

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Adopt Section 6626.5
Amend Sections 6000, 6147, 6691, and 6760
Pertaining to Pesticide-Treated Seeds

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

SUMMARY OF PROPOSED ACTION/PESTICIDE REGULATORY PROGRAM
ACTIVITIES AFFECTED

The Department of Pesticide Regulation (DPR) proposes to adopt section 6626.5 and amend sections 6000, 6147, 6691 and 6760 of Title 3, California Code of Regulations (3 CCR). This proposal will affect pesticide regulatory program activities pertaining to the handling of pesticide-treated seeds in California and the reporting and enforcement of their use. In summary, the proposed regulatory action will add a definition for pesticide-treated seed; exempt pesticide-treated seeds from registration when they meet certain conditions specific to California; require the reporting of pesticide-treated seeds planted in California; and provide exemptions to regulatory requirements for the planting of pesticide-treated seeds when certain conditions are met. The proposed rulemaking harmonizes DPR's regulation of pesticide-treated seeds with the United States Environmental Protection Agency's (U.S. EPA) regulation of pesticide-treated seeds as pesticides exempt from registration under Title 40, Code of Federal Regulations (40 CFR) section 152.25(a) and places additional California-specific conditions on the manufacture, import, sale, and use of pesticide-treated seeds.

SPECIFIC PURPOSE AND FACTUAL BASIS

Background

DPR protects human health and the environment by fostering sustainable pest management and regulating pesticides. DPR strictly oversees pesticides in the State by evaluating and registering products; regulating pesticide sales and use; licensing commercial and private pesticide applicators, pest control businesses, dealers, and advisers statewide; conducting environmental monitoring; and testing pesticide residues on fresh produce. This statutory scheme is set forth primarily in Food and Agricultural Code (FAC) Divisions 6 and 7 and applies to the manufacture, import, sale, and use of "pesticides", defined by FAC section 12753 in relevant part

as “[a]ny substance...which is intended to be used for....preventing, destroying, or mitigating any pest...”.

Both U.S. EPA and DPR have regulatory authority over the registration, sale, and use of pesticides in California. With limited exceptions, pesticides must be registered by U.S. EPA and DPR before they are sold or distributed into or within California. To obtain registration with U.S. EPA and DPR, applicants are required to submit comprehensive product chemistry, efficacy, and safety data. This data is evaluated to confirm the identity of the product and to assess potential impacts to human health and the environment. Pesticides, such as fungicides, insecticides, bactericides, algaecides, slimicides, and nematocides, are applied to seeds prior to planting to protect them from diseases, insects, or other pests. Using pesticides to treat seeds has become an increasingly common agricultural practice to improve seed quality by reducing soilborne diseases and by discouraging insects and other pests.

U.S. EPA’s Approach to Pesticide-Treated Seeds

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) grants U.S. EPA discretion to exempt from its requirements “any pesticide” that is “of a character which is unnecessary to be subject to [FIFRA] in order to carry out the purposes of [FIFRA]” (FIFRA 25(b), 7 U.S.C. section 136w(b)). In 1988, U.S. EPA exempted treated articles from regulation under FIFRA pursuant to FIFRA section 25(b) (53 Fed. Reg. 15952 (May 4, 1988); 40 CFR section 152.25). Specifically, the text of the exemption states that “treated articles and substances” are “[a]n article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation), if the pesticide is registered for such use” (40 CFR section 152.25(a)). In other words, the article itself is exempt from registration only if it meets the two conditions: (1) the treated pesticide is used “to protect the article or substance itself” and (2) the treating pesticide “is registered for such use” (40 CFR section 152.25(b)).

U.S. EPA appears to have first announced in 2000 its interpretation that pesticide-treated seeds fall under the treated article exemption and that the agency’s assessment of the treating pesticide made registration of the treated seed unnecessary (65 Fed. Reg. 52752 (Aug. 30, 2000)). In 2003, in a document jointly issued by U.S. EPA and Canada’s Pest Management Regulatory Agency, U.S. EPA finalized its view of applying the treated article exemption to pesticide-treated seeds, reasoning that “the risks of treated seed that meet the [treated article] criteria could adequately be regulated by means of registration of the treating pesticide” (Canada Pest Management Regulatory Agency, 2003). U.S. EPA concluded that because it evaluates the pesticide used to treat the seed, registering the treated seed is both unnecessary and duplicative.

California’s Current Approach to Pesticide-Treated Seeds

In 1997, the California Legislature passed FAC section 12803 (SB 445, Stats. 1997, Ch. 691) which authorized DPR to adopt regulations to exempt pesticides exempt under FIFRA section

25(b) from all or part of the requirements of FAC Division 7. Pursuant to FAC section 12803, in order for a substance exempt under FIFRA section 25(b) to be exempt from FAC Division 7, including registration requirements, the Director must individually evaluate that substance and concur with U.S. EPA's exemption decision. In addition, the Director must exclude from the exempting regulation those specific requirements of FAC Division 7 that "may otherwise be applicable and that are necessary to protect the public health or the environment" (FAC section 12803(b)). FAC section 12803 further states that "Notwithstanding any other provision of law, the Director shall retain authority to regulate any substance exempted pursuant to this section whether registered or not."

In 2000, DPR promulgated 3 CCR section 6147, which adopted most of the FIFRA section 25(b) exemptions in California, but did not adopt an exemption for treated articles (or pesticide-treated seeds by extension). In the Initial Statement of Reasons (ISOR), DPR reasoned that it was not expanding 3 CCR section 6147 to include treated articles at that time because consumers do not intend for treated articles to be used to control pests, and therefore they are not "pesticides" eligible for exemption under state law. DPR acknowledged that treated articles were an evolving issue and stated that it may revisit its position at a later date (DPR, 2000).

