

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Amend Sections 6502 and 6540
Pertaining to the Licensing and Certification of Pest Control Aircraft Pilots

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 Title 14 CCR section 15252 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 amend 3 CCR sections 6502 and 6540 for consistency with recently amended state law, Food and Agricultural Code (FAC) sections 11901, 11902, 11905, and 11910. This proposal will affect pesticide regulatory program activities pertaining to licensing and certification of pilots operating in pest control. The proposed regulatory action would make changes to the existing Aircraft Pilot Pest Control Certificate Application form [DPR-PML-005 (Rev. 01/18)] and the existing Individual License /Certificate Renewal Application form [DPR-PML-141 (REV. 6/15)]. The proposed changes include amending the application to differentiate between Manned and Unmanned Pest Control Aircraft Pilot certificates and adding the subcategory of Vector Control Technician to the Unmanned Pest Control Aircraft Pilot Certificate. DPR also proposes to clarify that manned aircraft apprentice pilots must be supervised by a manned journeyman pilot and obtain their required apprentice hours operating a manned aircraft in pest control. These changes are necessary to set criteria that are more appropriate for pilots operating unmanned aircraft systems in pest control, while still maintaining the stringent requirements for manned aircraft.

SPECIFIC PURPOSE AND FACTUAL BASIS

Background

DPR protects human health and the environment through the regulation of pesticide sales and use, and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration; and continues through statewide licensing of commercial and private applicators, pest control businesses, and consultants; environmental monitoring; and residue testing of fresh produce. This statutory scheme is set forth primarily in FAC Divisions 6 and 7. DPR's Licensing and Certification Program administers examinations and licenses, and certifies pest control dealer designated agents, qualified applicators, agricultural pest control advisers, and pilots operating in pest control. The Licensing and Certification Program also licenses pest control businesses, including maintenance gardener pest control businesses, pest control dealers, and pesticide brokers. DPR must ensure that people selling, possessing, storing, handling, applying, and recommending the use of pesticides are knowledgeable in their safe use.

FAC sections 11901 through 11911 govern the certification of Pest Control Aircraft Pilots (Pilots). The forms and fees required for new applicants and renewals of certificates are specified in 3 CCR section 6502. Certification of pest control pilots ensures that Pilots have the knowledge and ability to aerially apply pesticides safely and effectively.

Currently, the Pest Control Aircraft Pilot Certificate (Certificate) covers all Pilots operating any aircraft in pest control, including: Pilots employed by a licensed pest control business, Pilots employed by vector control agencies or districts, and Pilots who perform pest control on their own property. The current application for a Certificate requires submission of a valid Federal Aviation Administration (FAA) Commercial Pilot's Certificate and a current Medical Certificate issued by the FAA. Both are specific to flying a manned aircraft. At minimum, the commercial pilot must log 250 hours of flight time in a manned aircraft in order to meet the FAA's experience requirement to receive their commercial pilot's certificate.

This requirement to log manned flight hours does not directly relate to the skill required to fly an unmanned aircraft system (UAS) from the ground using remote controls. Recently, Assembly Bill 527 (Caballero) (Chapter 404, Statutes of 2017) amended the law to set new and more appropriate criteria for the operation of UAS in pest control. As amended, the law requires a person operating a manned aircraft in pest control to hold a Manned Certificate. Additionally, it is unlawful to operate an unmanned aircraft system in pest control unless the Pilot holds either a Manned or Unmanned Certificate from DPR. The operators of UAS in pest control must be FAA certified or otherwise authorized by the FAA to operate UAS approved by the FAA to conduct pest control. Finally, the Director may refuse to issue a Certificate as specified if the person is not qualified, does not hold the required certificate or authorization from the FAA, or has violated state or federal law (FAC section 11910).

Applicants meeting FAA's requirements as stated above are eligible to apply for examination to obtain the appropriate certificate. Applicants for the Journeyman Certificate must be certified as an apprentice Pilot and have worked under a Journeyman Pilot for a minimum of one year. During this time period, the applicant must have completed no less than 150 hours of operation of a fixed-wing aircraft or 50 hours of operation of a non fixed-wing aircraft. A statement of supervision signed by the supervising Journeyman Pilot must be submitted with the application in order for the applicant to be eligible to take the Journeyman Certificate examination.

