Laws and Regulations Update

BY: ELVIS P. MARTINEZ
ENVIRONMENTAL SCIENTIST
DEPARTMENT OF PESTICIDE REGULATION

Learning Objectives

- Lear about the Rulemaking Process
- Brief overview of the Rulemaking Calendar
- Revise proposed laws and regulations
- Revise Enforcement Letters
- Learn how to receive Notices of Proposed Regulatory Action via e-mail.
- Statewide Notification System

What comes to mind when you hear the words 'Laws and Regulations?

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Background

Regulations are rules put in place by state agencies in the executive branch of California government.

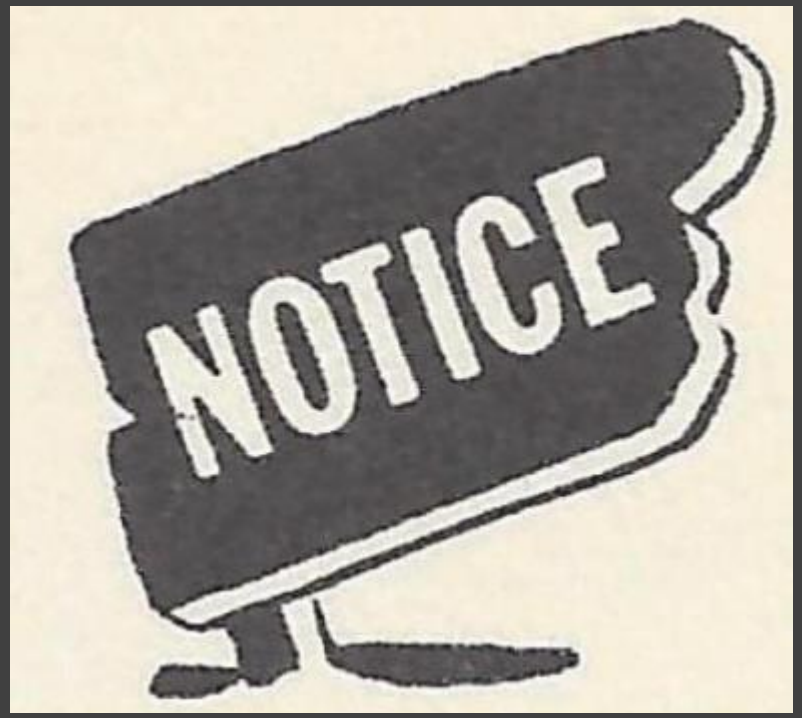
An agency adopts regulations to:

1. carry out statutes
2. interpret statutes
3. make specific the statutes it enforces
4. administers, or to govern its procedures.

Rulemaking Process

The Rulemaking Process is composed of

- public notice
- comment requirements.



Rulemaking Process

Roles

- OAL (State Office of Administrative Law)

  Ensure that state agency regulations are authorized by statute and within the agency's conferred authority.

- APA-The California Administrative Procedures Act (APA)

  Prescribes Procedures designed to ensure proposed regulations are necessary

Rulemaking Process

This comprehensive process is intended to further the goal of public participation:

- Rulemaking process
- Create an adequate rulemaking record for review

Rulemaking flowchart

PREPARATION OF THE PROPOSED ACTION FOR PUBLIC COMMENT

The Legislature gives limited lawmaking power to a state agency or department when, by passing a statute, it gives the agency a task. An agency or department must have delegated authority from the Legislature to adopt, amend, or repeal a regulation, and must demonstrate the necessity for the proposed regulatory action in the rulemaking record.

Outreach: Outeach to parties who would be subject to the proposed regulations when they involve complex proposals.

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DPR: Submits proposed action to the State Office of Administrative Law (OAL).

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OAL: Reviews Notice of Proposed Action for compliance with legal criteria and filing requirements. If approved, notice is published in OAL's *California Regulatory Notice Register* and mailed to interested parties. The notice, initial statement of reasons and proposed text are posted on DPR's website, www.cdpr.ca.gov

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PUBLIC COMMENT PERIOD

(45-day minimum)

Public Comment: Begins when proposed action published. All rulemaking documents must be available for public review and comment. Hearings may be scheduled by DPR or by request. Written comments may be submitted via mail and e-mail. DPR must consider public input relevant to the proposal.

