

SUMMARY OF PESTICIDE USE REGULATORY AUTHORITIES

GENERAL AUTHORITIES	SUMMARY Sections noted are summarized - check full text and context before citing.
GENERAL POWERS FAC §11456	Outlines general powers of the Department of Pesticide Regulation (DPR) in areas of regulation adoption, inspection authority, licensing, and intergovernmental personnel agreements. The Director of DPR is an executive officer appointed by the Governor and has “head of department” powers (Government Code §11150, et seq.). Joint authority for pesticide use enforcement activities is performed by the County Agricultural Commissioner (CAC) under DPR’s direction and supervision.
LOCAL PESTICIDE USE ENFORCEMENT FAC §12977 FAC §12996 FAC §12999.5 FAC §§15204, 15204.5	FAC §12996 makes any violation of Division 7 a crime, which allows the CAC to refer any pesticide use violation to the District Attorney or Circuit Prosecutor for criminal prosecution. FAC §12977 authorizes CAC to enforce pesticide regulatory provisions under direction and supervision of DPR. In addition CACs are authorized to levy administrative civil penalties in lieu of civil prosecution, specifically: <ul style="list-style-type: none"> • FAC §§12999.5, 15204 and 15204.5 authorize CAC to levy administrative civil penalties (fines) for violations pertaining to pesticide use and misuse. • BPC §8617 authorizes CAC to levy administrative civil penalties (fines and education) for violations pertaining to pesticide use and misuse by Structural Pest Control Board licensees.
STATEWIDE PESTICIDE ENFORCEMENT FAC §12996 FAC §12997 FAC §12998 FAC §12999 FAC §12999.4	FAC §12996 makes any violation of Division 7 a crime. DPR could refer any violation of Division 7 to the Attorney General for criminal prosecution. FAC §§12997 – 12999 authorizes DPR, in lieu of prosecuting criminally, to refer any violation of Division 7 to the Attorney General for civil action. FAC §12999.4 authorizes DPR to levy administrative civil penalties for provisions pertaining to: <ul style="list-style-type: none"> • Dealer sales and reporting; Illegal dealer purchases; • Packing/shipping/selling pesticides with illegal pesticide residues; • Unregistered and misbranded pesticides; • Unlicensed manufacturing - sales and export; • Pesticide brokers; • Mill assessment and reporting; • Pesticide device registration. Authorizes DPR to bring action for any of the above in addition to matters pertaining to any registrant or licensee of the Department.
RESTRICTED MATERIALS FAC §14004	Specifies CAC authority to enforce restricted materials permit provisions under direction and supervision of DPR.
PESTICIDE WORK PLACE FAC §12982	Places responsibility for pesticide safety in the work place with DPR and specifies CAC may enforce provisions under direction and supervision of DPR. Authorizes county health officer and California Department of Health Services involvement.
PEST CONTROL LICENSING FAC §11501.5	CAC may enforce some aspects of the pest control license program under direction and supervision of DPR.
STRUCTURAL PEST CONTROL FAC §15201	Outlines general responsibilities and roles of DPR, Structural Pest Control Board (SPCB), and CACs in licensing and pesticide use for structural pest control activities. Specifies CAC authority to regulate pesticide use in structural activities under direction and supervision of DPR.
RESPONSIBILITIES & JOINT AUTHORITIES FAC §2281	CAC responsibilities: <ul style="list-style-type: none"> • Administration of pesticide use enforcement (PUE) programs at local level. • Levy fines for pesticide use and misuse-related violations. • Follow DPR instructions and recommendations. • Develop county priorities jointly with DPR. DPR responsibilities: <ul style="list-style-type: none"> • Oversight of statewide enforcement of pesticide laws and regulations. • Bring administrative actions for certain violations (see above). • Issue instructions and make recommendations to CAC. • Develop county priorities jointly with CAC. • Assist in planning/developing county programs. • Develop cost analysis of county programs/activities. • Identify under-funded programs/activities. • Report to Legislature.

Department of Pesticide Regulation - Enforcement Branch

Pesticide Use Inspection Authorities

Enter and Inspect 3 CCR §6140	<p>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 to determine compliance with Division 6 and Division 7 of the FAC:</p> <ul style="list-style-type: none"> • Fields, areas, structures, and greenhouses where pesticides are handled/stored/applied; • Growing crops/harvested commodities; • Equipment used to store/transport/handle pesticides; • Protective clothing and equipment; • Change areas/other facilities used by employees; and • Pesticides and tank mixtures. <p>The person responsible for preparing/maintaining records shall make the records available during business hours, upon demand. Required records include:</p> <ul style="list-style-type: none"> • Work hours/training/medical monitoring of employees; • Pest control recommendations/pesticide use operations; and • Pesticide transactions/sales/delivery. <p><i>Authorizing statutes for 3 CCR §6140: FAC §11456 and §12981</i></p>		
Employee Interviews 3 CCR §6141	<p>The Director or CAC may confidentially interview any employee during work hours:</p> <ul style="list-style-type: none"> • 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. <p><i>Authorizing statutes for 3 CCR §6141: FAC §11456 and §12981</i></p>		
STRUCTURAL PEST CONTROL AUTHORITIES:			
Joint Authorities FAC §2281	General Powers FAC §§11452 - 11456	Pesticide Use Enforcement FAC §12977	Pesticide Workplace FAC §12982
Structural Pest Control FAC §15201	<p>Outlines responsibilities and roles of DPR, SPCB, and CACs in licensing and pesticide use for structural pest control activities. Specifies CAC authority to regulate pesticide use in structural activities under direction and supervision of DPR.</p>		
Designation of Representative BPC §8616.4	<p>The Director designates CACs as his/her representatives to carry out the provisions of BPC §§8616.5, 8616.7, and 8617. CACs are not “duly authorized representatives” of the SPCB. The Director shall enter into a contract specifying their responsibilities and providing for reimbursement in accordance with BPC §8505.17 (contract is expressed as a MOU – see below).</p>		
Inspections and Investigations BPC §8616.5	<p>CACs are the lead agencies in inspections and investigations of pesticide use by board licensees and registered companies. Exceptions apply, but they relate solely to interagency roles in specific situations.</p>		
Violations BPC §8617 16 CCR §1922.3	<p>CACs, when acting pursuant to BPC §8616.4, may suspend the right to work, fine, or require course attendance by board licensees or registered companies.</p>		
Memoranda of Understanding (MOU/contract)	<p>There is a MOU (contract) between DPR, the California Agricultural Commissioners and Sealers Association (represents CACs), and the SPCB, as required by BPC §8616.4. The MOU describes roles, responsibilities, and reimbursement requirements.</p>		

FAC = Food and Agricultural Code BPC = Business and Professions Code CCR = California Code of Regulations § = Section

The Structural Pest Control Board was transferred from the Department of Consumer Affairs to the Department of Pesticide Regulation on October 23, 2009.