Assembly Bill 527 also added an additional certification category for the Unmanned Aircraft Pilot Certificate: Vector Control Technician. The 'Vector Control Technician' designation requires the applicant to hold a certification by the Department of Public Health in Mosquito Control pursuant to Health and Safety Code section 2052(1)(a) prior to taking the Unmanned Aircraft Pilot Vector Control Technician certification examination administered by DPR. The Vector Control Technician applicant must pass the DPR examination demonstrating their ability to legally and safely conduct aerial pest control operations before a Certificate is issued (FAC section 11905).

The recent changes to statute require DPR to revise the Aircraft Pilot Pest Control Certificate Application form [DPR-PML-005 (Rev. 01/18)] and the Individual License/Certificate Renewal Application form [DPR-PML-141 (REV. 6/15)]. To ensure that manned Pilots continue to

operate safely while performing aerial pest control, DPR also proposes to make changes to the requirements for apprentice Pilot supervision set in 3 CCR section 6540. While additional Certificate types will be offered, the fees associated with new applications and examinations are not changing. Allowing Pilots to operate UAS in pest control is not new; DPR is simply differentiating between manned and unmanned Pilots as is consistent with state law. The applicant requirements for unmanned Pilots operating in pest control will be more appropriate by requiring they meet the FAA mandates for the operation of a UAS in pest control.

Proposed Changes to Section 3 CCR 6502. Applications

To meet the new statutory requirements, DPR proposes to amend Table 1 in section 6502 to update the title of the Certificate types and application forms. The Certificate type would be changed to Pest Control Aircraft Pilot Certificate, Manned and Unmanned, as authorized by FAC section 11901. The title of the application would be changed to match the name of the Certificate [Pest Control Aircraft Pilot Certificate Application DPR-PML-005 (Rev. 7/18)], which is incorporated by reference. The specific changes to the Aircraft Pilot Pest Control Certificate Application form [DPR-PML-005 (Rev. 01/18)] and instructions are outlined below in Table 1. Table 2 outlines the changes proposed for the Individual License /Certificate Renewal Application form [DPR-PML-141 (Rev. 07/18)].

Table 1. Aircraft Pilot Pest Control Certificate Application form DPR-PML-005 (Rev. 01/18), page 1 identifies the changes proposed for the first page of the application form, along with justifications for the changes.

Aircraft Pilot Pest Control Certificate Application form DPR-PML-005 (Rev. 01/18)		
Current Requirements	Proposed Requirements	Justification
Form Title		
AIRCRAFT PILOT PEST CONTROL CERTIFICATE APPLICATION DPR-PML-005 (Rev. 01/18)	PEST CONTROL AIRCRAFT PILOT CERTIFICATE APPLICATION DPR-PML-005 (Rev. 07/18)	Minimizes confusion by matching the title of the form with the name the certificate and updates the revision date.

Table 1. (Continued)		
Current Requirements	Proposed Requirements	Justification
A. Application type		
Check boxes for the following:	Check boxes for the following:	Removes unnecessary check box and changes the two 'New Application' categories to 'Manned' and 'Unmanned' as authorized by FAC section 11901. 'Apprentice' and 'Journeyman' will be maintained as designations of the Manned and Unmanned Pest Control Aircraft Pilot Certificates.
New Application		
Apprentice	Manned	
Journeyman	Unmanned	
Note:		
New Apprentice Pilot Certificate applicants must submit copies of their valid FAA Commercial Pilot's Certificate and a current appropriate Medical Certificate issued by the FAA. PLEASE INCLUDE A COPY OF THESE FORMS WITH YOUR APPLICATION.	ALL NEW PEST CONTROL AIRCRAFT PILOT APPLICANTS ARE REQUIRED TO SUBMIT ADDITIONAL DOCUMENTATION WITH THEIR APPLICATIONS. See page 2 for details and ensure that these required documents are included with your application.	Instructions regarding specific documents required for new apprentice pilot certificate applicants have been relocated to the instructions in section A (page 2). Instructions were also added to assist new applicants in determining what documentation they are required to submit.
C. Examination – Laws, Regulations, and Basic Principles		
<i>This examination is only required for an Apprentice Pilot Certificate.</i>	<i>This examination is only required for an Apprentice Pilot Certificate, Manned or Unmanned</i>	The Laws, Regulations, and Basic Principles examination is required for manned or unmanned apprentice pilot certificate applicants [3 CCR section 6504(b)].

