

TITLE 3. DEPARTMENT OF PESTICIDE REGULATION
Service Container Labeling
DPR Regulation No. 26-004

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend Title 3, California Code of Regulations (3 CCR) section 6678. The pesticide regulatory program activities affected by the proposal are those pertaining to hazard communication work requirements. In summary, the proposed action will amend the language specifying requirements for the display of service container labeling.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than October 12, 2026. Comments regarding this proposed action may also be transmitted via SmartComment at <https://cdpr.commentinput.com?id=7HuBGYZ8C>.

A public hearing is not scheduled. However, one will be scheduled if any interested person submits a written request to DPR no later than 15 days prior to the close of the written comment period.¹

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

DPR protects human health and the environment by fostering sustainable pest management and regulating pesticides. DPR's strict oversight includes: product evaluation and registration; statewide licensing of commercial and private pesticide applicators, pest control businesses, dealers, and advisers; environmental monitoring; and residue testing of fresh produce. This statutory scheme is set forth primarily in Food and Agricultural Code (FAC) Divisions 6 and 7.

FAC section 12980 requires that DPR work jointly with the Office of Environmental Health Hazard Assessment (OEHHA) to develop regulations to ensure safe working conditions for persons handling pesticides and working in and around pesticide-treated areas. FAC section 12981 requires DPR to adopt regulations to accomplish the Legislature's intent relative to ensuring safety in the pesticide workplace. DPR's current regulatory requirements for pesticide safety training, personal protective equipment, field posting, and notice of completed applications are designed to reduce the risk of pesticide exposure and injuries among pesticide handlers and workers exposed to pesticides.

Service containers are defined in FAC section 12757.5 as any containers, other than the original labeled container of a registered pesticide provided by the registrant, that is utilized to hold, store, or transport the pesticide or the use-dilution of the pesticide. FAC section 12859 directs the Director to adopt regulations governing the labeling of service containers, stating the regulation shall provide that the labeling only include: (1) the name and address of the person or firm responsible for the container; (2) the identity of the pesticide in the container; and (3) the word

¹ If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

“DANGER”, “WARNING”, or “CAUTION” in accordance with the label on the original container. Further, FAC section 12859 provides that service container labeling regulations shall not apply to containers used by a person engaging in the business of farming when the containers are used on the property that the person is farming.

Existing 3 CCR section 6678, adopted pursuant to FAC section 12859, establishes labeling requirements for service containers. Service containers, other than those exempted under FAC section 12859, are required to be labeled with basic pesticide ownership (name and address of the person or firm responsible for the container), identity of the pesticide in the container, and acute toxicity information for the intended use by employees, regulatory officials, emergency responders, and the public, which is provided through one of three signal words in accordance with the label on the original container. These labeling requirements are part of the hazard communication for pesticide work operations and are intended to inform workers and others who is responsible for the container, what is in a container, and any risks to employees, regulatory officials, emergency responders, and the public. Accordingly, it is important that these labels are easily found on a container and are legible.

The existing service container labeling regulation in 3 CCR section 6678 was intended to enable workers, members of the public, regulatory officials, and emergency personnel to easily observe and read a service container label and identify important information concerning the identity of the contents and owner of the service container. The wording of 3 CCR section 6678 has created confusion and ambiguity as to what constitutes a lawful label for service containers. As a result, situations have arisen where labels that are illegible, hidden from view, or even placed inside the container have been found to be technically compliant as long as the required information is included. . For example, in 2023, the Placer County Agricultural Commissioner (CAC) issued an administrative civil penalty for a violation of 3 CCR section 6678 for failure to label a service container. During a hearing on this matter, the respondent submitted that the service container label was present at the time of the documented violation, but it was located behind the strap of a backpack sprayer, where it was not visible to either the applicator wearing the backpack or county inspector. The hearing officer found against Placer CAC and determined that 3 CCR section 6678 does not require the service container labeling to be visible. Unlabeled, improperly or illegibly labeled service containers can contribute to personal injury, property loss, and environmental damage incidents. For example, an applicator may be unknowingly exposed to a material for which they are not adequately protected.

These amendments are being promulgated to clarify the intent of 3 CCR section 6678 and expressly require prominence and legibility requirements for service container labeling in current regulation. Merriam-Webster’s Dictionary defines “prominent” as readably noticeable or standing out; and “legible” as capable of being read. The proposed change to this regulation would add to the importance of being able to identify the contents of a service container by ensuring label placement on the container can be easily seen and read.

Without an expressly stated prominence and legibility requirement, the service container labeling regulation cannot fulfill its intended purpose of requiring that information on the pesticide contents be apparent to people who view the container.

During the process of developing these proposed regulations, DPR conducted a search of any similar regulations on this topic and has concluded that these proposed regulations are neither inconsistent nor incompatible with existing state regulations. DPR is responsible for enforcement of pesticide laws, including in workplaces, where pesticides are used.

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

As discussed above, 3 CCR section 6678 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 during the development of the text of the proposed regulations, as specified in FAC section 11454 and the Memorandum of Understanding updated on January 15, 2019, that was developed per FAC section 11454.2.

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

DPR has also consulted with several county agricultural commissioners.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR determined that the proposed regulatory action does not impose a mandate on local agencies or school districts. DPR also determined that there are no costs to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq.

OTHER NONDISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES

There are no other nondiscretionary costs or savings imposed upon local agencies that are expected to result from the proposed regulation action.

COSTS OR SAVINGS TO STATE AGENCIES

DPR determined that no savings or increased costs to any state agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

DPR determined that no costs or savings in federal funding to the state will result from the proposed action.

EFFECT ON HOUSING COSTS

DPR made an initial determination that the proposed action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR made an initial determination that adoption of this regulation 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.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

In reasonable compliance with the proposed action a limited number of representative private persons or businesses would be required to relabel service containers to display the required labeling in a prominent and legible way. This may initiate a negligible one-time cost to those individuals or businesses who must move or re-apply labels to meet the requirements of the proposed action. No new annual cost to either an individual or business is anticipated. Under the proposed action the required text of the service container labeling is unchanged. Individuals and businesses that currently fulfill the requirements of 3 CCR section 6678, displayed in accordance with this proposed action, should not incur any additional cost.

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action may affect small businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses: DPR determined it is not likely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California. This proposal will clarify current service container labeling requirements, specifying how the labeling should be displayed. The proposed amendment will require businesses out of compliance to move or replace a label on the container, which will be minimal in cost.

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 manner in which service container label requirements are displayed. The proposed regulations clarify and make specific that service container label requirements must be displayed prominently and legibly, reducing the ambiguity of current service container label requirements and increasing the ability of the county agricultural commissioners to enforce pesticide laws and regulations involving service containers.

CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more

cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law.

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456, 11502, 12781, 12859 and 12981.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 11501, 12859 and 12981.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR prepared an Initial Statement of Reasons and is making available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation; and inquiries regarding the rulemaking file may be directed to:

Ashley Anderson, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
279-399-8005

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory action may be directed to the following back-up person at the same address as noted below:

Beth Boss, Senior Environmental Scientist (Specialist)
Enforcement Headquarters Branch

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>. Upon request, the documents can be made available in another language, or an alternate form as a disability-related accommodation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.