Federal and California Pesticide-Treated Seed Litigation

Federal

In 2017, the Center for Food Safety (CFS) filed a petition with U.S. EPA citing environmental concerns associated with the application of the treated article exemption to seeds treated with systemic insecticides and requested a formal reinterpretation. In short, CFS argued that the exemption was inapplicable because systemic insecticides provide protection beyond the seed itself to the plant that grows out of the seed. In 2022, U.S. EPA formally denied CFS's petition on the grounds that U.S. EPA properly determined that pesticide-treated seeds, if treated with a registered pesticide that is registered to protect the seed and what the seed becomes, fall within the scope of the treated article exemption and are not subject to additional registration steps under FIFRA. U.S. EPA noted that in order to qualify for the exemption, the treating pesticide must be registered for that use, which ensures "that EPA's thorough assessment of the treating product, including any exposure and risk to human and ecological health from use of the treated pesticide and use of the treated article, would protect man and the environment from unreasonable adverse effects" (U.S. EPA, 2022).

After U.S. EPA denied the petition, CFS filed a lawsuit in 2023 against U.S. EPA in the U.S. District Court for the Northern District of California to challenge U.S. EPA's denial. (*Center for Food Safety et al. v. U.S. EPA et al.* (N.D. Cal. 2024) 757 F.Supp.3d 997.) In November 2024, the federal district court ruled in favor of U.S. EPA, holding that U.S. EPA acted within its authority to exempt pesticide-treated seeds from registration under the treated article exemption. (*Id.*) CFS appealed the decision and the case is currently pending in the U.S. Court of Appeals for the Ninth Circuit. (*Center for Food Safety et al. v. U.S. EPA et al.* (9th Cir. 2025) Case No. 25-437.)

California

In 2020, Natural Resources Defense Council (NRDC) filed a California Administrative Procedure Act (APA) rulemaking petition requesting that DPR: (1) formally rescind its policy and regulate and track all seeds coated with systemic insecticides as pesticides, and (2) designate all neonicotinoid-treated seeds as “restricted materials.” DPR denied the petition and subsequent request for reconsideration. In 2021, DPR held a virtual public workshop regarding pesticide-treated seeds for the purpose of outlining the current regulatory framework and gathering comments and information from stakeholders on current use and potential impacts of pesticide-treated seeds to inform future actions by DPR.

In 2023, NRDC, Californians for Pesticide Reform, the Center for Biological Diversity, Friends of the Earth, and Pesticide Action Network North America (the “Plaintiffs”) filed a lawsuit against DPR in Alameda County Superior Court. Broadly speaking, the lawsuit alleged that DPR’s handling of pesticide-treated seeds constitutes an underground regulation in violation of the APA. In October 2024, Plaintiffs and DPR agreed to settle the case. The settlement agreement requires DPR to propose regulations concerning pesticide-treated seeds, submit a Notice of Proposed Rulemaking to the Office of Administrative Law (OAL) and, in developing the regulations, address the following:

- Whether treated seeds used, delivered or sold in California must be treated solely with pesticide products registered by DPR for that purpose;
- Reporting of sales and uses of pesticide-treated seeds; and,
- DPR’s authority to assess and require mitigation of environmental and human health impacts that DPR identifies as having been caused by the use of pesticide products used to treat seeds and by pesticide-treated seeds.

On October 29, 2025, DPR hosted an informal, pre-regulatory public workshop to provide an overview of DPR’s draft proposed regulations addressing pesticide-treated seeds and to receive public input. The comment period was held open until December 1, 2025.

Related California Legislation Regarding Pesticide-Treated Seeds

In 2024, the California Legislature passed Assembly Bill (AB) 1042 (Stats. 2024, Ch. 328), which amended FAC section 52484 to require agricultural or vegetable seed shipped, delivered, transported, or sold in California and treated with one or more pesticides to be labeled with the U.S. EPA registration number(s) of the products the seed was treated with, the signal word for the substance with the highest level of toxicity, and the quantity applied by weight or amount per seed beginning January 1, 2027. The additional information identifying the U.S. EPA registration number and amount of seed treatment product applied will make it possible for those planting pesticide-treated seeds to report the pesticide active ingredients on pesticide-treated seeds planted in California.

DPR's Proposed Regulation Addressing Pesticide-Treated Seeds

DPR proposes to add pesticide-treated seeds to the list of pesticides exempt from registration and regulate them in California as follows: by adding a definition for pesticide-treated seed; exempting pesticide-treated seeds from registration requirements when they meet certain conditions specific to California; requiring the reporting of pesticide-treated seeds planted in California; and providing exemptions to regulatory requirements for the planting of pesticide-treated seeds when certain conditions are met. The proposed regulation harmonizes DPR's regulation of pesticide-treated seeds with U.S. EPA's regulation of pesticide-treated seeds as pesticides exempt from registration and imposes additional California-specific conditions regulating the sale and use of pesticide-treated seeds.

In connection with this action, DPR is interpreting the state definition of "pesticide" at FAC section 12753 to include pesticide-treated seeds. This updates DPR's interpretation from the 1999 ISOR for 3 CCR section 6147 that treated articles are not pesticides, discussed above. DPR's proposed interpretation is permissible under California case law for several reasons, including that: FAC section 12753 is ambiguous as applied to pesticide-treated seeds and does not preclude the proposed interpretation; the legislature has delegated broad authority to DPR to carry out the pesticide registration and exemption statutes and no legislative history indicates the California legislature intended a different interpretation; the interpretation is necessary to effectuate the intent of the relevant statutes; the interpretation involves complex issues of fact, policy, and discretion and DPR is the expert agency and sensitive to the practical implications of the interpretation; and the proposed regulation and interpretation are the result of careful agency consideration and will be subject to notice and comment. (*Ramirez v. Yosemite Water Co., Inc.* (1999) 20 Cal.4th 785, 798-801.)

