



## **PESTICIDE REGISTRATION AND EVALUATION COMMITTEE (PREC) Meeting Minutes – June 16, 2023**

### **Committee Members/Alternates in Attendance:**

Edgar Vidrio – Department of Public Health (CDPH)  
Fabiola Estrada – U.S. Environmental Protection Agency (EPA), Region 9  
Garrett Keating – Department of Industrial Relations (DIR)  
Heather Williams – Department of Resources Recycling and Recovery (CalRecycle)  
Jaime Rudd – Department of Fish and Wildlife (DFW)  
Katherine Sutherland-Ashley – Office of Environmental Health Hazard Assessment (OEHHA)  
Kevi Mace – California Department of Food and Agriculture (CDFA)  
Lisa McCann – State Water Resources Control Board (SWRCB)  
Lynn Baker – Air Resources Board (ARB)  
Mai Ngo – Department of Toxic Substances Control (DTSC)  
Matt Hengel – University of California (UC), Davis, IR-4 Program  
Stan Armstrong – Air Resource Board (ARB)  
Tom Ineichen – Structural Pest Control Board (SPCB)  
Tulio Macedo – Department of Pesticide Regulation (DPR)

### **Visitors in Attendance:**

*Note: Only attendees who identified themselves using their full name are listed below*

Ann Grottveit  
Chris Hassinger  
Christine Herrera  
Derek Winn  
Emily Hesselgrave  
Jacob Villagomez  
James Nakashima – Office of Environmental Health Hazard Assessment (OEHHA)  
Jayne Walz – Helena Agri-Enterprise LLC  
Jing Tao – Office of Environmental Health Hazard Assessment (OEHHA)  
John Bottorff  
Marcia Trostle  
Maureen Thompson  
Michael Zeiss  
Savannah Gosselin  
Sue Valentine – Scimetrix Limited Corp

### **DPR Staff in Attendance:**

Aisha Iqbal - Pesticide Registration Branch  
Alyssa Knudsen - Pesticide Registration Branch

Andrew Rubin – Human Health Assessment Branch  
Andrew Turcotte – Pesticide Registration Branch  
Brendan Darsie - Human Health Assessment Branch  
Brenna McNabb – Pesticide Registration Branch  
Emilie Schneider – Human Health Assessment Branch  
Jill Townzen – Pesticide Evaluation Branch  
Joshua Ogawa – Enforcement Branch  
Laura Benn – Pesticide Registration Branch  
Michel Oriel – Human Health Assessment Branch

**1. Introductions and Committee Business – Tulio Macedo, Chair, DPR**

- a. Approximately forty (40) people attended the meeting.
- b. Committee member Jim Sieber - University of California (UC), Davis, Department of Environmental Toxicology passed away.

**2. Proposed Decision to Begin Reevaluation of Diphacinone – Brenna McNabb, DPR**

The Department of Pesticide Regulation (DPR) recently posted a proposed decision to begin reevaluation of pesticide products containing the active ingredients diphacinone and diphacinone sodium salt (diphacinone). California law requires DPR to continuously evaluate registered pesticides. One of the ways DPR fulfills this requirement is through the reevaluation process. In accordance with California regulations, DPR investigates reports that indicate that a pesticide may have caused or is likely to cause a significant adverse impact. An investigation results in the initiation of the reevaluation process if the director finds that a significant adverse impact has occurred or is likely to occur. Reevaluation allows DPR to require data to characterize the nature and extent of the potential hazard.

DPR's authority for the reevaluation process appears in the Title 3 California Code of Regulations (3 CCR § 6220-6228) and the Food and Agricultural Code (FAC § 12824, 12825, and 12826). DPR investigates, all reports that indicate that a pesticide may have caused or is likely to cause a significant adverse impact. If DPR's investigation concludes that there is an adverse impact or possible adverse impact, then DPR initiates reevaluation. Companies with registered pesticide products that fall under the reevaluation must comply with all reevaluation data requirements. DPR concludes reevaluation in three different ways. If the data demonstrate use of the pesticide presents no significant adverse effects, DPR concludes a reevaluation without additional restrictions on use or further regulatory action. If additional mitigation measures are necessary, DPR will place appropriate restrictions on the use of the pesticide to mitigate the potential adverse effect. If the adverse impact cannot be mitigated, DPR may cancel or suspend the pesticide product registration.

