

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT  
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations  
Adopt Section 6132

Amend Sections 6128 and 6130

Pertaining to Enforcement Response and Civil Penalty Actions by Commissioners

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 section 15252 of Title 14, California Code of Regulations 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 3 CCR section 6132 and to amend 3 CCR sections 6128 and 6130. The pesticide regulatory program activities affected by the proposal are those pertaining to pesticide enforcement response. In summary, the proposed action would revise appropriate enforcement responses to be taken by the county agricultural commissioner (CAC) each time a violation(s) occurs to improve effectiveness and clarity of the regulations.

This proposed action would:

- Add a definition for “same violative conduct.”
- Clarify formal referrals to multiple agencies for Class A and Class B violations as an allowable enforcement response and clarify that potential DPR Director or Structural Pest Control Board Registrar action upon referral is not limited to licensing disciplinary action.
- Clarify and expand on decision report requirements, including requiring CAC evaluation of a violator’s previous same violative conduct, increase in submission timeline, and when the Director can deny a decision report.
- Specify when the CAC must notify and provide an opportunity to the District Attorney, City Attorney, Circuit Prosecutor, or the Director to participate in reportable investigations and/or to pursue a civil or criminal enforcement action.
- Specify that the CAC must refer multijurisdictional priority investigations with violations to the Director for a potential enforcement action.
- Require the CAC to initiate a civil penalty action on one or more violations with the highest violation classification in an incident.
- Redefine Class A and Class C violations.
- Increase the minimum fine amount for Class A and Class B violations.
- Add a definition of prior enforcement action history and require the CAC to use prior statewide enforcement action history to elevate fines by a minimum of 20% for subsequent Class A(1), Class A(2), or Class A violations.
- Require the CAC send to the Director for review each Notice of Proposed Action that

meets human health incident criteria as defined by the Three-Party Memorandum of Understanding.

- Require the Department to annually publish an enforcement report describing specific actions taken by the Department pursuant to Food and Agricultural Code (FAC) section 12999.6(c).

## SPECIFIC PURPOSE AND FACTUAL BASIS

### **Background**

The United States Environmental Protection Agency (U.S. EPA) is responsible for administering and enforcing the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Except for pesticide labeling, FIFRA also gives U.S. EPA authority to delegate pesticide enforcement to states by entering into cooperative agreements (7 U.S.C. section 136w-1(b)). DPR has been delegated primary use enforcement authority in California under FIFRA.

California law distributes joint authority for pesticide use enforcement between DPR and the County Agricultural Commissioners (CAC). The County Agricultural Commissioners and Sealers Association (CACASA) is a voluntary organization comprised of CACs within the state and is recognized as the official representative body on behalf of CACs. U.S. EPA, DPR and CACASA have a cooperative agreement to enforce federal pesticide law in California. This is unlike other states where primary enforcement authority lies with the state which may then delegate to local officials.

Enforcement at the local level is carried out by the CACs, under the supervision of DPR (FAC section 2281.). State pesticide law has four primary components: (1) licensing businesses and individuals to buy, sell, and use pesticides, (2) registering pesticide products and devices, (3) enforcing pesticide residue tolerances, and (4) regulating the use or application of pesticides. The code splits these activities into two divisions - Division 6 covers pest control operations, including businesses, applicators, pilots, advisors, and dealers, and Division 7 covers registration, residues, restricted material pesticides, use and worker safety.

CACs have broad enforcement authority to:

- Seek an injunction where there is a violation or imminent violation of a court order issued as the result of an enforcement action (FAC sections 11895.5, 13000.1)
- Issue a cease-and-desist order for violations or imminent violations (FAC sections 11896, 11897, 13101, 13102)
- In lieu of prosecution, the CAC may levy administrative civil penalties for violations of nearly all Division 6 and 7 statutes and regulations (FAC section 12999.5)
- Under certain circumstances refer violations to DPR to initiate an enforcement action (FAC section 12999.6)

The enforcement response regulations in 3 CCR sections 6128 and 6130 promote statewide uniformity by directing CACs on how to enforce violations of pesticide laws and regulations. The existing regulations provide a structure for progressive discipline by authorizing the CACs to pursue compliance actions in limited situations while also preserving their discretion to bypass lower-level actions and pursue enforcement action for a violation (e.g. levy a fine), as appropriate. By maintaining both consistency and flexibility, this structure aims to ensure that

similar violations in similar situations are addressed consistently statewide while, at the same time, allowing the CACs the flexibility needed to respond effectively to the severity and circumstances of individual cases.

3 CCR section 6128 establishes the enforcement response that CACs must follow each time an incident or violation of law or regulation occurs related to agricultural or structural use of pesticides or any use of a fumigant. The regulation defines terms and specifies the enforcement response options for violations classified under 3 CCR section 6130.

3 CCR section 6130 implements, interprets and makes FAC section 12999.5 specific by designating violations by Class (Class A, B or C) and assigning a fine range for each class (the maximum and minimum fine levels). CACs must use this section to classify and set the fine within the range for the class for incidents or violations related to agricultural or structural pesticide use and all fumigant uses. CACs may also use this section to set the violation class and fine amount for other pesticide use violations (e.g., institutional pesticide use violations.)

This proposal to strengthen the enforcement response regulations to further deter pesticide misuse and reinforce a consistent statewide enforcement program originated from three specific sources of information: DPR's analysis and evaluation of past CAC enforcement actions, findings from the U.S. EPA Region IX audit of priority episode investigations, and feedback from the public and interested parties as described below.