DPR proposes to exempt, under FAC section 12803, pesticide-treated seeds from the pesticide registration requirements and certain other regulatory requirements of FAC Division 7 provided they meet the proposed California-specific requirements discussed in detail below. FAC section 12803 provides DPR with the authority to exempt a pesticide exempt under FIFRA section 25(b) from all or part of the requirements of FAC Division 7 if both of the following apply: (a) the director individually evaluates each listed substance exempted pursuant to the federal authority and concurs in the decision by U.S. EPA to exempt that substance; and (b) the director excludes from the regulation requirements that are necessary to protect human health or the environment (FAC section 12803(b)). FAC section 12803(b) also states that, "Notwithstanding any other provision of law, the director shall retain authority to regulate any substance exempted pursuant to this section whether registered or not."

FAC Section 12803(a) - Evaluation and Concurrence Requirement

DPR concurs with U.S. EPA's decision to exempt pesticide-treated seeds from registration requirements provided they meet the following two conditions DPR is proposing: (1) the seed is treated with a pesticide to protect the seed, and (2) any pesticide used to treat the seed is

registered by the Department for such use. DPR has individually evaluated each pesticide-treated seed that is currently eligible for the proposed exemption by evaluating the treating pesticide through the registration process. Prospectively, a “new” pesticide-treated seed cannot qualify for the exemption under this two-condition framework until DPR has individually evaluated it through the treating pesticide’s registration process.

As stated above, U.S. EPA considers pesticide-treated seeds to be “pesticides” and exempts them from all requirements of FIFRA, including registration, under the federal treated article exemption because U.S. EPA requires a thorough scientific evaluation and assessment of the pesticide used to treat the seed and thus considers the registration of the seed to be unnecessary and duplicative (U.S. EPA, 2022).

DPR has a pesticide registration process which parallels, and in some cases goes beyond, the federal registration process. Before a treating pesticide can be sold or used in California, it first must be scientifically evaluated and registered with U.S. EPA and then with DPR. As part of its registration process, DPR conducts a thorough scientific evaluation of the treating pesticide product, including potential adverse impacts to human health and the environment (e.g., plants, fish and wildlife, water, and air).

DPR assesses the environmental fate of a pesticide by evaluating both laboratory and field studies/data to determine the physicochemical properties, persistence, and transport of an active ingredient. This provides information on rates of degradation in the environment and identification of its metabolites/degradates. In addition, DPR evaluates terrestrial and aquatic field dissipation studies to assess the fate and transport of the pesticide under real-world application methods and conditions, including a requirement to perform studies under California-like conditions. Should a pesticide active ingredient, or its major metabolites/degradates, possess properties indicating high mobility and persistence, the pesticide is further evaluated for its leaching potential to groundwater.

DPR’s current process is to evaluate this for all field applications and seed treatment products. In general, as the on-field application rates for pesticide-treated seeds are lower than soil or foliar applications on field, pesticide applications that are deemed acceptable for on-field applications relative to their environmental fate are also acceptable for off-site movement of pesticides applied to the environment from the planting of pesticide-treated seeds.

DPR also evaluates worst-case risks to non-target wildlife based on labeled application directions (including method and rate of application to target crop) and the most sensitive non-target species. With seed treatment products, DPR evaluates risk to birds and mammals specifically from consumption of pesticide-treated seeds, using toxicity data and CA-specific seeding rates as necessary, and evaluates pollen and nectar residue data to evaluate impacts to bees. Risk to aquatic organisms from offsite movement of pesticides from pesticide-treated seeds can be modeled to predict persistence and mobility. These evaluations build on environmental reviews conducted on active ingredients registered for agricultural uses.

As detailed above, like U.S. EPA, DPR fully evaluates the human health and environmental risks of pesticide products used to treat seeds prior to them being used, sold, or delivered in the State. Such evaluations adequately consider potential exposure scenarios and make appropriate estimates of associated risks. Moreover, DPR possesses the authority to require additional data from registrants of treating pesticides (FAC section 12824), take a closer look at treating pesticides by placing them into reevaluation (3 CCR section 6220), enforce laws applicable to treating pesticides (FAC sections 12992; 12993; 12999.4; 12998), and suspend or cancel the registrations of treating pesticides, after hearing, under certain circumstances (FAC section 12825). As human health and the environment can be adequately protected under DPR's authority to regulate treating pesticides, it is unnecessary to repeat the registration process for each seed treated with the same pesticide product.

DPR's proposed exemption is styled similarly to U.S. EPA's treated article exemption in that it is self-executing. This means that as long as the pesticide-treated seed meets the criteria of the exemption, the seed will be exempt from the registration requirements of FAC Division 7 without any further approval or decision from DPR. DPR believes this style of exemption to be the best approach and will close an existing regulatory loophole that allows seeds treated with pesticides not registered in California to be planted in this state, as a pesticide-treated seed can only qualify for the exemption after the agency has already determined, in connection with its decision to register the treating pesticide, that the treated seed will be safe for use as an exempt pesticide provided the user meets the proposed conditions. Unlike the federal treated article exemption, however, pesticide-treated seeds exempt under DPR's proposed exemption would still be subject to other regulations applicable to registration-exempt pesticides unless specified by the proposed regulations.

FAC Section 12803(b) - Requirements Necessary to Protect Public Health and the Environment

FAC section 12803(b) requires DPR to "exclude from the exempting regulation those specific requirements...that are necessary to protect the public health or the environment" and confirms DPR's authority "to regulate any substance exempted pursuant to this section whether registered or not." Based on this authority, DPR proposes to require that any pesticide used to treat seed is registered by DPR for such use, adopt reporting requirements for the planting of pesticide-treated seeds, provide exemptions from pesticide application restrictions for planting pesticide-treated seeds near schoolsites during school hours, and exempt the planting of pesticide-treated seeds from certain portions of the field worker protection standards when the seeds are planted below the soil surface.

DPR's proposed regulation only exempts pesticide-treated seeds from registration requirements if they are treated with a pesticide that has been registered with DPR for such use. Prior to DPR's 2021 workshop, CDFR provided DPR with seed inspection data from 2010-2021 that showed pesticide-treated seeds entering California may be treated with pesticides that have been registered by U.S. EPA, but were not separately registered, and therefore not scientifically evaluated, by DPR (DPR, 2021). DPR's proposed regulations will close this loophole by requiring that all seed treatments used on seeds planted in California first undergo the rigorous

scientific review and evaluation required by DPR's registration process, thereby protecting public health and the environment. Seeds sold in California that are found not to comply with this requirement will be subject to DPR's enforcement authority under FAC sections 12993 and 12995.

