents per page. "Time" costs are not recoverable.

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**What the PRA applies to**

The PRA applies only to records that exist at the time the request is made. It does not require that the agency "create" any records. The agency is not required to provide, on an ongoing basis, documents that come into existence in the future.

The agency may recover the actual costs of services needed to create "custom records" if it chooses to do so.

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## Disclosure of Public Records, Continued

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**What the IPA covers** CACs, as local governmental agencies, are not subject to the provisions of the IPA but are encouraged to comply with its intent.

The IPA covers how State agencies maintain and disclose records. It is designed to place constraints on how State agencies collect, maintain, and disseminate personal information (as defined by the Act) about individuals. It applies to written records in any form and has approximately 25 conditions of disclosure. An agency must meet one of those conditions before disclosing any personal information covered by the Act. It is patterned after the Federal Privacy Act.

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## B. Subpoenas and Other Compulsory Legal Processes

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**Definition** “Compulsory legal processes” may include court orders, subpoena for production of records, and the demands for inspection of records related to a lawsuit involving the agency.

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**Applicability** The PRA and IPA may not be applicable to these processes. The time frame for compliance may be short. An affidavit from the record preparer or "custodian of the records" may be required. This affidavit takes time to prepare, so when it is required, the turnaround time for actual collection of records may be extremely short. Draft documents and documents containing personal information can be demanded. An order may compel the agency to create documents and assemble information. Some costs may be reimbursable. You should follow both the letter and spirit of the order and may want to seek the advice of your county counsel.

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**Release of information** Generally, release, pursuant to a compulsory legal process, is not considered "disclosure." The document retains any protected status it may have had. This is important since normally, any disclosure of a record constitutes a waiver of its protected status under the PRA. Disclosure of protected information by the CAC to the respondent as evidence in an ACP proceeding is a disclosure made through a legal proceeding and is required by law; the record retains its protected status and the CAC may refuse to disclose it in the future.

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## Disclosure of Public Records, Continued

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### C. DPR-Specific Records Policy Guidance

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**Introduction** Specific DPR policies relating to records availability for inspection or copying (if requested) follow. These policies reflect certain restrictions necessary to comply with the IPA or an exemption under the PRA. They are presented here for consideration by CACs.

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**Illness reports (pesticide-related conditions)** When a request is for a report pertaining to a particular person (or regarding a pesticide episode involving so few persons that their identities are known or easily could be ascertained) and the requester is a member of the public, DPR will release only the name of the exposed person and the name, address, and phone number of the exposed person's physician.

Personal information that identifies or describes the exposed person (i.e., the exposed person's physical description, Social Security number, home address, home telephone number, medical information or diagnosis, and statements made by or attributed to that person) cannot be disclosed by DPR (Civil Code section 1798.24).

If the requester is a member of the public who has obtained signed written consent from the exposed person, DPR will release only the personal information authorized by the written consent. The written consent must have been obtained not more than 30 days before the request, or within the time limit agreed to by the exposed person in the written consent (Civil Code section 1798.24[b]). If the requester is the person to whom the record pertains or is that person's representative, such as an attorney, and DPR has received sufficient proof of identity, DPR will release the entire record.

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## Disclosure of Public Records, Continued

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### Investigation records

Generally, DPR will not release files on pending investigations to the public. It is a privilege of the agency to hold these records; usually, there is no violation if released. These records may be released in specific cases where the public interest served by the release clearly outweighs the value to the operation of the agency in retaining it confidential. In addition, documents that find their way into the file that are otherwise public documents, should be released upon request (notices of violation, permits, fumigation summaries, fire department incident reports, etc.). However, with certain statutory exceptions, if any document is released to one person, it must be released to any requestor (Government Code section 6254[f]) and section 6254.5).

The right not to disclose certain items in investigation files may continue even after the investigation is completed. There are portions of the file that must be protected, for example, medical information or other information the disclosure of which would constitute an invasion of privacy and the identity of confidential informants. Some information in the investigator's narrative report, such as staff analysis of the evidence and recommendations for action, may also be withheld based on the deliberative process privilege.

Communication between department attorneys concerning the evidence or the case is also protected. Once again, any document that is normally a public document cannot be withheld just because it has been made part of the investigative file. However, unless DPR can identify a public benefit to nondisclosure that outweighs the benefit of disclosure, factual information contained in the file after the file has been closed and an action taken, should be disclosed.