DPR evaluates every CAC's pesticide regulatory program at least once every three years in accordance with 3 CCR section 6394. These performance evaluations are comprehensive reviews of a CAC's inspections, investigations, restricted materials permitting, and enforcement response programs. With a goal of consistent pesticide use enforcement throughout the state, review of all the CACs' pesticide-use enforcement programs is used to identify trends where additional guidance or training is needed, or where regulatory clarity can increase uniformity statewide.

In February 2023, U.S. EPA Region IX released the California Counties Priority Episode Audit Report. The audit covered many topics, including reviewing the adequacy and appropriateness of CAC's enforcement actions relative to DPR's regulations for priority incidents. U.S. EPA considers priority incidents (now referred to by U.S. EPA as "reportable incidents") as the most significant investigations of serious incidents of pesticide misuse involving significant human illness, widespread environmental damage, or high economic loss. While U.S. EPA found that CACs met expectations, they did recommend areas of improvement for enforcement response including to require CACs to consider statewide enforcement history for a violator when taking an enforcement action and for more statewide consistency in the classification and fine determinations for violations.

On November 13, 2025, DPR hosted a public webinar to share proposed concepts for amending the enforcement response regulations. The public provided several comments that were considered when drafting the proposed language below including consistent alignment of penalties with the nature of the violation, adjusting minimum fine levels, improving statewide consistency in setting fine amounts, and general process improvements.

## **Proposed Changes**

This proposed action would amend 3 CCR sections 6128 and 6130 to enhance the clarity and effectiveness of the enforcement response regulations by strengthening consistency and fairness in response to pesticide use violations. The amendments establish clear standards for determining penalty amounts, ensure that serious and repeat violations receive appropriately elevated consequences consistent with progressive enforcement, and reduce variations in enforcement practices among counties. This proposed action will also add 3 CCR section 6132 to require transparent reporting by DPR on the use of its pesticide use enforcement authority under FAC section 12999.6(c). By providing refined definitions, structured penalty criteria, and explicit decision-making guidelines, the updated regulatory language improves transparency, promotes predictable and equitable enforcement outcomes, and supports DPR's mandate to protect human health and the environment.

### **Amend Section 6128 – Enforcement Response to Violations**

DPR proposes to add to subsection 6128(b) the definition of “same violative conduct” as the repeated instances of the same type of action or omission by the violator and present the same regulatory concern or risk. This proposed amendment is necessary to clarify what violative history the CACs consider prior to either taking a compliance action justified with a decision report or an enforcement action.

DPR proposes to amend subsection 6128(c)(1) to reflect the updated violation classes proposed in section 6130, and proposes to amend subsection (c)(1)(A) to specify the appropriate enforcement responses for the proposed Class A(1) and Class A(2) subcategories. This proposed amendment is necessary to align with the proposed amendments in subsection 6130(b) that divide the existing Class A into two subcategories: Class A(1) and Class A(2).

Currently, Class A and Class B violations may be formally referred to the District Attorney, City Attorney, Circuit Prosecutor, or the Director or Structural Pest Control Board Registrar. DPR proposes to amend subsections (c)(1)(A) and (c)(2)(A) to clarify the CAC may refer those violations to one or more enforcement agencies when appropriate. Each agency has different authorities regarding enforcement, and some agency actions can be taken in conjunction with one another. For example, the District Attorney, the City Attorney, or the Circuit Prosecutor may pursue a criminal prosecution of pesticide use violations, while the Director or Structural Pest Control Board Registrar may pursue parallel licensing disciplinary action. This change is necessary to ensure the CAC can refer cases to any and multiple enforcement agencies with jurisdiction and authority to address the violation.

Additionally, DPR proposes to remove statewide licensing action as the only enforcement option available to the Director or Structural Pest Control Board Registrar. As part of a larger Structural Pest Control Board disciplinary framework, Business and Professions Code (BPC) section 8620 was enacted to allow the Structural Pest Control Board Registrar to suspend or revoke a license or impose a civil penalty instead of suspension (Stats. 1994, Ch. 844). Separately, in 2022, Assembly Bill (AB) 211 amended FAC section 12999.6 to allow the Director to levy a civil penalty in lieu of the CAC in certain circumstances (Stats. 2022, Ch. 547). This proposed change reflects the expanded authority provided by FAC section 12999.6 and BPC section 8620, which allow the Director and Structural Pest Control Board Registrar to

pursue civil penalty actions in addition to licensing disciplinary actions. This amendment ensures that all available statewide enforcement options are available to address violations appropriately.

DPR proposes to amend subsection (c)(2)(C) to specify that the CAC may respond to a violation with a compliance action and a decision report provided there have not been any Class A violations or Class B violations of the same violative conduct within the past five years.

Under the proposed amendment, CACs will be required to review five years of compliance history instead of two years. The five-year review period accounts for the applicable three-year statute of limitations period under FAC section 13000(a) for CACs to commence enforcement and additional time to adjudicate violations. In addition, the five-year period allows for more comprehensive assessment by establishing patterns of negligence and identifying systemic issues. The expanded timeframe is necessary to allow for more proportionate enforcement responses and promotes regulatory compliance actions that reflect the full context of an operator's historical compliance. A five-year enforcement history review aligns with U.S. EPA's FIFRA Enforcement Policy and other California state agencies enforcement regulations and policies such as California Department of Industrial Relations and State Water Resources Control Board.

DPR is proposing to phase in the increase to a five-year compliance review period over three years. Starting on January 1, 2028, CACs will be required to review three years of compliance history; by January 1, 2029, CACs will be required to review four years; and by January 1, 2030, CACs will be required to review five years. Increasing the compliance history review period provides a transition period for the CACs to adjust their enforcement practices and record retention policies and allows business to adjust their compliance strategies in light of longer-term consequences of past violations.