Additionally, DPR's proposed regulations require a pesticide use report for use of pesticide-treated seeds. Use of pesticide-treated seeds has significantly increased within the past 20 years in California commercial agriculture. Data from Hitaj et al. shows that pesticide-treated seed use significantly increased from 2006 to 2014. Seeds are now treated with many different types of pesticides to protect against a variety of agricultural pests including insects, bacteria, and fungi. Due to the increase in use and current lack of information about where these pesticide-treated seeds are planted, environmental stakeholder groups have raised concerns regarding potential environmental impacts associated with the use of pesticide-treated seeds. Recently amended FAC section 52484 (operative on January 1, 2027) and DPR's proposed regulations requiring pesticide use reports for applications of pesticide-treated seeds will close existing data gaps regarding the volume of active ingredients entering California through seed treatment and provide information necessary to address potential impacts associated with their use. Obtaining information on location and quantity of pesticide-treated seeds planted in California will allow DPR to more thoroughly assess and evaluate potential impacts to human health or the environment.

Finally, as this proposed rulemaking action implicitly classifies pesticide-treated seeds as pesticides, manufacturers, importers, or dealers of pesticide-treated seeds will be required to report any factual or scientific evidence of any adverse effect or risk to human health or the environment that has not previously been submitted to DPR within 60 days of learning of the information (3 CCR section 6147(b)). Pursuant to FAC section 12803(b), DPR would have authority to implement mitigation measures needed to address any adverse environmental and human health impacts identified from the use of pesticide-treated seeds. Once designated as a pesticide, use of a pesticide-treated seed would be subject to DPR's robust pesticide use enforcement regulations for pest control operations (3 CCR division 6, chapter 3). This includes applicable licensing and certification requirements for dealers and applicators, record keeping, general safety, and field worker safety requirements (DPR, 2026b).

PROPOSED REGULATIONS

- 3 CCR section 6000. Definitions

DPR proposes to amend section 6000 to include a definition of "pesticide-treated seed." "Pesticide-treated seed" means any seed treated with one or more pesticides. This definition is necessary to distinguish between seeds treated with other products (e.g., non-pesticidal protectants or methods to improve seed performance) and seeds that are treated with pesticides. Adding a definition will provide clarity to manufacturers, importers, dealers, and users as to which seeds are subject to the proposed regulations in 3 CCR.

- 3 CCR section 6147. Exempted Pesticide Products

DPR proposes to amend section 6147 by adopting subsection (a)(6)(A) to exempt manufacturers, importers, and dealers of pesticide-treated seeds from the registration requirements of FAC Division 7 if the seed meets the following conditions: (1) the seed is treated with a pesticide to protect the seed, and (2) any pesticide used to treat the seed is registered by the Department for such use. These proposed amendments are necessary to harmonize DPR's regulation of pesticide-treated seeds with U.S. EPA's regulation of pesticide-treated seeds and close a regulatory loophole that allows seeds treated with pesticides not registered in California to be planted in the state.

As stated above, U.S. EPA considers pesticide-treated seeds to be "pesticides" but exempts them from registration under the federal treated article exemption. U.S. EPA requires a thorough scientific evaluation and assessment of the pesticide used to treat the seed and thus considers the registration of the seed to be unnecessary and duplicative. DPR likewise has a robust pesticide registration process that parallels, and in some cases goes beyond the federal registration process. As part of the registration process, DPR conducts a thorough scientific evaluation of the pesticide product, including potential adverse impacts to human health and the environment (e.g., plants, fish and wildlife, water, and air). Although exempt from registration, pesticide-treated seeds will be subject to DPR's evaluation of their continued safety and efficacy, pesticide worker safety protections, requirements for health studies, and DPR's authority, pursuant to FAC sections 11501, 12781, and 12803(b), to evaluate and mitigate potential impacts to human health or the environment.

The first condition proposed for a pesticide-treated seed to be exempt in California, set forth in 3 CCR section 6147(a)(6)(A)(1) is that "the seed is treated with a pesticide to protect the seed." This condition mirrors the first part of the federal treated article exemption contained in 40 CFR section 152.25(a), which states that a treated article is "[a]n article or substance treated with, or containing, a pesticide to protect the article or substance itself..." U.S. EPA clarified in its denial of CFS's 2017 petition to regulate seeds treated with a systemic insecticide, that it interprets the language "protect the article itself" to include protection of the seed and what the seed becomes (U.S. EPA, 2022). As stated above, DPR concurs with U.S. EPA and is proposing to take the same position in adopting the first condition. The condition further serves to distinguish pesticide-treated seeds intended to provide protection beyond the seed and what the seed becomes as non-exempt unregistered pesticides subject to DPR's enforcement authority.

The second condition proposed for a pesticide-treated seed to be exempt from California registration, set forth in 3 CCR section 6147(a)(6)(A)(2), is that "any pesticide used to treat the seed is registered by the Department for such use." This condition mirrors the second part of the federal treated article exemption contained in 40 CFR section 152.25(a) which states that a treated article is exempt if the treating pesticide "is registered for such use." In other words, the pesticide used to treat the seed must be specifically registered by U.S. EPA for use on that seed. CDFA's seed inspection data from 2010-2021 found that many pesticide-treated seeds entering California were treated with a pesticide that may have been registered by U.S. EPA but was not

registered and evaluated by DPR. This proposed condition requires a pesticide intended for use on seeds to be registered with DPR prior to such use and prior to distribution into or within California. As a result, the proposed condition requires that all seed treatments used on seeds planted in California undergo DPR's rigorous scientific review as part of the registration process prior to use. This will ensure that pesticide active ingredients intended to be used on seeds planted in California are scientifically evaluated by DPR for potential adverse effects to human health and the environment, including consideration of California-specific human health and environmental conditions.