Diphacinone is a first-generation anticoagulant rodenticide (FGAR). As a blood thinner, these products are used to control rodents such as Norway rats, roof rats and house mice. Additional target pests include burrowing ground squirrels or pocket gophers. These products are registered

for rodent control use by both professional applicators and the general public. In target rodents, death is usually delayed by several days after direct consumption of a lethal dose. Non-target wildlife may also be exposed by direct consumption of diphacinone or through indirect consumption when they consume target rodents that have fed on diphacinone.

In 2018, DPR issued “An Investigation of Anticoagulant Rodenticide Data Submitted to the Department of Pesticide Regulation;” hereafter, referred to as the 2018 Investigation. This investigation of data regarding potential adverse impacts to non-target wildlife considered diphacinone products. Based on the 2018 Investigation, DPR placed second-generation anticoagulant rodenticides (SGARs) into reevaluation. However, diphacinone was not included in the reevaluation due to decreasing rates of non-target wildlife exposure and sales at that time. As a result of Assembly Bill (AB) 1788, effective January 1st, 2021, Food and Agricultural Code section 12978.7 prohibited most uses of SGARs with limited exceptions. Diphacinone is an FGAR and was therefore not affected by the legislation. In late 2022, DPR began an investigation into its 2018 decision not to place diphacinone into reevaluation. The result of this investigation is documented in our recent public report.

The California Department of Fish and Wildlife’s (CDFW’s) Wildlife Health Laboratory (WHL) provided exposure data for the 2018 Investigation through wildlife loss reports. Wildlife loss reports are summaries of necropsy findings and toxicology results for animal remains where the cause of death is determined to be due to anticoagulant rodenticide (AR) toxicosis or when AR toxicosis is suspected. Wildlife remains are submitted to the WHL by the public, CDFW staff, universities, nongovernmental organizations, other agencies, wildlife rehab facilities and other project collaborators. Necropsies and toxicology testing are performed at the discretion of WHL or the California Animal Health and Food Safety Lab. Wildlife loss reports are submitted to county agricultural commissioners, DPR, California Department of Food and Agriculture and the United States Environmental Protection Agency (U.S. EPA). Even after publishing its 2018 Investigation, DPR continued to review the wildlife incident and mortality data received from the California Department of Fish and Wildlife. At the conclusion of the 2018 Investigation, the percentage of non-target wildlife with exposure to diphacinone was decreasing. However, since the 2018 Investigation and start date of Food and Agricultural Code section 12978.7, or the SGAR prohibition, CDFW loss reports indicate that diphacinone exposure has increased. Recent data indicates that up to 50% of animals had measurable amounts of diphacinone in their livers. The increase in diphacinone exposure rates is concerning given that diphacinone is moderately toxic to avian species, very highly toxic to mammals, and has the potential to bioaccumulate.

During its reevaluation, DPR may consider relevant peer-reviewed scientific publications, federal decisions, and other information available, and may incorporate additional CDFW wildlife data into future analysis. CDFW has shared a larger data set with DPR for certain years and has agreed to share the last five years of information. DPR appreciates the ongoing partnership with the California Department of Fish and Wildlife and will continue to coordinate and discuss non-target wildlife issues from all pesticide products, including first- and second-generation anticoagulant rodenticides. CDFW and DPR continue to coordinate efforts, including

sharing the most recent data available to both groups and meeting to discuss additional information as it becomes available.

DPR also tracks the sales and use of all pesticide products in California, including diphacinone products. Pesticide use reporting only includes pesticides used by professional applicators that have been DPR licensed and certified. Certified applicators must submit pesticide use reports. 2018 Investigation included use data for up to 2017. This data indicated that diphacinone use was decreasing at the time of the 2018 Investigation's completion. However, according to DPR's updated pesticide use reporting data, diphacinone use has increased in certain recent years indicating an increased diphacinone prevalence in California's environment.