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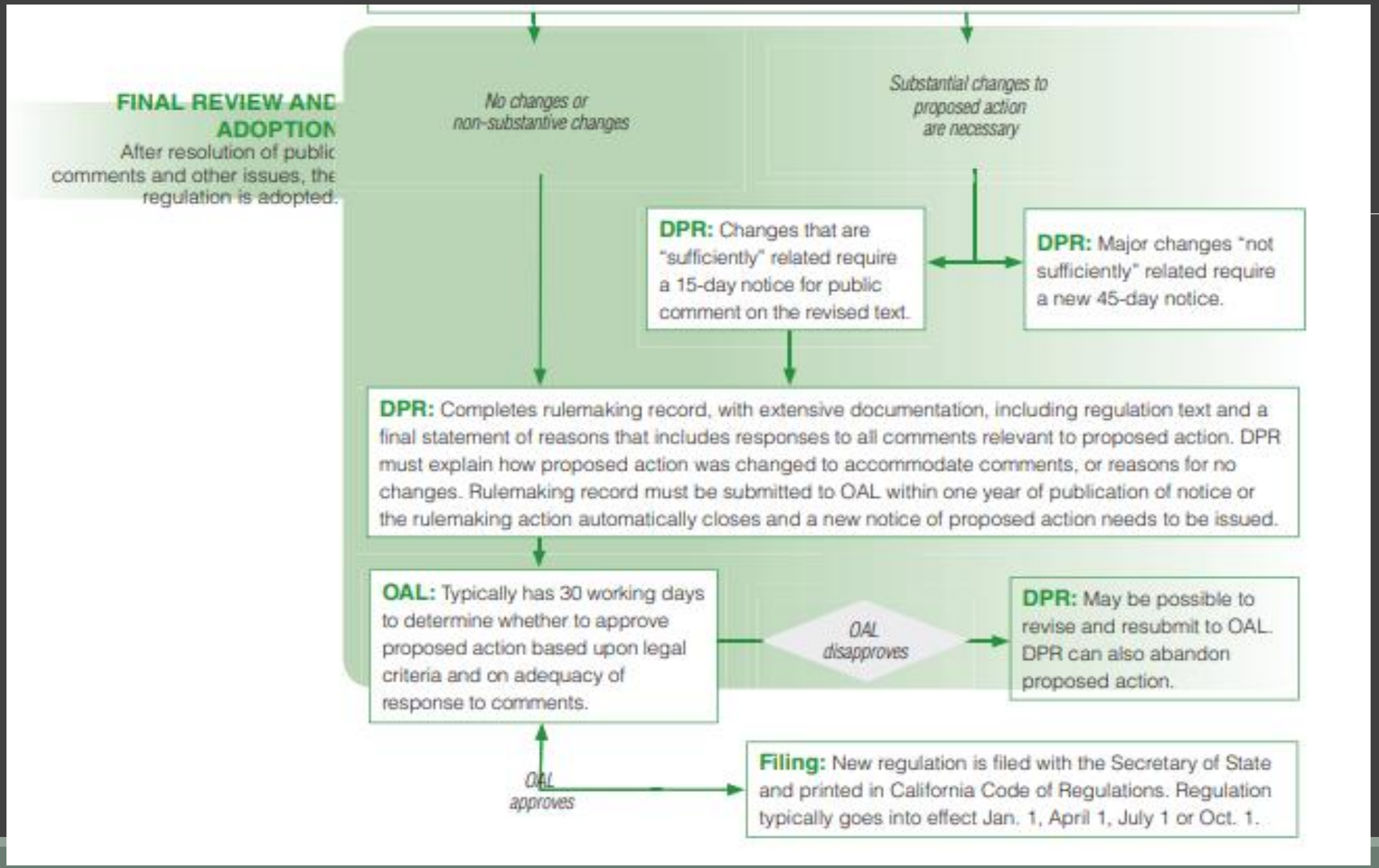
DPR: Reviews comments, plus any new information from other sources, and decides whether they warrant changes to proposed action.