With the implementation of AB 1042, seed bags will be required to have U.S. EPA registration numbers for all pesticides applied to the seeds listed on the bag beginning on January 1, 2027. This change to the California Seed Law (FAC section 52484) makes it possible to enforce the second condition of the proposed exemption, that seeds planted in California are only treated with pesticides registered for use in California, as DPR can cross-reference the EPA registration number on the seed bag with its registration database. The second condition of the proposed exemption will close a regulatory loophole that currently allows the planting of pesticide-treated seeds in California that have been treated with a pesticide registered federally but not by DPR. Pesticide-treated seeds found to not comply with this requirement may be subject to an enforcement action by DPR for the sale or use of an unregistered pesticide under FAC sections 12993 and 12995.

DPR proposes to amend section 6147 by adopting section 6147(a)(6)(B) to specify that pesticide-treated seeds are further subject to reporting requirements outlined in newly proposed section 6626.5. It is necessary to include this provision in subsection 6147(a)(6)(B) to ensure that the regulated community is aware of the additional pesticide-treated seed-specific requirements outlined in 3 CCR. The reporting requirement would enhance DPR's ability to understand pesticide-treated seed use patterns as well as analyze potential impacts from their use and is also necessary for reasons discussed below regarding the proposed adoption of section 6626.5.

- 3 CCR section 6626.5. Pesticide Use Reports for Applications of Pesticide-Treated Seeds

DPR proposes to adopt 3 CCR section 6626.5 to outline reporting requirements for the application of pesticide-treated seeds by persons required to report pesticide use pursuant to section 6624. This new reporting requirement would provide DPR with information about pesticide-treated seed commodities planted in California, the pesticides and amounts used in the treatments, and the general areas where they have been planted. This data is necessary to characterize pesticide-treated seed use patterns and analyze any potential impacts from their use. Reports shall be sent by the 10th day of the month following the month in which the pesticide-treated seed was planted as a summary of monthly use, by crop or commodity, to the commissioner of the county in which the work was performed. If the county in which the work is performed has no commissioner, the report shall be made to the Director. The report must be on a DPR form or in a format approved by the Director. If the report is mailed, the postmark shall be the date of delivery. If the work is contracted to a pest control business, the business must

send the report; however, the pest control business will provide a copy of the report, which shall be retained by the operator of the property for a period of two years.

These requirements are intended to mirror much of the information that must be reported according to 3 CCR section 6627. Section 6627 outlines reporting requirements for the application of pesticides that require use records but are not reported as production agricultural use under section 6626. While section 6626 requires more detailed reporting by date and time of application and site-specific geospatial information down to the section level, section 6627 provides for monthly summary reporting at the county level. DPR is proposing the reporting data requirements in section 6626.5 because the temporal and spatial requirements are the same as those outlined in section 6627.

Staff at DPR have the knowledge base and capability to respond to observed adverse effects of pesticides on public health and the environment and link them to specific practices without knowing the exact time and location of specific plantings, particularly when looking at larger regional areas to assess the impacts of runoff. Additionally, on a per acre basis, the planting of pesticide-treated seed generally introduces much less pesticide active ingredient into the environment than foliar or soil applications of equivalent pesticides applied throughout the growing season. The 2025 DPR Informal Workshop on Pesticide-Treated Seeds cited examples (lettuce seed) from California-registered labels with rate differences from 4 (clothianidin) to 800 (mefenoxam) times less for the planting of pesticide-treated seeds (DPR, 2025). Therefore, potential risk to non-target organisms due to exposure from offsite movement of the pesticide coating of a seed is generally expected to be lower than for other application methods. Finally, more specific locations of crop plantings throughout California are documented in resources such as USDA's Cropland Collaborative Research Outcomes System (CroplandCROS) and can be determined indirectly through DPR's PUR by looking at agricultural use pesticide applications, should the need arise. For these reasons, monthly and county level data for the planting of pesticide-treated seeds is considered sufficient to address any potential impacts to public health and the environment. Should more granular data be needed in the future, the department would evaluate the need to update reporting requirements.

The main differences between the requirements proposed in section 6626.5 and those listed in existing section 6627 are:

- (1) "person who or business organization which applied the pesticide(s)" replaced with "person who or business/organization which planted the pesticide-treated seed" in section 6626.5(a)(1);
- (2) "County where the pest control was performed" replaced with "County where the pesticide-treated seed was planted" in section 6626.5(a)(2);
- (3) "Month and year of pesticide use" replaced with "Month and year of planting of pesticide-treated seed" in section 6626.5(a)(3);

- (4) “Crop, commodity or site treated, except when using a designated use code, as specified on the Monthly Summary Pesticide Use Report form” replaced with “Type of seed” in section 6626.5(a)(4);
- (5) adding section 6626.5(a)(5) to require reporting of the total amount of pesticide-treated seed planted;
- (6) specify the amount of pesticide product(s) applied to the seed in quantity applied by weight or amount per seed in section 6626.5(a)(6);
- (7) “total acres or units treated with each pesticide” replaced with “total area planted” in section 6626.5(a)(7); and
- (8) add section 6626.5(b) to require reporting be the responsibility of the business performing the planting, if applicable, and in such cases, require reports be provided to the property operator and maintained for two years.

Most of the differences in reporting fields between proposed section 6626.5 and existing section 6627 are intended to provide clarity that these pesticide applications represent the planting of pesticide-treated seeds. This is necessary to avoid confusion between the act of planting pesticide-treated seeds, which would be captured under proposed section 6626.5, and industrial pesticide treatment of seeds, which would fall under reporting according to section 6627. The language concerning the amount of pesticide used from section 6627(b)(5) has been modified in section 6626.5(a)(6) to require reporting of the pesticides, including U.S. EPA or State registration number for each product that the seed is treated with and the amount of pesticide product applied by weight or amount per seed to be consistent with FAC section 52484. These two pieces of information, along with the amount of seed planted in section 6626.5(a)(5), will make it possible to calculate the amount of pesticide product(s) and, ultimately, active ingredient(s) applied for a given planting of pesticide-treated seed.