DPR seeks to ensure that an enforcement action, as opposed to a compliance action, is taken where there are repeated Class B violations for the same or similar code sections (i.e. fall under the proposed definition for same violative conduct). Since DPR's regulations have overlapping provisions, this approach treats similar requirements as part of a single compliance pattern.

CACs have extensive expert technical knowledge of how state laws and regulations operate together to enforce pesticide laws and regulations. Their understanding of the statutory and regulatory framework enables them to apply the most effective and appropriate enforcement response in each case. Due to the complex nature of applying pesticides in agriculture, application of laws and regulations is largely dependent on very specific details of every incident or situation to determine whether violations are of the same violative conduct.

For example, an employer is cited for a violation when their employee is wearing leather gloves instead of chemical-resistant gloves as required by 3 CCR section 6738.3. One year later, the same employer is cited for a violation when their employee is wearing sunglasses instead of protective eyewear as required by 3 CCR section 6738.2. In this case, the same violative conduct is repeated by the employer for not providing employees with the appropriate personal protective equipment even though the code sections are different. Both code sections address the same regulatory concern or risk – to protect pesticide handlers from exposure to pesticides.

In another example, during a headquarters inspection, an employer is cited for not having application-specific information display for handlers at the central location, a violation of 3 CCR section 6723.1. At the time of the inspection, the violation is corrected. Two years later, during a fieldworker safety inspection, the employer is cited for not having the application-specific information display for fieldworkers, a violation of 3 CCR section 6761.1. Employers are required to provide application and hazard information to their employees. Both sections share the purpose of ensuring employees have the information they need when working around pesticides. In this situation, these violations would be considered the same violative conduct.

Conversely, an employer is cited for a violation of their employee not wearing chemical-resistant gloves as required by pesticide product labeling, FAC section 12973, and as required by regulation, 3 CCR section 6738.3. The following year, the same employer is cited for applying a pesticide above the allowable label rate, a violation of FAC section 12973. While FAC section 12973 is violated in both situations, the violative conduct is not the same since one is specific to personal protective equipment and the other is specific to how the pesticide is applied.

These changes are necessary to strengthen clarity and consistency for when a CAC elects not to take an enforcement action and ensures an adequate compliance history time period is considered when making that decision. By specifying that no Class A violations occurred or Class B violations involving the same violative conduct and directing CACs to review five-year compliance history ensures that enforcement decisions appropriately address the severity and patterns of violative behavior.

DPR proposes to amend subsection (d) to increase the time in which a decision report is submitted from 60 days to 150 days from the initial compliance action. Decision reports are commonly done for first time Class B violations found during routine inspections conducted by CACs. In these situations, the CACs can assess the nature of the violation, the violator's corrective actions, and overall compliance with pesticide-use laws and regulations to determine whether to levy a fine for the violation. The decision report is the CACs' justification to DPR that a compliance action instead of a fine is an appropriate response to the violation as a first-step response to ensure correction and encourage compliance. Currently, when a decision report is required, the commissioner must submit the decision report to the Director within 60 days of the initial compliance action provided there has not been a Class A or Class B violation within the previous two years. The current time period gives the CACs enough time to determine whether corrective actions were taken by the violator and work with the violator to ensure continued compliance. Expanding the decision report submission timeline to 150 days will allow CACs to conduct additional follow-up inspections to determine whether other compliance issues are occurring that warrant a stronger response than a compliance action, while providing ample time for the CAC to take a civil penalty action within the statute of limitations.

Additionally, DPR proposes to require the CAC to retain a copy of the decision report for five years. This change is to align with the proposed amendment to review five years of compliance history in subsection (c)(2)(C).

DPR proposes to separate and reorder subsection (d) to subsection (e)(1)-(e)(7) to improve clarity and organization of decision report requirements.

For the CAC to pursue a decision report and compliance action for Class B violations, DPR must concur with the CAC's decision report. DPR proposes to amend existing subsection (d)(5), renumbered to (e)(5), to require information, including but not limited to, when and how the violations were corrected, the employer's inspection history and violation history, and the toxicity and/or hazards of the pesticides, to provide sufficient information for DPR to concur with the CAC's decision. Requiring the CAC's decision report justification to include this additional information ensures transparency in the CAC's decision making process and provides sufficient evidence for DPR to evaluate and determine that a compliance action is the most appropriate response and ensure violators are treated fairly across the state.

Decision reports are specific to Class B violations which are violations of laws or regulations that mitigate the risk of adverse health, property, or environmental effect. Correcting these violations is important because it reduces the potential for continuing harm to people and the environment. Timely corrective action by the violator ensures that hazards have been identified and addressed without delay, reinforces the violators understanding of pesticide laws, regulations, and requirements, and ensures a safe work environment. Requiring specific information about when and how the violations were corrected is necessary for DPR to evaluate if the compliance action is the most effective approach.

Including the employer's inspection history and violation history in the justification allows DPR to evaluate the merits of the decision and CAC's decision to issue a decision report. When considering whether to take a compliance action or enforcement action, it is also important to consider and document the employer's overall inspection history and violation history. The frequency and outcomes of past inspections provide context for evaluating compliance behavior. When an employer is regularly inspected and consistently maintains compliance, a CAC may reasonably determine that a compliance action supported by a decision report is an appropriate response. Conversely, if an employer is inspected infrequently but exhibits violations during each inspection, it may indicate a pattern of compliance problems that warrant enforcement action. The violation history is also necessary to include in the decision report to document that the violator does not exhibit the same violative conduct.

