

Enforcement and Compliance Options Chart

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State of California
Department of Pesticide Regulation

ENFORCEMENT ACTIONS - "Enforcement Actions" contain a penalty.			
ACTION	AFFECTED PARTY	AGENCY	PENALTY AND AUTHORITY
ADMINISTRATIVE PENALTY Administrative civil penalties are initiated by County Agricultural Commissioners (CAC) under the Agricultural Civil Penalty or Structural Civil Penalty Programs. The Director may initiate administrative penalties for certain violations.	Violators of certain state pesticide laws and regulations or Labor Code §1695; and, violators who are structural pest control licensees or businesses	CAC	<u>Agricultural Civil Penalty</u> - (1) CAC may levy penalties up to \$15,000 per violation. <i>FAC §§12999.5, 15204, 15204.5; 3 CCR §§6128, 6130, and 6131;</i> (2) Each person acutely injured constitutes a separate violation. <i>FAC §§12996.5 and 12997.5;</i> (3) In addition, CAC may refuse to issue a permit when violator does not pay penalty or follow a lawful order of the CAC. <i>FAC §12999.5</i>
		CAC or SPCB	<u>Structural Civil Penalty</u> - CAC may levy penalties up to \$5,000 per violation, suspend right to work up to three working days per violation, or require course attendance. <i>FAC §15202; BPC §8617; 3 CCR §§6128, 6131; and 1 6 CCR §§1922, 1922.3</i>
		DPR	<u>Director</u> - Director may levy penalties up to \$20,000 per violation. <i>FAC §§12671, 12999.4 and 12999.6</i>
DISCIPLINARY ACTION	Licensees, certificate holders, and permit holders	CAC	CAC may refuse, revoke, or suspend county registration. Refuse, revoke, or suspend restricted materials permit or private applicator certificate. <i>FAC §§11512.5, 11735, 11737, 11740, 11924, 11933, 12035, 14008, and 14098</i>
	Licensees, certificate holders	DPR	Director may refuse, revoke, or suspend license and/or certificate. <i>FAC §§11501, 11501.5, 11708, 11910, 12023, 12023.5, 12113, 12205, 12206, 12257, and 12408</i>
COURT ACTION, CIVIL	Any violator of state pesticide laws and regulations	DPR or SPCB	<u>Division 6 and 3 CCR Violations</u> \$3,000 - \$30,000 per violation. <i>FAC §§11891, 11892, 11893, 11894, and 11895.5</i> <u>Division 7 and 3 CCR Violations</u> \$3,000 - \$75,000 per violation. <i>FAC §12998</i>
		DPR or SPCB	May seek to enjoin the violation or threatened violation of orders issued pursuant to Division 6 or 7, and performance of specific acts to protect persons, animals, crops, or property. <i>FAC §§11895.5 and 13000.1</i> Director (or SPCB) may initiate a civil court action through Office of the Attorney General. Director may consider CAC requests for DPR to initiate civil court action after other options are exhausted.
COURT ACTION, CRIMINAL	Any violator of state pesticide laws and regulations	Referral to District or City Attorney, or Circuit Prosecutor	<u>Division 6 and 3 CCR Violations</u> \$5,000 - \$50,000 per violation and/or 10 days to 6 months imprisonment, or both. <i>FAC §11891</i> <u>Division 7 and 3 CCR Violations</u> \$5,000 - \$100,000 per violation and/or up to one year imprisonment. <i>FAC §12996</i> Director may request District/City Attorney or Circuit Prosecutor to initiate a criminal action. The Director may consider CAC requests for DPR to initiate criminal action, or request a CAC to locally initiate criminal action. Criminal action generally limited to cases of egregious nature or statewide significance.