FINAL REVIEW AND ADOPTION
After resolution of public comments and other issues, the regulation is adopted.
No changes or non-substantive changes
Substantial changes to proposed action are necessary
DPR: Changes that are "sufficiently" related require a 15-day notice for public comment on the revised text.
DPR: Major changes "not sufficiently" related require a new 45-day notice.
DPR: Completes rulemaking record, with extensive documentation, including regulation text and a final statement of reasons that includes responses to all comments relevant to proposed action. DPR must explain how proposed action was changed to accommodate comments, or reasons for no changes. Rulemaking record must be submitted to OAL within one year of publication of notice or the rulemaking action automatically closes and a new notice of proposed action needs to be issued.
OAL: Typically has 30 working days to determine whether to approve proposed action based upon legal criteria and on adequacy of response to comments.
OAL disapproves
DPR: May be possible to revise and resubmit to OAL. DPR can also abandon proposed action.
OAL approves
Filing: New regulation is filed with the Secretary of State and printed in California Code of Regulations. Regulation typically goes into effect Jan. 1, April 1, July 1 or Oct. 1.

Rulemaking Calendar

Rulemaking Calendar used for proposals:

AMEND,

ADOPT, OR

REPEAL SECTION(S)

DPR Laws & Regulations (ca.gov)

Rulemaking Process
External Scientific Peer Review

The purpose of peer review is to:

- find technical problems
- Find unresolved issues in a draft document so the final publication will reflect sound technical information and analyses.

Proposed and Recently Adopted Regulations

DPR-19-002 Field Fumigation Posting

DPR-19-003 Expanding Carbaryl Designation as a Restricted Material

DPR 21-001 Citrus/Bee Protection Areas

DPR 21-002 Carbon Monoxide Pest Control Devices

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

1. *Amended sections:*
   - Title 3, California Code of Regulations sections *6000, 6470, 6776, and 6784*.
   - 6738.4(a)(2) Not Amended

   - Link: DPR 19-002 Field Fumigation Posting (ca.gov)

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

Notice of Proposed Regulatory Action

- Amend DPR's existing regulations to increase clarity
- Enforceability and consistency with federal standards
- Field soil fumigation posting requirements include posting responsibility, sign content, and posting duration.
- Align field soil fumigation posting requirements with pesticide product labeling

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

Initial Statement of Reason

DPR 19-002 Text of Proposed Regulation (ca.gov)

- CCR 6000: DPR proposed to change “greenhouse” to “enclosed space” throughout 3 CCR Division 6 where its use is consistent with the federal WPS.

- 6470 proposed to change references to a definition that no longer exists. For clarity, this proposed action removes the reference to section 6000 from subsection 6470(a) and makes minor grammatical edits.

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

Initial Statement of Reason

DPR 19-002 Text of Proposed Regulation (ca.gov)

- CCR 6776- DPR proposed to amend subsection (f), specifying the operator of the property as the party responsible for posting a warning sign when a soil fumigant is applied to a field.

- CCR 6784-DPR Proposed to amend subsection (f)(3)(C) requires field fumigation warning signs to be removed within three days after the ERP expires and "before any entry prohibited during the entry restricted period."

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

FinalStatement of Reason

DPR 19-002 Text of Proposed Regulation (ca.gov)

- *Mariah Taylor*

Comment no. 1: The way the proposed text is written in section 6738.4(a)(2), it seems that an employee using towed equipment would not need exempted PPE within reach, just available at the worksite if it is in an open cab. The proposed text does not list open cabs with towed equipment. Does the requirement to have PPE within reach *not* apply when someone is applying in an open cab but with nozzles below them, but *does* apply when in an enclosed cab with nozzles below them? The wording is confusing because it does not address this type of PPE exemption.

Response: In considering this comment, and as stated above in the "UPDATE OF THE INITIAL STATEMENT OF REASONS," DPR has decided not to proceed with the proposed amendment to 3 CCR section 6738.4. No response necessary.

Proposed and Recently Adopted Regulations

DPR-19-002 Feld Fumigation Posting

Final Statement of Reason

DPR 19-002 Text of Proposed Regulation (ca.gov)

DPR 19-002 Field Fumigation Posting (Noticed 7/5/19; Comment period closed 8/21/19)

DPR amended sections 6000, 6470, 6776, and 6784 of Title 3, California Code of Regulations. This action amended DPR's existing regulations to increase clarity, enforceability and consistency with federal standards, and align field soil fumigation posting requirements with pesticide product labeling. Field soil fumigation posting requirements include posting responsibility, sign content, and posting duration.