Assessing the toxicity and/or hazards of the pesticide(s) involved in an incident is essential for determining the appropriate regulatory response. Prior to registration of a pesticide, both U.S. EPA and DPR review extensive data on toxicity and potential exposure to identify risks and possible adverse effects. The resulting precautionary statements and label requirements as well as additional restrictions put on restricted materials permits are designed to prevent injury to people and the environment if they are followed. By including information about the pesticide toxicity and/or hazard involved demonstrates that the CAC evaluated the product's potential to cause harm and verified that the incident met a lower-risk threshold before selecting a compliance action with a decision report. The documentation is necessary to show that the CAC considered the hazard of the pesticide when making their decision.

Collectively, these changes are necessary to ensure that the CAC provides DPR with a complete and understandable justification for taking a compliance action instead of an enforcement action. The proposed amendments establish the necessary information that must be included in every decision report to ensure statewide consistency when taking the appropriate enforcement response for a violation.

Currently, the Director has a 30-day review period of the decision report from when it is submitted to the Department. DPR proposes to continue reviewing decision reports within 30 days but clarifies that the 30-day period is intended to provide time to both review and, if necessary, discuss the decision report with the CAC before issuing a decision to either concur with or deny the decision report. The discussion allows DPR to request any clarifying information added to the decision report and the CAC to amend and resubmit.

To account for extending the CAC's decision report submission timeframe from 60 to 150 days and DPR's subsequent 30-day review period, DPR proposes that DPR must approve or deny a decision report no later than 180 days from the initial compliance action. Establishing this time limit is necessary to create a transparent and predictable workflow for both CACs and DPR. If the CAC does not submit the decision report by the 150-day deadline, DPR will not have the required 30 days to review and concur with the CAC's decision. In these instances, DPR must deny the decision report because the CAC did not comply with the submission time requirement.

DPR proposes to relocate the existing requirements for the denial of a decision report in subsection (d) to new subsection (f). Additionally, for clarity and transparency, DPR proposes to specify the criteria the Director shall use when denying a decision report. In the current regulations, a decision report is denied when the Director does not concur with the CAC's decision. The proposed amendments specify the Director shall deny a decision report when it is not submitted to DPR within 150 days of the initial compliance action; the decision report does not contain the requirements in subsection (e)(1) – (e)(7); or the Director evaluated the justification and found the circumstances warranted an enforcement action to protect human health and the environment. The proposed requirement that the Director specifically evaluate the justification to determine whether the circumstances of the incident warrant enforcement to protect human health and the environment strengthens DPR's oversight role of the CAC's pesticide enforcement program and statutory responsibility to ensure that enforcement actions are appropriate, sufficient, and aligned with protecting human health and the environment. If a decision report is not issued, CACs are required to take an enforcement action for Class B violations.

Existing subsection (e) requires the CAC to provide the District Attorney, City Attorney, or Circuit Prosecutor an opportunity to participate in a priority investigation, as defined in the 2005 Cooperative Agreement between U.S. EPA, DPR, and the County Agricultural Commissioners and Sealers Association (CACASA), and/or to pursue civil or criminal action when a violation may have occurred. Effective December 13, 2024, the referenced 2005 Cooperative Agreement was modified and superseded by a Three Party Memorandum of Understanding on Pesticide Episodic Reporting, Investigation, and Enforcement in the State of California (Three Party MOU). The 2005 Cooperative Agreement included specified criteria for "priority incidents" that were subject to various reporting and other provisions of the agreement. Among other things, the Three Party MOU updated that criteria and replaced the term "priority incidents" with "reportable incidents." DPR therefore proposes to renumber this provision to subsection (g) and incorporate by reference the Three Party MOU. These changes are necessary to maintain the intent of this subsection by realigning it with the updated Three Party MOU terms.

The Three Party MOU ensures a unified and coordinated program of pesticide episode reporting, investigation, and enforcement action in the State of California, pursuant to FIFRA section 22(b). It memorializes each party's understanding of respective roles and commitments in the response to incidents deemed to be of significant interest to U.S. EPA (i.e. reportable incidents).

Appendix A in the Three Party MOU establishes the criteria to classify incidents as reportable incidents subject to additional reporting to U.S. EPA. Section X in the Three Party MOU makes DPR responsible for notifying U.S. EPA of progress during an investigation of a reportable incident and specifies at the start of an investigation DPR issues a Pesticide Episode Notification Record (PENR) to U.S. EPA, the investigating CAC, and other agencies, as appropriate. The PENR contains preliminary information about where and when the incident occurred, the pesticides involved, a summary of the episode, and suspected violations that the CAC has obtained within the specific timeframe. Section X also specifies providing U.S. EPA an additional investigation update after 45-days and when the investigation is completed issuing a Pesticide Episode Closing Report summarizing the investigation findings.

DPR proposes to require the CAC to notify and provide an opportunity to the District Attorney, City Attorney, or Circuit Prosecutor to participate in the investigation when a violation may have occurred, concurrent with the notification requirements in Section X of the Three Party MOU. Specifying that notification is to be provided at the same time as other enforcement agencies (e.g. DPR and U.S. EPA) ensures consistent and timely notification to the District Attorney, City Attorney, or Circuit Prosecutor for reportable incidents. Notification is necessary so that a prosecuting agency may elect to involve their investigators to conduct a parallel criminal investigation while witnesses are available and evidence from the scene can be effectively gathered and analyzed.

Additionally, DPR proposes to provide a further opportunity to the District Attorney, City Attorney, or Circuit Prosecutor to pursue an action when the investigation is completed and closed, concurrent with the notification requirements in Section X of the Three Party MOU. While the District Attorney, City Attorney, or Circuit Prosecutor may have elected not to participate at the start of a CAC's investigation of a reportable incident, this second referral gives the District Attorney, City Attorney, or Circuit Prosecutor another opportunity to evaluate the investigation and violations to consider whether an appropriate response is a civil or criminal action.