DPR proposes to add section 6626.5(b) to ensure that reporting of the planting of pesticide-treated seeds is done by the “person who or business/organization” that does the planting. As previously mentioned, this proposed section mirrors section 6627, which generally only covers contracted services that are not considered agricultural use. Because the planting of pesticide-treated seeds may be performed by growers or contracted out to businesses, section 6626.5(b) is necessary to specify who is responsible for reporting when the planting of pesticide-treated seeds is performed by a pest control business. This is consistent with the reporting requirement for pest control businesses applying pesticides to agricultural commodities in section 6626(b). Likewise, the requirement for a copy of the report to be provided to the operator of the property and maintained for two years is consistent with section 6626(a).

- 3 CCR section 6691. Pesticide Application Restrictions [Use Near Schoolsites]

As pesticides, pesticide-treated seeds would be subject to specific pesticide use enforcement regulations for pesticides and pest control, including regulation of pesticide use near schoolsites. DPR proposes to amend 3 CCR section 6691 by adding pesticide-treated seeds to subsection

6691(c)(4) to specify that there would be no distance restriction for pesticides applied as pesticide-treated seeds near schoolsites unless the pesticide product formulation is applied as a fumigant or by aircraft. Should the pesticide product formulation be applied as a fumigant or by aircraft, a ¼ mile distance restriction will apply. This exemption for the application of pesticides as pesticide-treated seeds is consistent with the existing exemptions in section 6691(c)(4) for pesticides applied as a granule, flake, or pellet by ground application methods. This exemption was provided for a pesticide applied as a granule, flake or pellet because these types of applications have little or no potential for drift, and little exposure to bystanders. Pesticide-treated seeds are similar to pellet formulations, with the pesticides coating the seeds, and would not be expected to drift from the area of application onto neighboring schoolsites.

- 3 CCR section 6760. Employer Responsibility and Exceptions

As pesticides, pesticide-treated seeds would also be subject to pesticide use enforcement regulations for field worker safety regulations. DPR proposes to amend 3 CCR section 6760 by adding section 6760(f) to exempt the planting of pesticide-treated seeds, when planted below the surface of the soil, from the requirements of section 6770 (Field Entry After Scheduled or Completed Pesticide Application), section 6771 (Requirements for Early Entry Employees), section 6772 (Restricted Entry Intervals), section 6774 (Restricted Entry Interval Adjustments), and section 6776 (Field Postings). These sections are intended to protect field workers entering and working in a treated field after the application of a pesticide. The proposed exemptions for pesticide-treated seeds are consistent with existing exemptions in section 6760(b) for the application of granular baits or attractants or repellents in traps, and they reflect similar considerations regarding the limited risk of contact with field workers when seeds are planted below the soil surface.

COLLABORATION WITH OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA) PURSUANT TO FAC SECTIONS 12980 AND 12981

As discussed above, 3 CCR section 6790 is a regulation relating to pesticide worker safety. Therefore, DPR and OEHHA jointly and mutually developed the proposed regulations as specified in FAC sections 12980 and 12981. DPR and OEHHA have set forth the rulemaking process used to meet these statutory requirements in a Memorandum of Agreement dated August 13, 2008.

CONSULTATION WITH OTHER AGENCIES

DPR consulted with the California Department of Food and Agriculture (CDFA) during development of the text of the proposed regulations, as specified in FAC section 11454, the Memorandum of Understanding updated on January 15, 2019 that was developed per FAC section 11454.2, and ¶ 3(c) of DPR's settlement agreement with the Plaintiffs of *Natural Resources Defense Council, Inc. et al. v. California Department of Pesticide Regulation et al.* (Feb. 17, 2023, 23CV028215).

DPR consulted with the University of California and the Department of Industrial Relations.

DPR also consulted with County Agricultural Commissioners.

DPR presented the proposed regulations to the Pesticide Registration and Evaluation Committee (PREC) on November 21, 2025. At the time of the presentation, the proposal did not include the additions to 3 CCR section 6760.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION [GOVERNMENT CODE SECTION 11346.2(b)(4)]

DPR has not identified any feasible alternatives to the proposed regulatory action that would achieve the purpose of the regulation with less possible adverse economic impacts, including any impacts on small businesses. DPR invites the submission of suggested alternatives. The proposed regulations harmonize DPR's regulation of pesticide-treated seeds with U.S. EPA's regulation of pesticide-treated seeds as pesticides exempt from registration. The proposed regulations will place certain conditions on the exemption, require the reporting of pesticide-treated seeds planted in California, and allow some exemptions to regulatory requirements for the planting of pesticide-treated seeds.

ECONOMIC IMPACT ON BUSINESSES [GOVERNMENT CODE SECTION 11346.2(b)(5)(A)]

DPR has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. DPR proposes to adopt section 6626.5 and amend sections 6000, 6147, 6691 and 6760 of 3 CCR. This proposal will affect pesticide regulatory program activities pertaining to the handling of pesticide-treated seeds in California and the reporting and enforcement of their use. The proposed regulation harmonizes DPR's regulation of pesticide-treated seeds with U.S. EPA regulation of pesticide-treated seeds as pesticides exempt from registration under 40 CFR section 152.25(a) and places additional California-specific conditions on the manufacture, import, sale, and use of pesticide-treated seeds.

DPR consulted with the CDFA's Office of Pesticide Consultation and Analysis (OPCA) to analyze the potential economic impact on California agricultural operations (CDFA, 2026), as required by FAC section 11454.2 and the January 15, 2019, Memorandum of Understanding. OPCA's report notes that estimating the potential impact of the proposed regulatory action is challenging and quantifies potential additional pesticide handler, reporting, and regulatory training costs. OPCA anticipates costs associated with handler training, which is an existing requirement that will apply once pesticide-treated seeds are designated as pesticides (DPR, 2026b); training on the generation and submission of use reports for the planting of pesticide-treated seeds; and regulatory training to ensure staff understand and comply with the new requirements. The report provides three estimates, depending on the share of operations (10%,

20%, 50%) that would require one employee to undergo handler and reporting training and to read and understand the proposed regulations. To remain conservative, DPR used the upper bound estimate (\$190,615) for the initial cost. DPR believes that only the handler training cost is applicable for subsequent years (\$38,123 annually). The initial implementation costs plus an additional four years of annual training costs result in a lifetime economic impact of \$343,107.