- Notice of Proposed Regulatory Action, PDF
- Proposed Text, PDF
- Initial Statement of Reasons, PDF
- Economic and Fiscal Impact Statement (Form 399), PDF
- Final Statement of Reasons, PDF
- Final Text of Regulation, PDF Regulation Filed with Secretary of State 5/29/20; Effective 7/1/20

Carbaryl

$21.99
Squeeze & Measure NO MESS!
Kills Japanese Beetles!
GARDEN TECH
Sevin
Concentrate Bug Killer
Kills Over 100 Listed Insects
On Vegetables, Fruits & Ornamentals
CAUTION

Proposed and Recently Adopted Regulations

DPR-19-003 Expanding Carbaryl Designation as a Restricted Material

1. *Amended sections:*
   - Title 3, California Code of Regulations sections *6000(c) and (e)*
   - Link: DPR 19-003 Expanding Carbaryl Designation as a Restricted Material

Proposed and Recently Adopted Regulations

DPR-19-003 Expanding Carbaryl Designation as a Restricted Materials/ Notice of Proposed Regulatory Action

- DPR proposed to amend subsections 6400(c) and (e) to make all carbaryl products that could lead to residential and bystander exposure when applied in and around residences California restricted materials.

- DPR proposed to delete carbaryl from subsection 6400(c)(2), thus removing the exemption for carbaryl products that meet a certain criteria.

Proposed and Recently Adopted Regulations

DPR-19-003 Expanding Carbaryl Designation as a Restricted Material/ Initial Statement of Reason

DPR 19-003 Text of Proposed Regulation (ca.gov)

- This proposed action will further limit the purchase and use of all carbaryl products to only certified applicators 6470 proposed to change references to a definition that no longer exists. For clarity, this proposed action removes the reference to section 6000 from subsection 6470(a) and makes minor grammatical edits.

Proposed and Recently Adopted Regulations

DPR-19-003 Expanding Carbaryl Designation as a Restricted Material/ FinalStatement of Reason

Link: DPR 19-003 Final Statement of Reasons and Public Report (ca.gov)

- No changes were made to the proposed regulations following the public comment period.
- This regulation went into effect on August 1, 2020.
- SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE COMMENT PERIOD

California Code of Regulations

Bee Notification

Proposed and Recently Adopted Regulations

DPR-21-001- Citrus/Bee Protection Areas

1. *Amended sections:*

- Title 3, California Code of Regulations sections 6650, 6651, 6652, 6654, 6655, and 6656, and renumber those sections to 6980, 6981, 6982, 6983, 6984, and 6985; and make section 6985 inoperative

- Link: Proposed Rulemaking Package #21-001 (ca.gov)

Proposed and Recently Adopted Regulations

DPR-21-001- Citrus/Bee Protection Areas

Notice of Proposed Regulatory Action

DPR 21-001 Notice of Proposed Action (ca.gov)

- Update Notification Procedures for Apiary Operators
- Update requirements during the citrus bloom period within a citrus/bee protection area

Proposed and Recently Adopted Regulations

DPR-21-001- CitrusBee Protection Areas

Initial Statement of Reason

- Citrus/bee protection areas defined
- Beekeeper changed to apiary operator
- Apiary Notification/technology

- The proposed regulations would lower the temperature identified for when bees are inactive from 55 degrees to 50 degrees
- . It will also decrease the temperature that establishes when bees are considered inactive from 55 to 50 degrees Fahrenheit

Proposed and Recently Adopted Regulations
DPR-21-001- CitrusBee Protection Areas

Proposed and Recently Adopted Regulations (ca.gov)

- Comment Period ended 6/2/2021

- No changes → Complete Rulemaking Record which includes final statement of reason, regulation txt, and response to all comments

- Changes → Changes sufficiently related require 15 day comment period

  Mayor Changes "not sufficiently related" requires 45 day comment period

Carbon Monoxide Pest Control Devices

Proposed and Recently Adopted Regulations

DPR-21-002 Carbon Monoxide Pest Control Devices

1. *Amended sections:*
   - Propose to Adopt 6595 of the Title 3, California Code of Regulations
   - Link: Proposed Rulemaking Package #21-002 (ca.gov)

Proposed and Recently Adopted Regulations

DPR-21-002 Carbon Monoxide Pest Control Devices

Notice of Proposed Regulatory Action

- Ensure each person using a carbon monoxide device in a specified matter.