FAC section 12999.5(a) authorizes CACs to levy civil penalties "in lieu of" civil prosecution. After a CAC has referred a case for civil prosecution, CACs are encouraged to coordinate closely with and provide their local prosecuting agencies with sufficient time to review the case and to decide whether to pursue civil or criminal actions. However, in certain instances, the statute of limitations for the CAC to initiate administrative action may expire before the prosecuting agency informs the CAC of its decision. DPR proposes to specify that, if the referral is accepted or rejected, the CAC shall notify the Department, in writing. The proposed change is necessary to allow DPR to track the involvement and responses of local District Attorneys, City Attorney, or Circuit to reportable incidents.

DPR proposes to add subsection (h) to require the CACs to formally refer to DPR enforcement action for any violation identified in a multijurisdictional priority investigation as defined in FAC section 12999.6(a). Current regulations do not require the CAC to formally refer enforcement actions to DPR when violations are identified during multijurisdictional priority investigations. When AB 211 was enacted in 2022, the Legislature determined that violations identified in these types of investigations warranted state-level enforcement authority because they span multiple counties. As such, FAC section 12999.6(c)(2)(A) provides DPR with authority to initiate and maintain an administrative civil penalty action after consultation with the CAC for pesticide use violations related to a multijurisdictional priority investigation involving human or environmental health effects. DPR may only bring such enforcement “in lieu of a civil penalty” levied by the CAC pursuant to FAC section 12999.5. Thus, requiring CACs to formally refer enforcement action for any violation identified in these investigations is necessary to ensure DPR is notified and able to initiate enforcement action, thereby preserving the enforcement structure intended by the Legislature and ensuring consistent handling of violations statewide.

DPR proposes to add subsection (i) to require the CAC to complete the investigations even when a prosecuting authority has initiated, or may initiate, a parallel investigation. Although another agency may be investigating the same incident, the CAC is responsible for investigating pesticide violations. This amendment formalizes the requirement that the CAC completes its investigation without waiting for another agency’s decision to file charges. If the prosecuting agency later decides not to file charges, the CAC has a complete investigation that would facilitate administrative action as appropriate.

#### **Amend Section 6130 – Civil Penalty Actions by Commissioners.**

DPR proposes to clarify subsection (a) to specify a civil penalty action by the CAC must be taken on one or more of the violations with the highest violation class in the incident to ensure that the most egregious violation(s) stemming from an incident are enforced on. Incidents often involve multiple violations of varying severity, and without this requirement, enforcement may focus on pursuing lower-level violations while more egregious conduct goes unaddressed formally. Prioritizing the highest violation class promotes consistent and responsive enforcement across counties that strengthens deterrence for the most serious violations, and ensures the administrative civil penalty accurately reflects the gravity of the incident. This clarification also aligns enforcement actions with DPR’s mission to protect human health and the environment, by ensuring that the most significant risks or harms are the primary basis for civil penalty action.

Currently, Class A violations are defined as a violation that caused a “health, property, or environmental hazard”. DPR proposes to amend and renumber subsection (b) to separate Class A violations into Class A(1) and Class A(2) violations. DPR proposes defining Class A(1) as a violation that caused a health hazard. Class A(2) is defined to include three types of violations including a violation that caused a property or environmental hazard. The proposed separation of hazard classifications ensures the regulations address the relative severity of potential harm. Violations that cause health hazards warrant stronger deterrence because they can result in immediate and significant impacts on the health and safety of Californians. Elevating the enforcement response to violations that caused a health hazard ensures that violators are held accountable when handlers, field workers, or bystanders are affected by pesticide misuse.

DPR proposes to amend and renumber existing subsection (b)(2) to (b)(3) to define a Class B violation as any violation that is not designated as a Class A(1), Class A(2), or Class C for clarity and to simplify the classification process. Classifying a violation as a Class B under the current definition is a subjective determination of whether and to what extent a regulation mitigates a risk. This has led to inconsistent classifications of similar violations among CACs. The change is necessary to ensure violations are classified consistently and uniformly statewide.

The current definition of a Class C violation is a violation of a law or regulation that does not mitigate the risk of an adverse health, property, or environmental effect including, but not limited to 3 CCR sections 6624 through 6628, and FAC sections 11732, 11733, and 11761. These code sections include requirements for records related to pesticide use reporting and county registration for pest control operations. DPR proposes to amend and renumber existing subsection (b)(3) to (b)(4) to further limit which violations are considered Class C violations by replacing the existing illustrative language with an exhaustive list of the statutes and regulations that can only be considered as Class C violations. These proposed amendments are necessary to limit Class C violations to only laws and regulations that do not mitigate the risk of adverse health, property, or environmental effects and are ministerial requirements. Consistent with the definition of Class C violations, DPR proposes to add 3 CCR section 6692 and FAC sections 11920, 11921, 11922, 12002, 12031, 12033, 12052, 15204, and 15204.5 subsection (a)-(c) as Class C violations.

3 CCR section 6692 establishes annual notification requirements for property operators conducting agricultural pesticide applications within one-quarter mile of a schoolsite. This is a ministerial requirement; enforcement of the one-quarter mile use requirement is a violation of 3 CCR 6691 and is not a Class C violation.

Consistent with the current regulations listing some of the county registration requirements as Class C violations, DPR proposes adding the following FAC sections to subsection (b)(4):

- Sections 11920 – 11922 related to pest control aircraft pilot registration;
- Sections 12002, 12031, 12033, 12052 related to pest control adviser registration; and
- Sections 15204 and 15204.5 subsections (a) – (c) related to structural pest control business registrations.

The purpose of registering in each county where pest control work is being conducted is to notify the CAC of the businesses working in their county. Registrations themselves do not mitigate the risk of adverse health, property, or environmental effects and are classified as Class C violations.