Sales data reflects pounds of pesticides sold as self-reported by registrants and is not necessarily reflective of its use. Sales of product in California does not indicate use in California, nor is it indicative of exactly when the product might be used. The 2018 Investigation included sales data for 2014 through 2017 for diphacinone. Data at that time indicated that the sale of diphacinone was increasing and, with the exception of a slight dip in 2019 consistent with corresponding use data, the updated sales data continued that trend.

DPR's 2023 Public Report on diphacinone concluded that there have been substantial increases in diphacinone exposure rates to non-target wildlife, as represented in the California Department of Fish and Wildlife loss reports. These increases are concerning given diphacinone's toxicity to mammals and birds, and potential to bioaccumulate. This, along with increases in sales and use data of diphacinone in recent years, suggests that there are increasing amounts of diphacinone in California's environment, which could result in potential adverse impacts to non-target wildlife. This report, which can be found in California Notice 2023-06, provides the basis for DPR's proposal to place diphacinone into reevaluation. For more details on the limitations and scientific evaluation of this information, please read the 2023 Public Report and original 2018 Investigation.

In mid-May 2023, DPR issued California Notice 2023-06 titled Notice of Proposed Decision to Begin Reevaluation of Diphacinone and Public Report. Based on the increase in exposure of non-target wildlife to diphacinone and increases in sales and use, DPR finds that a significant adverse impact to non-target wildlife has occurred or is likely to occur from the use of diphacinone. DPR proposes to begin reevaluation for pesticide products containing active ingredients diphacinone and diphacinone sodium salt to determine if further mitigation or regulatory action is necessary. This reevaluation involves 56 pesticide products currently registered in California. The Notice also established a 30-day comment period for interested persons to submit comments. In response to a request, DPR later extended the public comment period an additional 30 days with California notice 2023-08. This brings the total comment period to 60 days.

The comment period on the proposed decision to begin reevaluation of diphacinone closes on Wednesday, July 19, 2023. Received comments are currently under review and DPR will respond to comments raising a significant adverse environmental point and include responses in

its Notice of Final Decision. If reevaluation is initiated, DPR may require additional data. DPR's reevaluation will determine whether additional restrictions on use or additional regulatory action is necessary. For more information, or to view documents discussed in this presentation, please visit DPR's [diphacinone reevaluation Web site](https://cdpr.ca.gov/docs/registration/reevaluation/chemicals/diphacinone.htm).  
<cdpr.ca.gov/docs/registration/reevaluation/chemicals/diphacinone.htm>

### ***Committee Comment***

Jaime Rudd asked about the resolution of the sales and use data and whether it was county or city level. Brenna McNabb replied that the data is county level.

Tom Ineichen asked if DPR is considering any mitigating measures yet. Brenna McNabb replied that DPR is in the beginning stages of the reevaluation and not proposing particular mitigating measures at this time. Tom also asked if the use data indicates whether the application was agricultural, structural, or urban. Brenna replied that while the use data does indicate whether the application was for agricultural or structural use, it is somewhat limited. Brenna provided the example that there is not additional information that would indicate whether a structural application was used to protect an agricultural building.

Kevi Mace asked about how DPR's reevaluation process is interacting with U.S. EPA's process on these chemicals. Brenna McNabb replied that DPR is working in coordination with EPA and evaluating diphacinone concurrently.

### ***Public Comment***

Darren Van Steenwyk asked how DPR views this reevaluation relative to Assembly Bill 1322. Brenna McNabb replied that DPR is actively tracking this bill and will remain informed about any actions that occur as a result of its potential signage.