Businesses and growers that engage in the sale and planting of pesticide-treated seeds may be impacted through additional licensing, work requirements, and worker protection costs. However, the report points out that most farms that use pesticide-treated seed would already have personnel on site that are familiar with use reporting from the application of existing pesticides. Likewise, farmers and pest control businesses planting pesticide-treated seeds should already have personnel licensed or certified for pesticide applications. For licensing and certification requirements for pest control dealers, DPR has been informed that growers generally purchase seeds for several commodities (e.g., corn, soybean, cotton) treated from pesticide registrant companies and other untreated seeds would be treated as a service through third-party applicators. In both instances, the businesses applying the pesticide treatment to seeds would be licensed for those applications. Impacts to field worker safety requirements are also expected to be minimal as operations involving the planting of pesticide-treated seeds would have processes, training, and equipment in place for the application of more conventional pesticides.

The document relied upon to make this determination is the “Economic analysis of proposed changes to regulations on pesticide-treated seeds.” This document is listed in the “Documents Relied Upon” section of this initial statement of reasons and is available from DPR.

ECONOMIC IMPACT ASSESSMENT PURSUANT TO SECTION 11346.3(b)

Creation or Elimination of Jobs, Creation of New Businesses or the Elimination of Existing Businesses, and the Expansion of Businesses Currently Doing Business within the State of California: DPR has determined that the proposed regulatory action would not create or eliminate jobs in California; result in the creation of new businesses or the elimination of existing businesses within the State of California; or result in an expansion of businesses currently doing business with the State of California. The proposed regulatory action is not likely to affect employers’ seed-planting activity and will only minimally increase current training and reporting to cover the planting of pesticide-treated seeds.

The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment: This regulatory action will benefit human health, worker safety, and the environment in California by subjecting pesticide-treated seeds to existing regulatory requirements for pesticides that are designed to protect human health, workers, and the environment; requiring that all pesticide-treated seeds planted in California use a DPR-registered seed treatment, thereby closing a current loophole on use and ensuring the seeds have been evaluated for potential adverse effects to human health and the environment; and requiring

pesticide use reporting for planting of pesticide-treated seeds, which will enable DPR to track and assess their use and potential impact.

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

The Secretary of Natural Resources determined that DPR's pesticide regulatory program, including the adoption, amendment, and repeal of pesticide regulations, qualifies as a certified regulatory program under Public Resources Code section 21080.5 and title 14, California Code of Regulations (14 CCR) section 15251(i). This determination means DPR's pesticide regulatory program is functionally equivalent to the California Environmental Quality Act's (CEQA) requirements for preparing environmental impact reports (EIRs), negative declarations, and initial studies, and is therefore exempt from such requirements. This initial statement of reasons serves as the public report required under 3 CCR section 6110 and satisfies the requirements of DPR's CEQA certified regulatory program for rulemakings at 3 CCR sections 6110-6116.

DPR's public report, as the substitute document satisfying CEQA functional equivalency requirements, must include a description of the proposed activity, and either (A) alternatives to the activity and mitigation measures to avoid or reduce any significant effects that the project might have on the environment, or (B) a statement that DPR's review of the project showed that the project would not have any significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. (3 CCR section 6110.) DPR shall not adopt a regulation that would cause a significant adverse environmental impact if there is a feasible alternative or mitigation measure that would substantially lessen those significant adverse environmental impacts. (3 CCR section 6116.)

As stated above, U.S. EPA considers pesticide-treated seeds to be "pesticides," but exempts them from registration under the federal treated article exemption because U.S. EPA requires a thorough scientific evaluation and assessment of the pesticide used to treat the seed and thus considers the registration of the seed to be unnecessary and duplicative. (7 U.S.C. section 25b; 40 C.F.R. section 152.25(a).) In California, the Food and Agricultural Code authorizes DPR, by regulation, to exempt a pesticide that is exempt under FIFRA section 25(b) from all or part of Division 7, subject to specified conditions. (FAC section 12803.) Currently, pesticide-treated seeds sold, distributed, and planted in California are not required to be treated with a pesticide registered in California for that use. CDFA seed inspection data from 2010-2021 found that seed treatment products found on seeds set to be planted in California may be registered with U.S. EPA but are not registered by DPR for use in the state (DPR, 2021).

On a per acre basis, the planting of pesticide-treated seed generally introduces much less pesticide active ingredient into the environment than foliar or soil applications of equivalent pesticides applied throughout the growing season. The 2025 DPR Informal Workshop on Pesticide-Treated Seeds cited examples (lettuce seed) from California-registered labels with rate

differences from 4 (clothianidin) to 800 (mefenoxam) times less for the planting of pesticide-treated seeds (DPR, 2025). DPR is also aware that in the past 20 years, the use of pesticide-treated seeds has significantly increased in commercial agriculture, but there is no reporting requirement to track the extent of pesticide active ingredients entering the environment because we do not track how much or where pesticide-treated seeds are planted.

Against the above regulatory baseline, the proposed regulations would improve the environment by requiring that all pesticide-treated seeds planted in California use products that have been evaluated and registered by DPR, requiring the reporting of use, and provide DPR with the authority to monitor and mitigate any potential adverse impacts from their use. Requiring that all pesticide-treated seeds planted in California use a DPR-registered product allows DPR to scientifically assess these pesticides prior to their introduction into California's environment for their potential to cause adverse impacts to human health, air, water, flora, or fauna, ultimately providing added protection to the environment. The proposed regulations would also improve the environment by requiring pesticide use reports for applications of pesticide-treated seeds through their planting in California. This requirement will provide DPR with currently unavailable data to evaluate pesticide-treated seed use patterns, assess potential risks, and address impacts associated with their use. As such, no significant adverse environmental impact is expected to occur, either directly or indirectly, from implementing this proposal.