DPR proposes to amend and renumber subsection (c)(1-3) to subsection (c)(1-4) to include separate fine range for added Class A(1) violations and Class A(2) violations, and to increase the minimum penalty fine amounts for Class A(1), Class A(2), and Class B violations. DPR proposes setting the minimum fine amount for Class A(1) violations to \$3,000, to establish a fine range for Class A(2) of \$1,200 to \$15,000 and to increase the minimum fine amount for Class B violations to \$300.

With the splitting of the current Class A violation into Class A(1) and Class A(2), this proposal sets different fine ranges for the two new classes. Commensurate with distinguishing human

health hazard violations from other violations, this proposal sets the minimum fine range for Class A(1) violations at \$3,000. A higher minimum penalty for violations that cause human health hazards reflects the severity of these violations and provides a stronger deterrent against conduct that could result in significant injury or illness. Additionally, the minimum \$3,000 for Class A(1) violations is to ensure that Class A(1) penalties are at or above the highest allowable Class B penalty amount provided in FAC section 12999.5(a).

This proposal establishes the minimum fine amount for Class A(2) as \$1,200. FAC section 13001 allows the Director to adjust minimum civil penalty amounts to account for inflation. The proposed Class A(2) minimum fine range of \$1,200 would adjust the minimum fine levels for Class A(2) to account for annual inflation since 2003 when the existing Class A minimum level of \$700 was set. The proposed amendments to raise the minimum fine amounts is essential to maintain their effectiveness as a deterrent to ensure that financial penalties do not diminish in value over time due to the rising cost of living and are not treated as “a cost of doing business.” The maximum fine range is the statutory maximum of \$15,000 for Class A violations.

Class B violations capture a wide range of violations that, while not causing harm to human health or the environment, can involve lower risk, unintentional errors, or administrative lapses. Class B violations range from more administrative violations such as missing information in a record to more significant violations such as an employer not training their employee on handling pesticides. In 2024, the maximum fine amount for Class B violations was raised to \$3,000 to implement AB 211. DPR proposes increasing the minimum fine amount for Class B violations from \$250 to \$300. Maintaining a broad fine range for Class B violations enables the CACs to set a fine level proportionate to the severity of the action and circumstances. This allows the CACs to take a graduated approach to set initial penalties for the more administrative violations at levels to incentivize corrections. The proposed increase balances maintaining deterrent effects of a financial penalty and not creating a disproportional increase in financial burden for Class B violation types.

DPR proposes to amend subsection (d) to require the CAC to consider a respondent’s prior statewide enforcement action history when determining the appropriate fine amount for a current Class A(1) or Class A(2) violation. This ensures that penalties reflect both the severity of the current violation and the respondent’s demonstrated compliance behavior over time. “Prior enforcement action” is defined as any final Class A violation determination issued by any CAC within California within the previous five years. This definition ensures consistent statewide enforcement by preventing respondents from avoiding escalating penalties when they commit violations in different counties. This change addresses U.S. EPA’s recommendation to require the CACs to check statewide compliance history and consider existing history in the CAC’s enforcement action and consider using gravity adjustments to help promote consistency in penalty amounts within the same violation class for Class A violations.

DPR proposes adding a table for CACs to use when determining the minimum fine amount for prior Class A violations that have occurred:

When a violation is classified as a Class A(1):

Prior Enforcement Action History	Current Penalty Amount
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Class A(1)	A minimum 20% increase from prior violation penalty up to the Class A(1) penalty maximum.
Class A(2)	A minimum 20% increase from the minimum of Class A(1) or a minimum 20% increase from the prior violation, whichever is higher, up to the Class A(1) penalty maximum.
Class A prior to the effective date, [insert date]	A minimum 20% increase from the minimum of Class A(1) or a minimum 20% increase from the prior violation, whichever is higher, up to the Class A(1) penalty maximum.

When a violation is classified as a Class A(2):

Prior Enforcement Action History	Current Penalty Amount
Class A(1)	Minimum penalty starts at least at \$3,000 up to the Class A(2) penalty maximum.
Class A(2)	A minimum 20% increase from the prior violation penalty up to Class A(2) penalty maximum.
Class A prior to the effective date, [insert date]	A minimum 20% increase from the prior violation penalty up to Class A(2) penalty maximum.

The requirement to apply a minimum 20 percent penalty increase, or a specified minimum starting amount, establishes a clear and objective framework for how CACs escalate consequences when serious violations occur. Class A(1) and Class A(2) violations represent the most serious threats to human health or the environment and, therefore, repeated occurrences warrant a more severe base penalty to address significant compliance concerns. The proposed 20% penalty escalation is consistent with U.S. EPA FIFRA’s Enforcement Response Policy for increasing fines based on a past history of serious violations.

DPR proposes to add a new subsection (e) to adopt the same phased-in schedule as proposed in section 6128(c)(2)(C) to shift from considering prior enforcement actions over the previous two years to five years. This change is necessary to provide a transition period for businesses to adjust their compliance strategies.

DPR proposes to add new subsection (f) to require a CAC to send a notice of proposed action (NOPA) meeting the criteria for human health incidents that meet Reportable Incident Criteria as defined in the Three Party MOU and all supporting documentation to the Director for review no later than 90 days prior to the expiration of the applicable statute of limitations and prior to the issuance of the NOPA. This allows the most severe and egregious violations involving human health to be reviewed by the Department prior to issuance serves to support and strengthen statewide enforcement of California’s pesticide laws and regulations by increasing

communication between CACs and DPR and to promote consistency and clarity in the enforcement response. In addition, this review provides DPR with a further opportunity for discussion with the commissioner about whether it is appropriate for DPR to pursue enforcement or licensing actions.