### **3. Airblast Sprayer Drift Mitigation Workgroup - Emilie Schneider, DPR**

The Department of Pesticide Regulation (DPR) Worker Health and Safety Branch provides continuous evaluation for the safe use of pesticides and safe working conditions. DPR scientists conduct reviews of the Pesticide Illness Surveillance Program (PISP) illness data looking for trends and areas of concern. In an analysis of illness data for recent years, DPR noticed many of the large multi-person illness episodes associated with drift involved air blast sprayers, which led to the creation of the Air blast Sprayers Drift Mitigation Workgroup. The workgroup mission is to explore and develop potential methods to mitigate pesticide drift caused by air blast sprayer applications. The internal workgroup is composed of representatives from each branch of DPR and meets quarterly. The workgroup has three main areas of focus. First, the workgroup reviews illness episodes caused by pesticide drift from airblast applications for common trends. The workgroup has also been gathering information from different branches as well as University of California Agricultural and Natural Resources (UCANR) and presentations on various topics, including modeling work conducted to study drift. UCANR presentations have covered topics

such as spray drift, spray drift data collection and the development of a decision support system by Dr. Peter Larbi, Assistant Cooperative Extension Specialist and Assistant Professor UCANR Cooperative Extension, that can be used before pesticide applications. The Environmental Monitoring Branch (EMB) Air program gave an overview of air blast drift monitoring and modeling projects. The workgroup has heard about management of pesticide drift from the Enforcement Branch (EB) standpoint, as well as main issues that Enforcement Branch Liaisons (EBL) experience with airblast sprayer applications and compliance. The workgroup also heard from Dr. Terri Barry on her perspective of orchard air blast spray drift modeling at DPR. Based on what the workgroup has learned, the members have arrived at consensus on the core issues and next steps. The final area of focus for the workgroup is brainstorming ideas and discussion on recommendations to reduce drift.

The workgroup asked some important questions: what are the contributing factors for drift, based on PISP data; can the current regulations, training and outreach that are in place be improved to better target air blast applications; and how can DPR utilize emerging technology? To answer these questions, the workgroup also needs to take into consideration information that is already available. There are currently regulations in place that are designed to prevent drift. Upon reviewing PISP data, staff noticed that most illness episodes occur in the Central Valley. In addition, non-compliance issues are main contributory factors for drift according to this PISP data. Currently, modeling air concentrations from air blast sprayers for occupational bystanders is challenging. And last, new technology has the potential to reduce drift and exposure. The current regulations already in place are comprehensive and designed to protect workers and bystanders from drift. 3CCR § 6600: General Standards of Care states that applications need to be performed in a safe and effective manner. 3CCR § 6724: Handler Training specifies training requirements for employees that are handling pesticides to ensure they are properly trained. 3CCR § 6614: Protection of Persons, Animals, Property covers responsibilities for protecting persons, animals, and property. 3CCR § 6762(c): Fieldwork During Pesticide Application discusses the application exclusion zone (AEZ), which states that no person other than the person making the application can be allowed within a 100-foot horizontal distance from the application equipment in all directions. 3CCR § 6618: Notice of Applications states that notification must also be clearly given orally or in writing to a property owner prior to the application. Food and Agriculture Code (FAC) § 12972 states that the use of pesticides by any person needs to be applied in such a manner to prevent substantial drift to non-target areas. Finally, FAC § 12973 states that the use of pesticide shall not conflict with the registered label or permit conditions issued by the Director or Commissioner. Product labels also specify appropriate wind speed and nozzles, which should be shut off when an application rig turns corners at the end of the row.

The PISP data from 2010 to 2019 provides information on episodes and resulting cases. A case is a representation of an individual's exposure to a pesticide that may or may not result in an illness or injury. An episode is an event in which a particular source appears to have exposed one or more people to pesticides - an episode can result in multiple cases. A drift event is an episode that can affect multiple people. If those in neighboring fields got sick from that drift, each person

would be considered a case associated with that episode. The number of episodes has remained relatively constant over the years (2010-2019). However, the number of illnesses can vary each year. Cases seem to peak in years 2015 and 2019 because larger, multi-person episodes happened in those years. In this timeframe, 110 episodes resulted in 692 total cases.

As previously mentioned, most illness episodes occur in the Central Valley. This is not a depiction of bad practices in these areas, rather the areas are corresponding to counties with higher pesticide use. In this data, Fresno County had the highest number of reported episodes, followed by Kern and Tulare counties.