- Ensure employers provide protective eyewear, keep records of use, and report any adverse effect.

Proposed and Recently Adopted Regulations
DPR-21-002 Carbon Monoxide Pest Control Devices

Proposed and Recently Adopted Regulations (ca.gov)

- Comment Period ended 9/8/2021

- No changes → Complete Rulemaking Record which includes final statement of reason, regulation txt, and response to all comments

- Changes → Changes sufficiently related require 15 day comment period

  Mayor Changes “not sufficiently related” requires 45 day comment period

Respond at **pollev.com/elvismartine081**

Text **ELVISMARTINE081** to **22333** once to join, then **A or B**

Would you like to comment in the recently proposed and adopted regulations?

No	**A**
Yes	**B**

Total Results: 0

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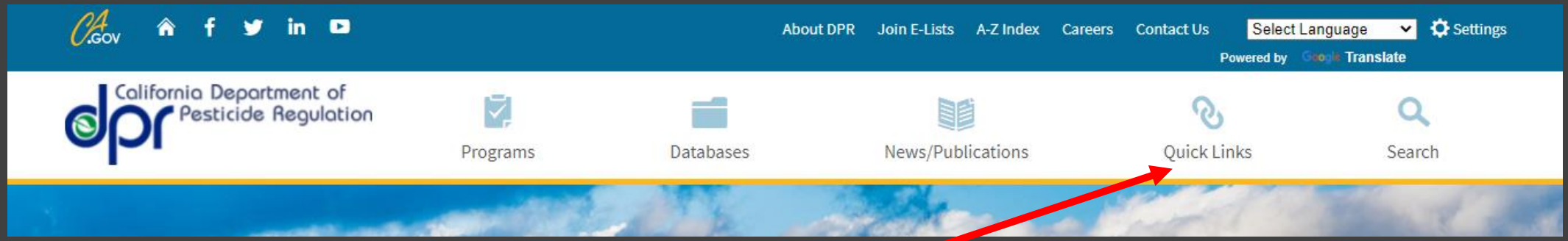

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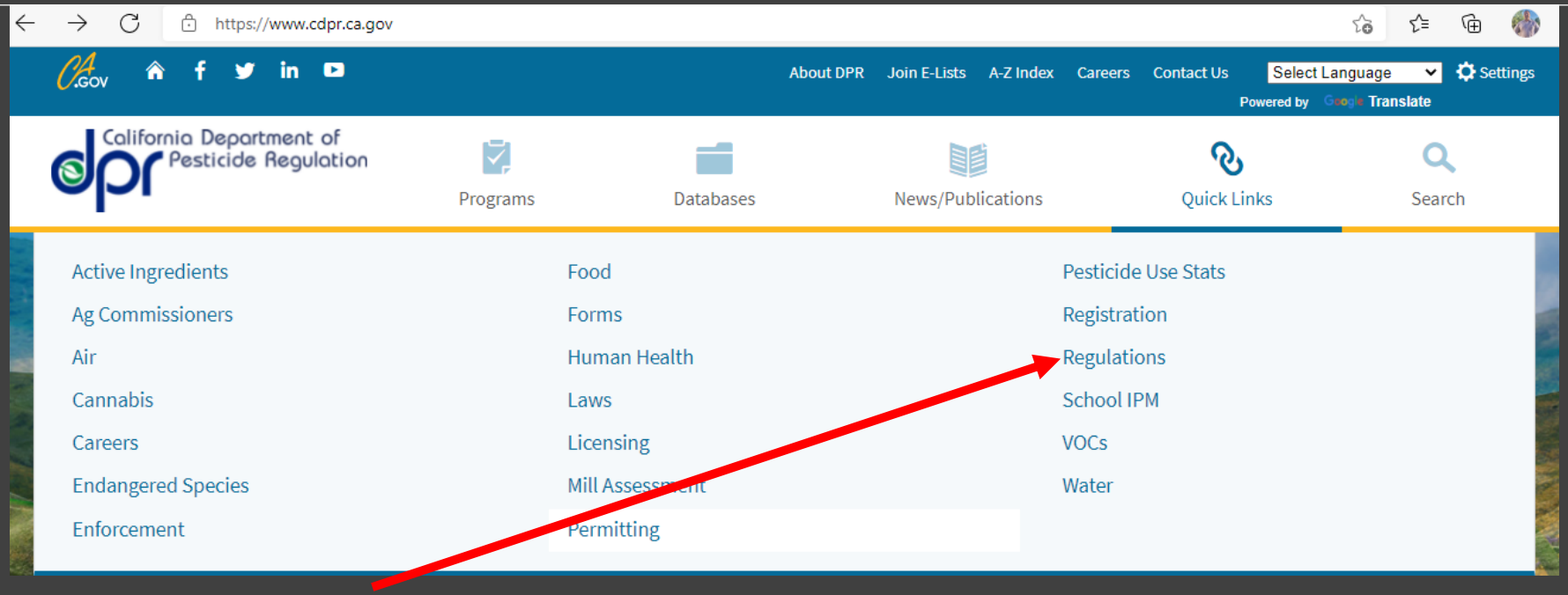