To ensure timely review of these NOPAs, DPR proposes that the Director must respond to the CAC within 45 days of receipt or by a later date agreed upon by the Director and the CAC. This change is necessary to ensure that DPR provides a prompt review and response to the CAC, thereby preventing any unnecessary delays in the issuance of the NOPA.

DPR proposes to re-letter existing subsection (e) to subsection (g) and clarify that the CAC must send a copy of the signed notice of proposed action to the Director no later than the time the notice is provided to the respondent.

As a result of the renumbering described above, DPR proposes to re-letter existing subsections (f) and (g) to subsections (h), and (i) accordingly. This non-substantive change has no effect on the regulatory text.

#### **Adopt Section 6132 – Annual Enforcement Report.**

DPR proposes to adopt section 6132 to require the Director to annually publish an enforcement report describing specific actions taken by the Department pursuant to FAC section 12999.6(c). This new requirement ensures DPR's enforcement actions are publicly known and transparent to the public, regulated community, and CACs. Publishing an annual report supports accountability and further promotes an understanding of the role enforcement plays in protecting public health and the environment by fostering sustainable pest management and regulating pesticides.

#### CONSULTATION WITH OTHER AGENCIES

DPR consulted with the CACs in drafting these regulations.

#### ALTERNATIVES TO THE PROPOSED REGULATORY ACTION (GOVERNMENT CODE SECTION 11346.2, SUBD. (b)(4))

DPR has not identified any feasible alternatives to the proposed regulatory action that would achieve the purpose of the proposed amended regulations with fewer possible adverse economic impacts, including any impacts on small businesses, and invites the submission of suggested alternatives. The proposed regulatory action will revise appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations.

#### ECONOMIC IMPACT ON BUSINESS (GOVERNMENT CODE SECTION 11346.2, SUBD. (b)(5)(A))

The proposed regulatory action will revise appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations. DPR has determined that the proposal will have no impact on the lawful operations of pesticide users or

businesses, including pest control advisers or pesticide dealers. DPR has determined that the proposed action is necessary to conform the regulatory requirements with the enacted statute. Fines pursuant to 3 CCR section 6130 are incurred only for violations of the Food and Agricultural Code and Title 3 of the California Code of Regulations. Therefore, DPR has determined these regulations will not have any significant economic impact on lawfully operating business operating in the state. DPR anticipates an average cost of \$324.80 among non-compliant businesses cited for Class A, B, or C violations. DPR has made an initial determination that the action will not have a significant adverse economic impact on businesses. This determination is based on the attachment to the Economic and Fiscal Impact Statement form (STD. 399).

DPR has determined that the proposed action will not have a significant statewide adverse economic impact on the ability of California businesses to compete with businesses in other states, as all pesticide businesses, including pest control advisers and pesticide dealers, must be licensed with the state in order to operate, and all will be subject to the increased minimum fines and penalty maximums, should violations occur.

#### ECONOMIC IMPACT ASSESSMENT (GOVERNMENT CODE SECTION 11346.3, SUBD. (b))

***Creation or Elimination of Jobs within the State of California:*** DPR has determined that the proposed action would not create or eliminate jobs in California. This action would have no impact on the lawful operations of pesticide users or pesticide businesses, including pest control advisers and pesticide dealers. The proposed regulatory amendments revise appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations. The proposed action does not mandate the creation of new jobs, nor does it require that an existing job be eliminated in the State of California.

***Creation of New Businesses or the Elimination of Existing Businesses within the State of California:*** DPR has determined that the proposed action would not create new businesses nor will the proposed action eliminate existing businesses within the State of California. This action would have no impact on the lawful operations of pesticide users or pesticide businesses, including pest control advisers and pesticide dealers. The proposed regulatory amendments revise appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations. Thus, the proposed action would not create new businesses or eliminate existing businesses in the State of California.

***The Expansion of Businesses Currently Doing Business within the State of California:*** DPR has determined that the proposed action would not result in the expansion of businesses currently doing business within California. This action would have no impact on the lawful operations of pesticide users or pesticide business, including pest control advisers and pesticide dealers. The proposed regulatory amendments revise appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations. Thus, the proposed action would not result in an expansion of businesses currently doing business with the State of California.

***The Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:*** The proposed regulations are designed to promote the public health and welfare of California residents, promote worker health and safety and safeguard California's environment and natural resources by strengthening the deterrence of pesticide use

violations and local implementation of the statewide pesticide compliance and enforcement program by revising the appropriate enforcement responses to be taken by the CAC each time a violation(s) occurs to improve effectiveness and clarity of the regulations. The proposed amendments will permit CACs to effectively administer local enforcement of pesticide use laws and regulations, aimed at protecting human health and the environment.

The proposed amendments will benefit the public, including California residents and workers, by promoting compliance with pesticide law, regulations and lawful orders and deterring unlawful actions.

IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL (3 CCR SECTION 6110, SUBD. (a)(3))

The Natural Resources Secretary 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 California Code of Regulations, Title 14 (14 CCR) section 15251, subdivision (i). This determination means DPR's pesticide regulatory program is functionally equivalent to 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 California Code of Regulations, Title 3, section 6110 and satisfies the requirements of DPR's CEQA certified regulatory program for rulemakings at California Code of Regulations, title 3 sections 6110-6118.

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 § 6110, subs. (a)(3), (a)(4).) 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 § 6116, subd. (a)(2).)