At the time of exposure, most cases were Agriculture (Ag) bystanders or field workers. There were also cases among handlers, a category which includes applicators, mixer loaders, and mechanical. The final category for exposure activity is Non-Ag bystanders, which could be a resident or an employee of a nearby business. Of the Non-Ag bystanders, 74% were occupational, meaning nearby workers and, 26% were non-occupational residents, perhaps in a house nearby.

There are multiple kinds of exposure that are recorded when PISP receives illness data. Types of exposure include direct spray/squirt, spill/other direct, off-site movement, residue, ingestion, a combination of multiple exposures, other type of exposure, and unknown. A vast majority of the episodes and cases in the 2010-2019 data were due to off-site movement or drift. Almost 70% of reported episodes involving air blast applications had violations noted. Every violation that was noted in these investigations is covered by a regulation that is currently in place. These could have been prevented if the applicator was following the current regulations. The workgroup is currently looking at the episodes that do not have violations associated with them to see what additional protections could be warranted.

Non-compliances are operator errors that have been identified during the episode investigations. One type of operator error is not turning off sprayers at the end of rows as stated in FAC § 12973. Another error is improper calibration of equipment - before applications, equipment needs to be calibrated based on crop type, size, Active Ingredient (AI) being used, etc. Nozzle angle, pressure, and speed are all part of the adjustments made during calibration. Spraying above the canopy could cause off-site movement of excess product, which could be more susceptible to drift since it's not being placed on its target. In addition, this error leads to lost profit if farmers are using excess product. Another operator error includes lack of communication. People in nearby fields may not have been informed that an application was happening. Weather conditions, such as wind speed and temperature, are important considerations that need to be taken into account when making these applications. Finally, handlers who are not trained or unaware of regulations and safe practices may constitute an operator error.

As mentioned earlier, the workgroup has been brainstorming ideas for mitigating drift. One mitigation option to explore is modeling. Scientific modeling for human exposure from air blast

sprayers is not quite there yet, the current drift modeling is based on horizontal deposition and does not account for droplets intersecting a standing human. In addition, models cannot account for human error or people making poor decisions.

New technology is emerging in many different areas of everyday life and agriculture is no exception. Note that DPR is not endorsing any of the following technologies, just reporting on what appear to be viable options to reduce spray drift and potentially prevent associated illnesses. “Smart” sprayers, or “Smart Apply Intelligent Spray Control System”, relies on a nozzle attachment which is compatible with virtually every airblast sprayer. It uses Light Detection and Ranging (LIDAR) to sense the presence and density of foliage and is able to adjust the spray volume to the location and density of individual plants to optimize protection. The nozzle attachments allow the sprayer to regulate spraying based on the crop. It sees the crop characteristics and adjusts the spray. If functioning correctly, the nozzle attachment prevents spraying in the void space between the crops and eliminates the potential for over spraying. Autonomous vehicles are another emerging technology that may reduce drift. Global Unmanned Spray Systems (GUSS) is a fully autonomous self-propelled sprayer. One person can monitor multiple machines remotely and could control the machine from a laptop outside of the field setting. It uses ultrasonic sensors to detect plant structure for optimal spray applications, similar to the nozzles in the “smart” sprayers. GUSS can see the crop and adjust the spray to reduce or eliminate spray between void spaces or overspray. Drones can be programmed to work somewhat autonomously, but there is still someone controlling the drone. Drones also allow the operator to be distanced from the field being sprayed. Both GUSS and drones take the operator out of the situation and can reduce the potential human error.

One of the immediate next steps for the workgroup is to collaborate with County Agricultural Commissioners (CAC) to gather their perspective and experience with air blast sprayers to further explore and refine mitigation approaches. Another emphasis is on targeted education. DPR currently has a role in education seminars such as Pesticide Applicators Professional Association (PAPA), County continuing education, and Spray Safe. The workgroup would like to conduct targeted outreach based on where more exposure episodes occurred, as well as develop and implement training that is specific to air blast sprayers. Future next steps involve considering the implementation of additional regulations and/or mitigation measures to prevent or reduce drift from air blast sprayers and researching emerging technology to potentially help reduce human error.