- Click on the Regulations button.

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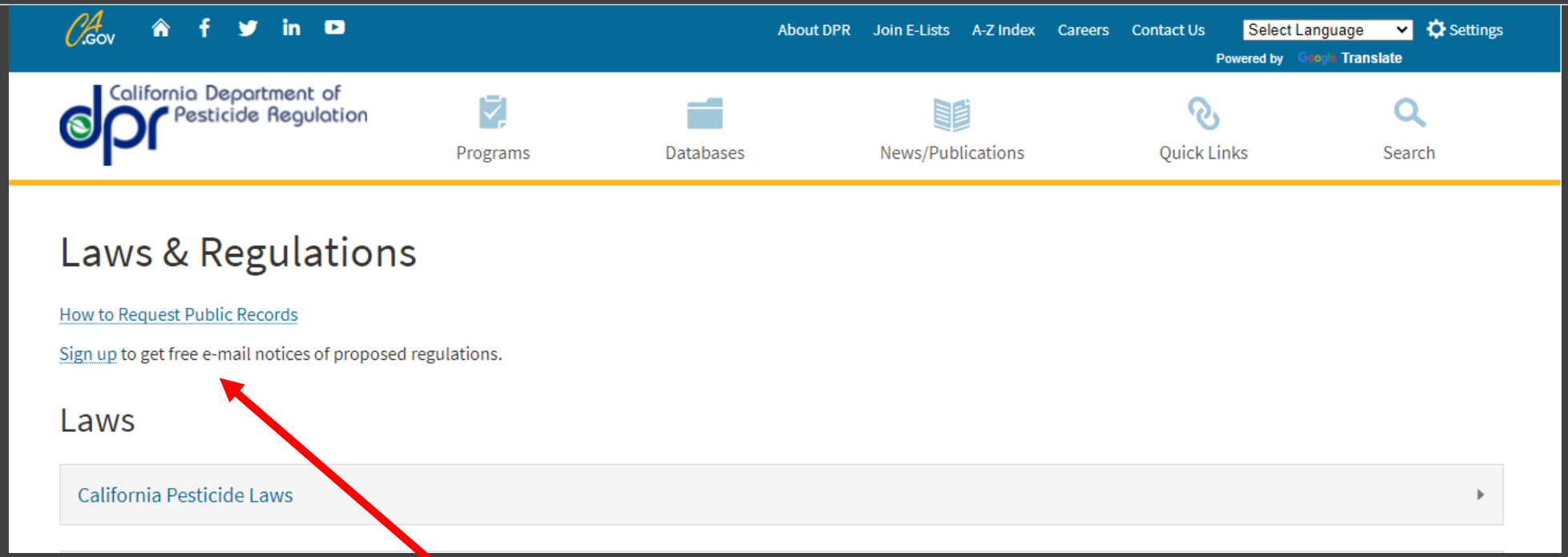