Table 1. (Continued)		
Current Requirements	Proposed Requirements	Justification
D. Examinations - Certificate Type		
<i>Examinations - Certificate Type</i>	<i>Examinations - Pest Control Aircraft Pilot Certificate Type.</i>	Matches the certificate and application titles.
Check boxes for the following:	Check boxes for the following:	Incorporates the designations of manned and unmanned pilot examinations and three certificate designations of either journeyman, apprentice, or vector control (unmanned only) as required by FAC section 11902 and 11905.
Apprentice Pilot Certificate Examination	Manned Apprentice	
Journeyman Pilot Certificate Examination	Manned Journeyman	
	Unmanned Apprentice	
	Unmanned Journeyman	
	Unmanned Vector Control Technician	
E. Examination Schedule		
DPR will assign the examination date.	DPR will assign the examination date based on seat availability.	Further clarifies that DPR's scheduling is based on the number of seats available at each testing location.
I. Declaration		
<i>I declare under penalty of perjury, under the laws of the State of California, that the above information is true and correct.</i>	<i>I declare under penalty of perjury, under the laws of the State of California, that the submitted application information is true and correct.</i>	Specifies that the application and all of the information submitted with the application must be true and correct as required by FAC section 11792.

Table 2. Aircraft Pilot Pest Control Certificate Application form DPR-PML-005 (Rev. 01/18) Page 2, instructions identifies the changes proposed for the second page of the application form, the instructions, along with justifications for the changes.

Aircraft Pilot Pest Control Certificate Application form DPR-PML-005 (Rev. 01/18) Page 2	
Revisions	Justification
Form Title	
Revised the form title to: PEST CONTROL AIRCRAFT PILOT CERTIFICATE APPLICATION INSTRUCTIONS DPR-PML-005 (Rev. 07/18).	Matches the name of the form with the name of the certificate and updates the revision date.
A. Application type	
Replaced ‘Apprentice or Journeyman’ with ‘Pest Control Aircraft.’	Revised to include all pilot certificate categories specified in FAC section 11901.
Specifies the new 'Manned' and 'Unmanned' categories of Pest Control Aircraft Pilot Certificates.	As authorized by FAC section 11901, the application maintains manned pilot certification for pilots currently operating UAS in pest control with an FAA commercial pilot certificate and allows new UAS pilots to apply to take the appropriate new unmanned pest control pilot examinations with DPR.
Replaced ‘Apprentice’ with ‘Manned’ in the instructions for New Manned Pilot Certificate applicants to submit copies of their valid FAA Commercial Pilot Certificate and a current Medical Certificate.	Revised to conform to pilot certificate and requirements authorized in FAC section 11901.
Instructs New Unmanned Pilot Certificate applicants to submit copies of their FAA authorization or certification to operate an unmanned aircraft system approved by the FAA to conduct pest control.	Informs unmanned pilot certificate applicants that they must submit specific documents as required by FAC section 11901(b).
Added a NOTE stating that UAS operated in pest control may be piloted by either a Manned or Unmanned Pest Control Aircraft Pilot Certificate holder.	Consistent with FAC section 11901.
Deleted New Journeyman Pilot Certificate applicant supervision instructions.	Information for New Journeyman Pilot Certificate applicant supervision was moved to the Applicant Information section.