### ***Committee Comment***

Garrett Keating asked if there is any one particular pesticide associated with these spray events. This question was also asked later by an anonymous attendee at the response is recorded at the end of the comments section. Garrett also asked for clarification on how the cases discussed in relation to the AEZ compare to the 692 cases overall. Emilie Schneider replied that the exposure of the bystanders within the 100-foot AEZ were directly in violation of that regulation, while the episodes that occurred further than 100 feet from the application showed drift without violating



the AEZ. Garret asked for more clarification on the 692 cases. Emilie responded that the 692 cases were the total number of cases for all exposure scenarios, whereas the AEZ data was further refined to the Ag-bystanders and those exposure situations. Kevi Mace asked to clarify that episodes are incidents and cases are the number of people, meaning there were 692 people with 110 incidents in 2010-2019. Emilie confirmed that was correct.

### ***Public Comment***

Mike Zeiss asked if the number of episodes was correlated with the total pesticide use and stated that a better metric would be the number of air blast applications. Mike then asked if DPR has data on the number of air blast applications in each county? Michel Oriel responded that Pesticide Use Reporting (PUR) data only breaks it down to ground equipment and aerial and added that it would be great to have that denominator.

Mike Zeiss asked if the workgroup has reviewed the inspection reports from different counties to see if some counties have a higher rate of violations during airblast applications. Michel Oriel responded that the workgroup is currently looking into the reports to see if there are other violations noted by the counties that did not result in human illness.

Mike Zeiss asked if there are one or more crops that are most associated with the illness cases, (e.g., tree nuts), or any other ergonomic factors, such as whether applications occurred early in the season or late in the season. Michel Oriel responded that the workgroup investigated this and though air blast sprayers are used for a lot of orchard crops such as almonds and walnuts, there is no definitive data associated with a particular crop.

John Bottorff with CleanEarth4kids.org, an environmental nonprofit, disagreed with the statement that the current regulations are adequate and recounted a personal experience with pesticide drift. John and wife lived in a condo complex in Oceanside, California, on the retaining wall above fields and were sprayed by helicopter applying pesticides when the windows were open. John's wife had a severe allergic reaction to the pesticide, and John ended up selling the condo and moving. John spoke with the local CAC, who responded that their investigation indicated no violations - the sprayer had followed all the rules and was not required to notify the condos because the pesticide being sprayed was not a restricted use pesticide. John went on to mention 2 California studies that showed there was elevated childhood cancer risk from 13 agricultural pesticides used up to 2 1/2 miles away, only four of which are considered restricted in California, but ten are banned in the European Union (EU). John continues that we need to reduce the amount of drift, have total notification for any pesticides being used, and stop using toxic pesticides and exposing anyone to toxicity. John appreciates the effort to address pesticide drift from the air sprayers but wants a much more comprehensive view of toxicity and spraying in general. John stated that the Environmental Protection Agency (EPA) data suggests that 95% of a pesticide sprayed stays on target, so the vast majority of these pesticides being used is going to end up in our environment. John referenced DPR's current work regarding notification but stated that from a drift standpoint much more needs to be done and there are absolutely not adequate regulations currently.

James Nakashima wanted to clarify that illnesses involving airblast sprayers are determined by case numbers with patients who present to physicians. James added that there may be more people exposed who don't feel the need to see a doctor or interact with the government. James added that the applicator is trying to get efficacy to make sure the whole tree is covered, and that approaches the possibility of missing the tree or spraying over and creating drift off the property. James asked if the workgroup has delved into droplet size and how that affects drift, and whether that could be addressed by regulation. James also asked whether people who use air blast sprayers and their advocates will be included in the workgroup discussion. James finished with a comment that drift may still occur with drone applications. Emilie Schneider responded that the workgroup is examining droplet size and different application techniques as they develop training in the targeted areas. Emilie added that emerging technology could address some of the spray issues as well. Emilie followed up that the workgroup is internal, but there will be discussion in the next meeting about adding air blast sprayer users and advocates.