The proposed amendments to 3 CCR sections 6128 and 6130 are intended to clarify and make FAC section 12999.5 specific by providing direction to CACs on how to classify violations and how to calculate a proposed fine within the appropriate regulatory classification fine range. The purpose of these amendments is to deter illegal pesticide use, and ensure these regulations promote enforcement actions are consistent, appropriate, sufficient, and aligned with statewide standards for protecting human health and the environment.

The proposed amendments to 3 CCR sections 6128 and 6130 include direction to CACs on the referral process for Class A(1), Class A(2), and Class B violations to the District Attorney, City Attorney, Circuit Prosecutor, or the Director or Structural Pest Control Board Registrar to pursue enforcement action, and requirements for CAC notification and referrals to the District Attorney, City Attorney, or Circuit Prosecutor for reportable incidents. The proposed amendments also clarify and make specific that the commissioner shall send notices of proposed action to the Director for

review no later than 90 days prior to the expiration of the applicable statute of limitations and prior to issuance to the respondent if the incident involves a reportable incident. The purpose of these amendments is to strengthen the statewide pesticide compliance and enforcement program by ensuring the CAC can refer cases to any and multiple enforcement agencies with jurisdiction and authority to address the violation, and by assisting the Department in tracking enforcement actions and reportable incidents throughout the state.

The proposed addition of 3 CCR section 6128, subdivision (h) concerns the Director's authority to initiate and maintain an enforcement action when violations causing human or environmental effects arise from multijurisdictional priority investigations, as defined in Food and Agricultural section 12999.6(a). The purpose of this amendment is to provide clarity as to the process in handling multijurisdictional priority investigations by requiring CACs formally refer such enforcement actions to DPR after consultation with the Department pursuant to FAC section 12999.6(c)(2)(A), further strengthening the statewide pesticide compliance and enforcement program.

The proposed amendments to 3 CCR sections 6128 and 6130 add consistency, deter repeat violations of pesticide use, handling, and storage, and strengthen the statewide pesticide compliance and enforcement program, by making specific the contents of the decision report, when the Director can deny a decision report, and by extending the time for CACs to issue a decision report. The purpose of these amendments is to provide uniformity with respect to decision reports, ensure the CAC has adequate time to complete follow-up inspections, ensure that the Department has the necessary information to review the decision report, and to guide commissioners in their enforcement activities, thereby strengthening the statewide pesticide compliance and enforcement program.

The proposed amendments to 3 CCR sections 6128 and 6130 make specific and clarify that the CACs shall use a respondent's prior enforcement action history and ensure there has not been any prior Class A or repeated B violations for the same violative conduct within five years of the current violation when determining whether to issue decision reports and when determining the current penalty amount by utilizing the prior enforcement action history guidelines involving prior Class A(1) and/or Class A(2) violations. The purpose of these amendments is to provide clarity in enforcement guidance response to the CACs, aid in uniformity in designating fine amounts for violations, and deter repeated pesticide use, handling, and storage violations, all of which further strengthens the statewide pesticide compliance and enforcement program.

The proposed addition of 3 CCR section 6132 requires the department to provide a publicly accessible annual enforcement report, describing any enforcement actions taken by the department pursuant to FAC section 12999.6(c). The purpose of this amendment is to increase and strengthen public transparency regarding departmental actions taken pursuant to FAC section 12999.6(c).

DPR's proposed regulations will not have any effect on flora and fauna, water quality, agricultural or forestry resources, or air quality, as these are all regulations regarding the administration of the CACs enforcement response, and do not increase or decrease the pesticides used, change how those pesticides are or may be used, or alter any other requirement that could possibly have an environmental impact.

California Code of Regulations, title 14 section 15061, subdivision (b)(3) provides that an activity “is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The proposed regulatory amendments to 3 CCR sections 6128 and 6130 as detailed above will promote public health, the health and safety of workers, and the health of the environment by strengthening administrative penalties, thereby deterring violations concerning pesticide use, handling and storage, and strengthening the local implementation of the statewide pesticide compliance and enforcement program. Against this environmental and regulatory baseline, no possible significant adverse effect to California’s environment can reasonably be expected to occur from implementing each and every one of the proposed regulations. Therefore, the proposed regulatory amendments are categorically exempt from environmental review under 14 CCR section 15061, subdivision (b)(3).

Because there is no possibility of a significant adverse effect to California's environment occurring from implementing the proposed regulation, no alternatives or mitigation measures are proposed to lessen any significant adverse effects on the environment.

EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS  
(GOVERNMENT CODE SECTION 11346.2, SUBD. (b)(6))

The proposed regulatory action does not duplicate or conflict with the Code of Federal Regulations. Although there are some similarities in the regulatory requirements between the Federal pesticide law and regulation, California’s statutory and regulatory scheme (see generally, FAC Division 6 and Division 6 and 3 CCR section 6000 et seq.), DPR maintains a separate regulatory structure from the federal standards. Moreover, California laws and regulations exclusively regulate the implementation of pesticide use compliance at the local level, including the CAC’s authority to levy administrative civil penalties, classify fines, and determine the fine levels.

DOCUMENTS RELIED UPON (GOVERNMENT CODE SECTION 11346.2, SUBD. (b)(3))

1. United States Environmental Protection Agency’s California Counties Priority Episode Audit, February 8, 2023.
2. Federal Insecticide, Fungicide, and Rodenticide Act, Enforcement Response Policy, December 2009.
3. Statewide Enforcement Response Data generated from the California Pesticide Enforcement Activity Tracking System (CalPEATS), January 2023 through September 2025.
4. California Department of Industrial Relation, Title 8, California Code of Regulations section 334(d).
5. California State Water Resources Control Board, Water Quality Enforcement Policy effective October 5, 2017
6. Summary of Comments and Questions received from the Pre-Regulatory Enforcement Response Regulations Webinar from November 13, 2025 through December 13, 2026.