Table 2. Continued	
Revisions	Justification
B. Applicant Information	
Deleted ‘Apprentice or Journeyman’ before ‘Pilot Certificate.’	Revised to include all pilot certificate categories specified in FAC section 11901.
Added instructions for New Apprentice Pilot, Manned or Unmanned, Certificate applicants must successfully pass the Laws, Regulations, and Basic Principles Examination and the Apprentice Pilot Certificate Examination before the Apprentice Pilot Certificate is issued.	The Laws, Regulations, and Basic Principles examination is required for manned or unmanned apprentice pilot certificate applicants [3CCR section 6504(b)]. Existing instructions for the New Manned Apprentice Pilot Certificate applicants have been relocated to this section from section D.
Added instructions for New Journeyman Pilot, Manned or Unmanned, Certificate applicants must submit page three of the application and successfully pass the Journeyman Pilot Certificate examination before the corresponding certificate is issued.	Existing instructions for the New Manned Journeyman Pilot certificate are relocated to this section from sections A and D. The added instructions for New Unmanned Journeyman Pilot specifies the required supervision documentation (FAC section 11908) and examination applicants are required to pass (FAC section 11905). Proposed page three of the application would provide the Director with the information required under FAC section 11907.
Added instructions that New Unmanned Vector Control Technicians must submit copies of their Department of Public Health Vector Control Technician certification, Category B - Mosquito Control, with their application and successfully pass an Unmanned Vector Control Technician Pilot Certificate examination before the Vector Control Technician Pilot Certificate is issued.	Informs Unmanned Vector Control Technician applicants that copies of the Vector Control Technician Certification from the Department of Public Health are required (FAC section 11902.5) and that they must pass the examination for their specific category to obtain a license as required by FAC 11905.
D. Examination – Certificate Type	
Updated subheading to “Examination – Pest Control Aircraft Pilot Certificate Type.”	For clarity, the full name of the certificate was added to the heading.
Deleted statements about passing examinations before a certificate is issued.	The information about additional forms and the Pest Control Aircraft Pilot examinations required before a license can be issued was moved to “Applicant Information.”

Table 2. Continued	
Revisions	Justification
E. Examination Schedule	
Replace “DPR will assign your exam date.” With “DPR will assign your exam date in the order it is received, based on seat availability.”	Further clarifies that DPR’s scheduling is based on the number of seats available at each testing location and that they will be scheduled in the order the requests are received.
I. Declaration/Signature Block	
Replace "Sign and date your application" with "Applicant must sign and date their application verifying that all information submitted is true and correct."	Clarifies that all of the information required for certification and submitted with the application must be true and correct as required by FAC section 11792.

FAC section 11907 requires new Journeyman Pilot applicants to present documentary proof attesting their performance as an Apprentice Pilot under direct and personal supervision of a Journeyman Pilot before the New Journeyman Certificate is issued by DPR. To meet this statutory requirement, a proposed Statement of Pilot Supervision has been added to page three of the application. All new Journeyman Pilot applicants, manned or unmanned, must submit this page. The name of the Apprentice Pilot (applicant) and Journeyman Pilot (supervisor), along with their respective Certificate numbers are required to confirm their good standing as Pilots with DPR. The date range of supervision (minimum of one year) and hours supervised for each aircraft type are required by FAC section 11907. The requirement that a Manned Apprentice Pilot must be supervised by a Manned Journeyman Pilot is being added to proposed 3 CCR section 6540 is discussed below.

Table 3. Individual License/Certificate Renewal Application form DPR-PML-141 (REV. 6/15) identifies the changes proposed for the second page of the application form, the instructions, along with the justifications for the changes. Although the proposed amendments to this form primarily apply to pest control aircraft pilots, the update to the declaration/signature section also applies to agricultural pest control advisers, qualified applicators, and dealer/designated agents.

Individual License/Certificate Renewal Application form DPR-PML-141 (REV. 06/15)	
Revision	Justification
Change form revision date to “Rev. 07/18.”	Update revision date.
Added “E-Mail: LicenseMail@cdpr.ca.gov” to the contact information.	Updated to include email address for electronic communication.
Removed “(You need to submit to DPR)” from Required CE hours box.	Removed because it is stated in the instructions.

Table 3. (Continued)	
Revision	Justification
In the Medical Certificate Card section of the application and corresponding instructions, the word "Manned" was added. In the corresponding instructions, the FAC section was amended to 11901(a).	Clarifies that only Manned Apprentice and Journeyman Pilots are required to submit a copy of their medical certificate as required by FAC section 11901(a).
Added "Vector Control Technician certification (Category B). Unmanned Vector Control Technician pilots must submit a copy." to the application and corresponding instructions.	Certification from the Department of Public Health is required by statute FAC section 11902.5.
Removed "(optional)" from Email Contact Section.	Removes redundant language.
In the declaration section, "the above" was replaced with "all submitted."	Clarifies that all information required for certification and submitted with the application must be true and correct (FAC section 11792).
Deleted reference to 3 CCR section 6508.	This was redundant as the requirements in 3 CCR section 6508 are included in the instructions.
Revised the instructions for the License Renewal (2 Year) and Late Penalty Fee License Type categories from "Apprentice Pilot Certificate" and "Journeyman Pilot Certificate" to "Pest Control Aircraft Pilot Certificate, Manned" and "Pest Control Aircraft Pilot Certificate, Unmanned."	The two new license type categories were changed to reflect the categories authorized by FAC section 11901. Additionally, pursuant to FAC section 11904, the fees set in 3 CCR section 6502 were assigned to the new license type categories.
Mail section revised to specify which medical certificate is required and to include the required certification for vector control.	Specify FAA medical certificate to be consistent with the instructions in the Medical Certificate Card section and added Vector Control certification to include new document required by FAC section 11902.5.