An anonymous attendee asked what pesticides are most commonly used in an air blast application. Michel Oriol responded that it is often a tank mix of pesticides, so it is difficult to determine if the drift episodes had a specific pesticide or time of day in common. Michel added that the applications tend to be early, so weather could be a factor, but the type of pesticides often involve a tank mix of products, and the workgroup has not been able to narrow down any specific pattern regarding pesticide type.

#### **4. An Overview of Rulemaking to Increase Civil Penalty Fine Authorities by Commissioners – Joshua Ogawa, DPR**

DPR's proposed rulemaking to increase fine maximums county agricultural commissioners may levy for pesticide use violations. As an overview and for background information, the county agricultural commissioners are the local authorities regulating and ensuring compliance with pesticide use laws and regulations across the state. Commissioners have a variety of regulatory tools available to them to bring growers, pest control businesses, handlers, and other pesticide users into compliance. A key enforcement tool is their administrative civil penalty authority which allows the Commissioner to directly levy fines, instead of going through the court system for these actions. California Food and Agricultural Code (FAC) § 12999.5, enables the commissioners to take an administrative civil penalty instead of prosecution by the department. Operationally, Commissioners implement this ability through provisions in Title 3 of the California Code of Regulations (3CCR) §§ 6128, 6130, 6131. FAC § 1299.5 enables commissioners to take administrative civil penalties and establishes the maximum fine amounts for these actions. Last September, Assembly Bill (AB) 211 amended this section by increasing the maximum penalties for Class A violations from \$5,000 to \$15,000 per violation. A Class A violation is a violation that causes a health, property, or environmental hazard, or a violation to a law or regulation that mitigates risks of adverse health, property or environmental effects and there are certain aggravating circumstances. In addition, for other types of violations, AB 211 also tripled the maximum fine amount from \$1,000 to \$3,000 per violation. When taking a civil penalty action for most pesticide use violations, commissioners are required to follow the

provisions in 3CCR § 6130 to determine the violation class, which then determines the appropriate fine range for those violations. The fine maximums in 3CCR § 6130 are based on the maximum set in the Food and Agricultural code.

DPR's proposed rulemaking regulation is to amend 3CCR § 6130, specifically subsection (c) by raising the maximum fines for a Class A violation from \$5,000 to \$15,000 per violation, and with a similar increase of the maximum fines for a Class B violation from \$1,000 to \$3,000. Doing this will align this section with the new statutory maximums and will allow the Commissioners to start using this expanded authority when taking administrative civil penalty actions.

### ***Committee Comment***

Garrett Keating asked to clarify that this proposal is headed to rulemaking for the regulation. Joshua Ogawa confirmed that it is headed to rulemaking. Garrett then wanted to confirm that the maximums are in the law, and not subject to change. Joshua confirmed that the rulemaking proposal aligns the maximums in the regulation, based on the changes in the Food and Agriculture code.

### ***Public Comment***

Anne Katten asked the following question via email after the meeting:

“Are you also planning to raise minimum fine levels? This is also needed for deterrence of future violations.”

The following response was provided by email:

DPR appreciates your emailed question which was sent during the June 16th PREC virtual meeting after DPR's proposed rulemaking presentation. DPR staff did not respond to this question live; however, we would like to provide you with the following response.

For this rulemaking proposal, we are proposing to align the fine maximums in Title 3, California Code of Regulations (3CCR) section 6130 with the maximums in the amended Food and Agricultural Code section 12999.5. We will be reviewing other elements in the enforcement response regulations, including the minimum levels in 3CCR section 6130, at a later time. Increasing the maximum levels as the first step is the quickest way to enable the County Agricultural Commissioners to use these new maximum fine levels while providing time to develop, consider, and evaluate additional amendments to 3CCR Section 6130.

**5. Agenda Items for Next Meeting**

The next meeting is scheduled for July 21, 2023 at 10:00 a.m. This meeting will be held virtually on the Zoom platform and broadcast live on the [CalEPA webcast page](https://video.calepa.ca.gov/). <video.calepa.ca.gov/>

**6. Adjourn**