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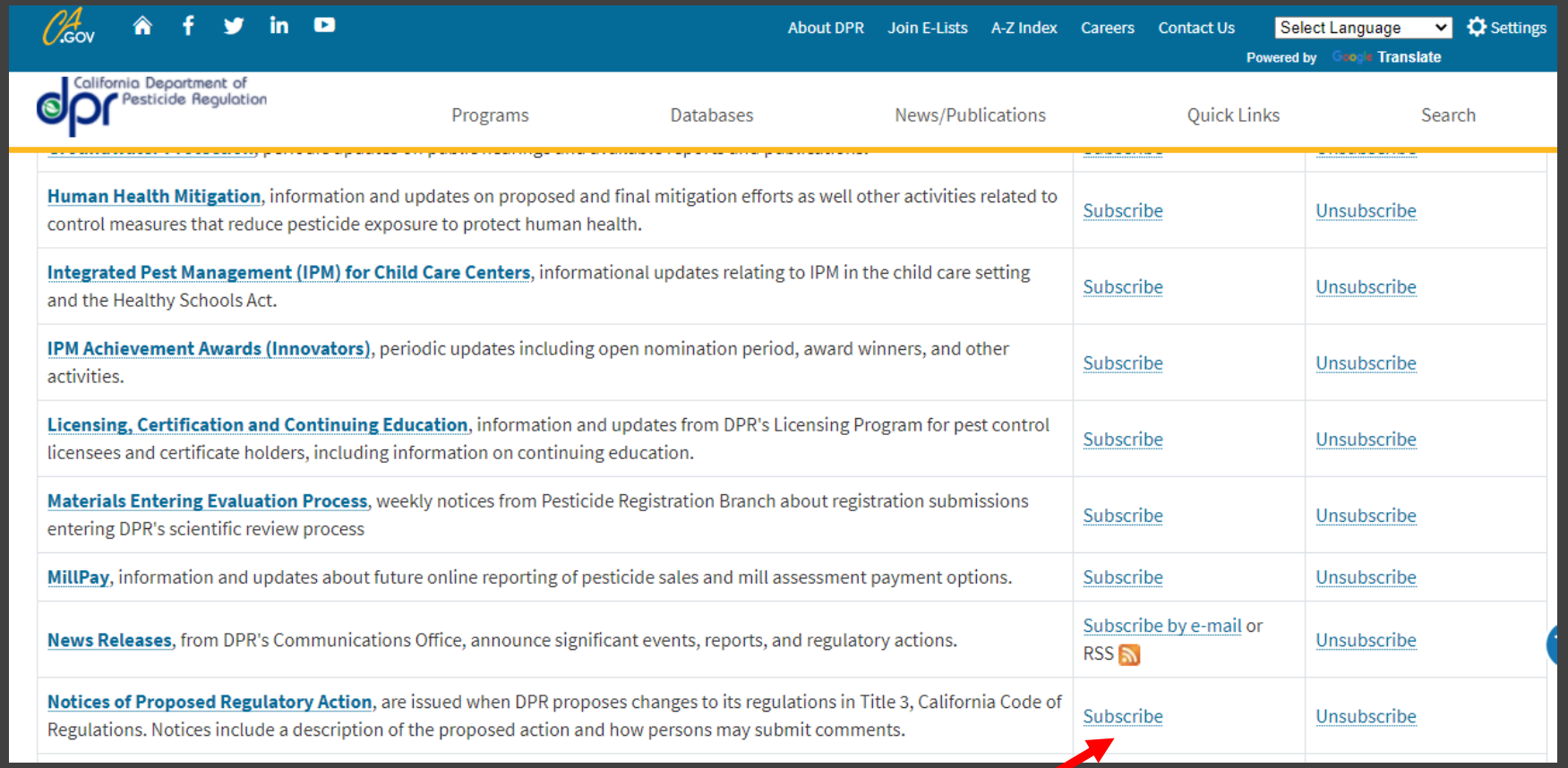