When the request is for records that involve many persons and the requester has not named the persons or does not know the identities of the persons (i.e., a request for all pesticide episode investigation reports for a certain time period), the personal information regarding the persons to whom the medical information pertains (i.e., person's name, Social Security number, physical description, home address, and telephone number), other than the medical information itself, will be deleted before the records are released. Medical information may be released on the basis there is no invasion of personal privacy because the information disclosed is not linked to the person to whom it pertains (Government Code section 6254(c); Civil Code section 1798.24).

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## Disclosure of Public Records, Continued

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### **Complaint confidentiality**

It is DPR's position that under the balancing test required by the catch-all exemption of the PRA, the public interest served by keeping the identity of a complainant from disclosure far outweighs the public's interest in disclosure. This position is supported by case law in California (*City of San Jose v. The Superior Court* (1999), 74 Cal. App. 4th 1008). The rationale used to protect the complainants in each of these cases is clearly applicable to the pesticide setting. The identity of a person making a formal employee complaint is required to be protected, unless the complainant specifically requests that it be released (Labor Code section 6309).

Case law in California protects the name, address, and statements of a confidential informant (Government Code section 6255). There are several simple procedures that may be followed to protect the confidentiality of an individual who requests it or when it is otherwise required:

- Avoid including the name of the complainant in any investigative report.
- If reference to the complainant is necessary to the narrative, simply state "a complaint was received."
- The statements of the complainant can be included in the report without referencing the fact that he/she was the initial complainant.
- If the issue comes to a hearing and the case can be made against the respondent without the testimony of the complainant, there is no need to release any information concerning the complaint or the identity of the complainant to the respondent as part of the proceeding.

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### **Permits and notices to apply pesticides**

DPR is not aware of previous written policy relating to disclosure of permits and notices of intent for either agricultural or structural (fumigation) applications.

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### **Pesticide use reports**

Pesticide use reports are a public record. This issue was decided by the courts in a 1971 case (*Uribe v. Howie*, 19 C.A.3d 194; 96 Cal.Rptr.493) in which a farmworker with physical disorders attributed to pesticides was refused permission to inspect monthly pesticide use reports by the CAC. On appeal, the court pointed out that no trade secrets were involved, the reports could not be deemed to be within the crop report or law enforcement exemptions of Government Code section 6254, and that the public interest lay more in disclosure.

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## Disclosure of Public Records, Continued

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### Confidential records

The following documents are protected from disclosure and are not open to inspection by the public:

- Personnel files. Their disclosure may constitute an unwarranted invasion of personal privacy (Government Code section 6254[c]).
- Records of complaints. The name, address, and statements of a confidential informant are protected (Government Code section 6254[f]). See *Complaints* above for more information.
- Preliminary drafts, notes, or interagency or intra-agency memos which are not retained in the ordinary course of business, provided the public interest in withholding the records clearly outweighs the public interest in disclosure (Government Code section 6254(a)). If these records are retained, they are presumed to have been retained in the ordinary course of business, and are not protected from disclosure.
- Data designated as a trade secret pursuant to Government Code section 6254.2 (related to pesticide safety and efficacy data) and Government Code section 6254.7 (related to air pollution control data). DPR's legal staff will make the determination as to whether a particular document is a trade secret. This issue comes up mainly with registration data.
- Information acquired in confidence where the public interest served by not making the record public clearly outweighs the public interest in disclosure (Evidence Code section 1040[b][2] and Government Code sections 6254 [f] and 6255). DPR's legal staff will make the determination in these cases.

**NOTE:** Records that are protected from public disclosure may be released to other agencies that agree to treat the material as confidential without losing their protected status.

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## Disclosure of Public Records, Continued

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**Sample letter**

*[Your county letterhead]*

*[Date]*

Dear *[requestor]*:

This is in response to your recent request for documents under the provisions of the Public Records Act Government Code section 6252, et seq.

The document(s) that you have requested *[describe request]* *[are enclosed/will be made available for your inspection and copying.]* *[Please call this office to make the appropriate arrangements for inspection and copying.]*

There are certain documents covered by your request that have been withheld under Government Code section 6255, as the public interest served by not disclosing those document(s) outweighs the public interest served by such disclosure.

Please contact me if you have any questions.

*[Commissioner signature block]*

*[Optional courtesy copy: county counsel]*

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