STATUTE OF LIMITATIONS	
AGRICULTURAL CIVIL PENALTIES	STRUCTURAL CIVIL PENALTIES
CAC has three years from date of occurrence; or, Director has one year from submission of completed investigation. <i>FAC §§13000(a) and (b)</i>	CAC has two years from date of occurrence; or, SPCB or Attorney General have one year from submission of completed investigation. <i>BPC §8617(n)</i>

ABBREVIATIONS AND TERMS	
BPC = Business and Professions Code CAC = County Agricultural Commissioner CCR = California Code of Regulations DPR = California Department of Pesticide Regulation Director = Director of the California Department of Pesticide Regulation	Division 6 = Division 6 of the FAC (sections 11401 through 12500) Division 7 = Division 7 of the FAC (sections 12501 through 16000) FAC = California Food and Agricultural Code SPCB = Structural Pest Control Board. § = section (of a legal code); §§ = sections (of a legal code)

COMPLIANCE ACTIONS - "Compliance Actions" are official notices or warnings to promote correction; they are not "Penalties."			
ACTION	AFFECTED PARTY	AGENCY	ACTIVITY AND AUTHORITY
- VIOLATION NOTICE - WARNING LETTER - COMPLIANCE INTERVIEW - "NONCOMPLIANCE" NOTED ON INSPECTION FORM	Violators of state pesticide laws and regulations	CAC or DPR	No monetary penalty. These activities are consistent with general provisions of the FAC.
PROCESSING NOTIFICATION	Various	DPR and CDPH	Director of DPR is required to immediately notify Director of California Department of Public Health (CDPH) when produce destined for processing is in violation of permissible pesticide residue tolerances. <i>FAC §12582</i>

PUBLIC PROTECTION ACTIONS - "Public Protection Actions" are initiated for the immediate protection of public health or safety; they are not "Penalties" in and of themselves.			
ACTION	AFFECTED PARTY	AGENCY	ACTIVITY AND AUTHORITY
CEASE AND DESIST ORDER	Violators of state pesticide laws and regulations	CAC or DPR	Cease and Desist Orders may be issued pursuant to FAC §§11737, 11896, or 11897 (Division 6); and FAC §§ 13101 or 13102 (Division 7). In addition, the Director may issue a cease and desist order pursuant to FAC §15330.
SEIZE/HOLD PRODUCE (Administrative)	Growers, packers, shippers, and sellers	DPR	Seize and hold (quarantine) any lot of produce that exceeds or is suspected of exceeding pesticide residue tolerance. <i>FAC §§12601 and 12602</i>
CROP ABATEMENT ORDER (Court)	Growers, packers, shippers, and sellers	DPR (via District or City Attorney)	Any lot of produce that exceeds pesticide residue tolerance is a public nuisance and is subject to disposal. <i>FAC §§12642 and 12643</i>
CROP SEIZURE (Administrative)	Growers, packers, shippers, and sellers	DPR	Seize and destroy any plant, crop, commodity or site treated with a pesticide not registered for use on the plant, crop, commodity or site. <i>FAC §§12648 and 12648.5</i>
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Delay harvest until expiration of pre-harvest interval. <i>FAC §12672</i>
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Prohibit harvest of any produce that carries pesticide residue in excess of a permissible tolerance. <i>FAC §12673</i>
PESTICIDE SEIZURE (Administrative)	Person in possession of pesticide	DPR	Seize and quarantine pesticides that are adulterated, misbranded, not registered by the Director, etc. <i>FAC §§12931 and 12961</i>

Excerpts from 3 CCR §6140 - Inspection Authority:

The Director or CAC may, during business hours or at any other reasonable time, enter and inspect, and/or sample any of the following or related items in order to determine compliance with Divisions 6 and 7 of the FAC:

- Fields, areas, structures, and greenhouses where pesticides are handled, stored or applied;
- Growing crops/harvested commodities;
- Equipment (including protective clothing and equipment) used to store/transport/handle pesticides;
- Change areas/other facilities used by employees; and
- Pesticides and tank mixtures.

The person responsible for preparing/maintaining records shall make those records available during business hours, upon demand. Required records include:

- Records concerning work hours/training/medical monitoring of employees;
- Pest control recommendations/pesticide use and operations records; and
- Pesticide transactions/sales/delivery records.

Excerpts from 3 CCR §6141 - Employee Interviews:

The Director or CAC may confidentially interview any employee during work hours:

- When reasonably necessary for an investigation of employee illness(es) suspected of having been caused by a pesticide; or
- To investigate a suspected pesticide-related safety violation.

Authority for 3 CCR §§ 6140 - 6141 is FAC §§ 11456 and 12981