FAC section 12803(b) requires DPR to exclude from the exemption regulation any specific requirements that are necessary to protect public health and the environment. Under the proposed regulation, pesticide-treated seeds will be subject to DPR's authority to ensure the safety and efficacy of pesticides sold and used in California, including prohibitions against misbranding and adulteration, pesticide worker safety protections, requirements to submit requested studies or data and report adverse effects, and subject to pesticide monitoring and mitigation. 3 CCR section 6147(b) currently requires manufacturers, importers, or dealers of an exempt product to report any factual or scientific evidence of any adverse effect or risk to human health or the environment that has not previously been submitted to DPR within 60 days of learning of the information. This requirement will apply to exempt pesticide-treated seeds. Requiring adverse effects reporting allows DPR to obtain information on pesticide-treated seeds and, if necessary, reassess its decision to exempt such products from the requirements of FAC Division 7. Pesticide-treated seeds that do not meet the terms of the proposed exemption or other applicable regulations will be subject to DPR's enforcement program for the sale or use of an unregistered pesticide under FAC sections 12993 and 12995. Finally, DPR will have greater authority to mitigate any identified adverse impacts of treated seeds through cancellation, suspension, or modification of the treating pesticide's registration.

EFFORTS TO AVOID CONFLICT OR DUPLICATION OF FEDERAL REGULATIONS

The proposed regulation does not duplicate or conflict with the Code of Federal Regulations and makes DPR's handling of certain pesticides or classes of pesticides consistent with current U.S. EPA regulations.

DOCUMENTS RELIED UPON

1. Assembly Bill 1042. 2023-2024 Regular Session. (Cal. 2024)
2. Senate Committee on Environmental Quality. (2024, July.) *Bill Analysis: Assembly Bill 1042 (Bauer-Kahan)* [Bill analysis]. California Legislature, 2023-2024 Regular Session.
3. CaliCo Solutions LLC. (2026). *CalAgPermits Enhancement Proposal Pesticide Use Reporting for Treated Seeds*. CaliCo Solutions LLC.
4. California Department of Food and Agriculture, Office of Pesticide Consultation and Analysis. (2026). *Economic analysis of proposed changes to regulations on pesticide treated seeds*. California Department of Food and Agriculture.
https://www.cdfa.ca.gov/oars/opca/docs/Economic_Impact_Analysis_for_Proposed_Regulation_of_Treated_Seeds.pdf
5. Canada Pest Management Regulatory Agency. (2003). *Harmonization of Regulation of Pesticide Seed Treatment in Canada and the United States*.
https://www.canada.ca/content/dam/hc-sc/migration/hc-sc/cps-spc/alt_formats/pacrb-dgapcr/pdf/pubs/pest/pol-guide/dir/dir2003-02-eng.pdf
6. *Center for Food Safety et al., v. Environmental Protection Agency et al. and Croplife America et al.* (2024) 757 F.Supp.3d 997 (U.S. District Court, Northern District of California, Case No. 23-CV-02714-SI, Order re: Cross Motions for Summary Judgment, Motion to Strike Extra-Record Evidence, and Motion to Seal Portions of Administrative Record).
7. Department of Pesticide Regulation. (1988). *Pesticide Worker Safety* (OAL File No. 88-0826-04).
8. Department of Pesticide Regulation. (2000). *Exemptions of Certain Pesticides from California's Regulatory Requirements* (OAL File No. 00-0315-04).
9. Department of Pesticide Regulation. (2021, November 15). *Pesticide-Treated Seed Public Workshop* [Presentation]. https://www.cdpr.ca.gov/wp-content/uploads/2024/11/pest_seeds_slides.pdf
10. Department of Pesticide Regulation. (2025a, October 29). *DPR Informal Public Workshop on Pesticide-Treated Seeds* [Presentation]. <https://www.cdpr.ca.gov/wp-content/uploads/2025/09/Pesticide-Treated-Seeds-Informal-Public-Workshop-Presentation.pdf>
11. Department of Pesticide Regulation. (2025b, November 21). *Pesticide Registration and Evaluation Committee (PREC) Meeting Minutes – November 21, 2025*. Retrieved from https://www.cdpr.ca.gov/wp-content/uploads/2025/01/PREC-Minutes_November_11-21-2025.pdf
12. Department of Pesticide Regulation. (2026a, April 8). *Addition of Pesticide-Treated Seeds to the List of Exempted Pesticide Products contained in Title 3, California Code of Regulations, 6147 and Concurrence with U.S. EPA's Decision to Exempt* [Memorandum].
13. Department of Pesticide Regulation. (2026b, March 27). *Clarification of Pesticide Use Requirements for Proposed Pesticide-Treated Seeds Rulemaking* [Memorandum].

14. Hitaj, C. et al. (2020). Sowing Uncertainty: What We Do and Don't Know about the Planting of Pesticide-Treated Seed. *BioScience*, 70(5), 390–403.
<https://doi.org/10.1093/biosci/biaa019>
15. United States Environmental Protection Agency. (2000). *Pesticides; Harmonization of Treated Seed Policies and Requirements in Canada and the United States; Notice of Availability*. *Federal Register*, 65(169), 52752-52753.
<https://www.govinfo.gov/content/pkg/FR-2000-08-30/pdf/00-22010.pdf>
16. United States Environmental Protection Agency. (2022, September 27). *Center for Food Safety (CFS) et al. Citizen Petition to the U.S. Environmental Protection Agency Seeking Rulemaking or a Formal Agency Interpretation for Plant Seeds Coated with Systemic Insecticides (April 26, 2017)* [Letter]. <https://downloads.regulations.gov/EPA-HQ-OPP-2018-0805-0104/content.pdf>