

# Pesticide Violations – New State Regulation

This handout explains the new statewide regulation and how this regulation can affect you. This regulation was set forth by the California Department of Pesticide Regulation, and applies to all Agricultural Commissioners and the pesticide users under their jurisdiction.

The new regulation specifically prescribes when violators receive a written notice of non-compliance and/or a fine. Under this policy fines will be proposed where they previously were not.

If you have questions or concerns about this regulation, please contact our office at (707) 565-2371.

## Purpose of Enforcement Program:

- Focus on firm and fair action for pesticide violators
- Prompt response to incidents when laws and regulations have been violated
- Removal of any economic advantage or savings realized by noncompliance
- Consistent and appropriate application of enforcement responses
- Escalation in level of enforcement for repeat violators

## Violation Types:

**Unclassified Violations (UV)** – Class “C” violations do not require a prompt response in order to protect public health, safety or the environment, and are of lesser priority for enforcement

### **Class “C” Violations:**

- Violations that do not threaten health, property, or the environment
- **Fine range: \$50 - \$400 (PER VIOLATION)**
- **First Incident: Written notice of non-compliance**
- **Subsequent incident: Written notice of non-compliance with Decision Report (justification to DPR why we aren’t fining); OR “Fine”, referral to the District Attorney, or state licensing action**

### **Examples of Class “C” Violations (\$50 - \$400) – Action may vary for each situation:**

- Failure to submit Pesticide Use Reports on time
- Pesticide applications made without valid Operator Identification Numbers
- Finding incomplete records at headquarter inspections
- Pesticide storage area not properly posted

**Hazard or Effect Violations (HEV)** – Class “B” or Class “A” violations require a prompt response to protect public health, safety, the environment, or for other important policy reasons. These violations are the highest enforcement priority.

### **Class “B” Violations:**

- Violations that posed a reasonable **possibility** of creating a health or environmental **effect**  
**OR**
- Violations that are a repeat of class “C” violations
- **Fine range: \$250 - \$1,000 (PER VIOLATION)**
- **First Incident: Written notice of non-compliance with a Decision Report; OR “Fine”, referral to the District Attorney, or state licensing action**
- **Subsequent Incident: Fine, referral to the District Attorney, or state licensing action**

### **Examples of Class “B” Violations (\$250 - \$1,000) – Action may vary for each situation:**

- Employees not wearing the personal protective equipment (PPE) required by state laws and regulations, and/or not provided with complete decontamination facilities
- Pesticide drift resulting in an exposure to persons, crops, property, or the environment
- Employee’s hand pouring **danger** liquid pesticides (i.e. Gramoxone – if in container over one gallon)
- Applying a restricted use pesticide without a valid permit, failure to file a Notice of Intent or failure to post an orchard/vineyard when required
- Unintentionally applying pesticides on commodities or sites not listed on the label that **did not** result in personal injuries or environmental damage
- Employees (applicators and fieldworkers) not properly trained
- Pesticide storage area not properly locked that holds pesticides
- Unlicensed and/or unregistered pest control operators applying pesticides for hire
- Violations that are repeat Class C violations

### **Class “A” Violations:**

- Violations that created an **actual** health or environmental **hazard**  
**OR**
- Violations of a lawful order of the commissioner  
**OR**
- Violations that are a repeat of Class “B” (prosecuted within the past two years)
- **First Incident: Fine, referral to the District Attorney, or state licensing action**
- **Fine Range: \$700 - \$5,000 (PER VIOLATION)**

### **Examples of Class “A” Violations (\$700 - \$5,000) – Action may vary for each situation:**

- Employee injuries due to lack of PPE (i.e. rubber gloves, eye protection, etc.) and/or decontamination facilities (i.e. soap, water, single-use towels, etc.)
- Pesticide drift resulting in an effect or exposure to persons, crops, property, or the environment
- Applying pesticides on commodities or sites not listed on the label that resulted in personal or environmental damage
- Intentionally applying pesticides on commodities or sites not listed on the label
- Employee hand pouring a warning or danger pesticide without the label required protective eyewear (one gallon or less)
- Violations that are repeat Class A and B violations

### **Due Process and What are Your Options?**

- Notice of Proposed Action (NOPA) is mailed by certified mail
- NOPA spells out nature of violation, amount of the proposed fine and the right to a hearing.
- A hearing must be requested within 20 days of receiving the NOPA
- If you do not want a hearing, you may stipulate to the violation and pay the fine
- If a hearing is requested, you will be notified of time and date at least 10 days prior to hearing
- If a hearing is not requested timely, the commissioner may take the proposed action
- Respondent may present any evidence of the incident to the hearing officer
- Respondent may appeal decision to Director of the Department of Pesticide Regulation within 30 days. Director’s decision may be appealed to Superior Court