Proposed Changes to 3 CCR Section 6540. Apprentice Pilot Supervision.

DPR also proposes to amend 3 CCR section 6540 to accommodate the new statutory requirements. With the separation of unmanned and manned Certificates, it is necessary to specify that manned apprentice Pilots may not be supervised by unmanned journeyman Pilots

and must obtain their required hours of manned journeyman supervision operating a manned aircraft. DPR proposes this distinction because differences in size and complexity of manned and unmanned aircraft, as well as the differences in the amount of pesticides that could be carried by each, changes the relative risks associated with the operation of the two types of aircraft in pest control. FAC section 11901 allows UAS to be operated in pest control by either a Manned or Unmanned Pilot and therefore, the supervision of an Unmanned Apprentice Pilot by either a Manned or Unmanned Journeyman is appropriate.

CONSULTATION WITH OTHER AGENCIES

DPR consulted with the California Department of Public Health's Vector Born Disease Program, California Mosquito and Vector Control Association, and the Agricultural Pest Control Advisory Committee.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION [GOVERNMENT CODE SECTION 11346.2(b)(4)]

DPR has not identified any feasible alternatives to the proposed regulatory action that would achieve the purpose of the regulations with fewer possible adverse economic impacts, including any impacts on small businesses, and invites the submission of suggested alternatives.

The proposed regulations will align the existing "Aircraft Pilot Pest Control Certificate Application," the "Individual License/Certificate Renewal Application," and apprentice supervision regulation with state law.

ECONOMIC IMPACT ON BUSINESSES [GOVERNMENT CODE SECTION 11346.2(b)(5)(A)]

The proposed regulations 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. The proposed regulatory changes will align DPR's regulations with state law (Assembly Bill 527, Chapter 404, Statutes of 2017) without any additional requirements for affected businesses or people.

ECONOMIC IMPACT ASSESSMENT PURSUANT TO SECTION 11346.3(b)

Creation or Elimination of Jobs with the State of California: The proposed action would not create or eliminate jobs in California. The proposed regulations do not create a new need for pest control or a new pest control activity; it only re-categorizes Certificate types to make them consistent with state law. State law allows UAS to be operated in pest control by Pilots who hold either Unmanned or Manned Certificates. UAS Pilots operating under the new Unmanned Certificate will now be required to submit FAA documents that are specific to the operation of UAS in pest control. Because UAS Pilots were already permitted to operate UAS in pest control and the regulations are consistent with state law there is no creation or elimination of jobs.

Creation of New Business or the Elimination of Existing Businesses with the State of California: This proposed action would not create or eliminate businesses. The intent of the proposed action is to update and clarify the requirements for Unmanned Pilots operating in pest control and offer separate Manned and Unmanned Certificates consistent with state law.

The Expansion of Businesses Currently Doing Business within the State of California: This proposal will not result in an expansion of business since it only makes minor revisions to the existing process already available to UAS Pilots.

The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: This proposal is intended to increase protection of residents, workers, and the environment by ensuring that all Pilots meet FAA and State requirements for operating aircraft by demonstrating the safe operation of UAS in pest control.

IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL

DPR's review of the proposed action showed that no significant adverse environmental effect to California's air, soil, water, plants, fish, or wildlife can reasonably be expected to occur from implementing the proposal. The proposed action would amend 3 CCR sections 6502 and 6540 to align the Licensing and Certification Program for Pilots operating in pest control with current state law.

EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

The proposed regulatory action does not duplicate or conflict with the Code of Federal Regulations.

DOCUMENTS RELIED UPON

1. Agricultural Pest Control Advisory Committee Meeting Minutes. Dated December 13, 2017.
2. Economic Analysis for the Department of Pesticide Regulation Amendment to Title 3 CCR Sections 6502 and 6540. Memorandum from Jill Townzen to Linda Irokawa-Otani, Regulations Coordinator, DPR.