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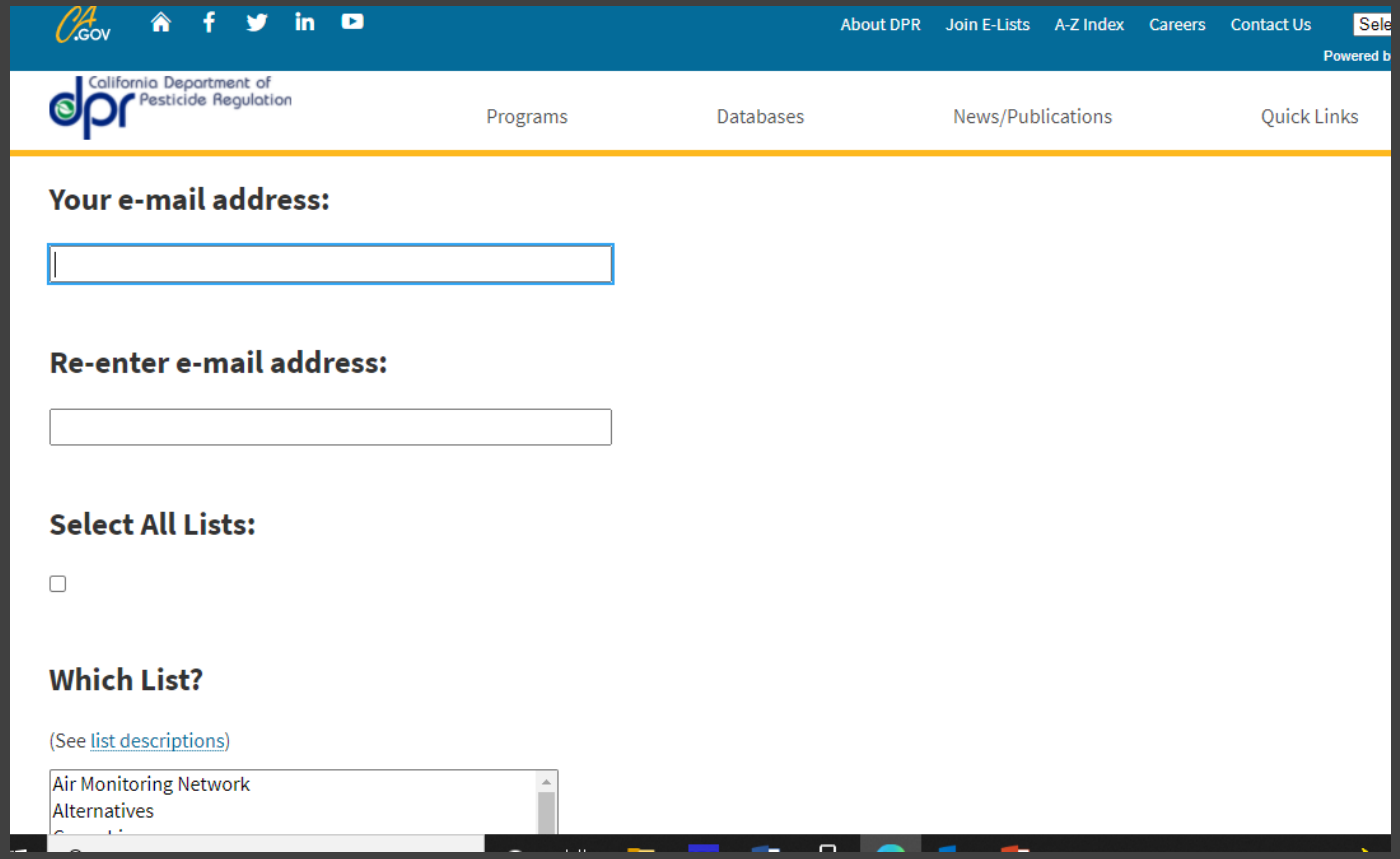

Enforcement Letters

11-06-2019 – ENF 2019-18 – Use and Sale Conditions for Chlorpyrifos Products

- *Distribution or sale by Registrants.* Within and no later than **November 8, 2019**, registrants of the pesticide products listed below shall not distribute or sell any of the products into or within California, unless such distribution or sale is for the purpose of disposal in accordance with applicable state and federal law, or export.
- *Distribution or sale by California pesticide dealers.* Within and no later than **February 6, 2020**, dealers must not sell or distribute any of the products listed below, except for the purpose of disposal in accordance with applicable state and federal law, or for return of those products to the registrant.
- *Possession and Use.* All possession and use of the products listed below by end users or any person in California must cease by **December 31, 2020**. All use must comply with approved labeling for the product; the attached Chlorpyrifos Interim Recommended Permit Conditions issued by the Department in November 2018; and any other use restrictions imposed by the local county agricultural commissioner.

12-29-2020 – ENF 2020-20 – New Second Generation Anticoagulant Rodenticide Prohibitions and Allowed Uses – Questions and Answers

Enforcement CAC Letter 2020-20

- AB 1788- Prohibit the uses of Second-Generation anticoagulant Rodenticides
- Due to their threat to Mountain Lions and other wildlife.
- Effective January 1, 2021
- Most uses of SGAC will be prohibited in California

12-29-2020 – ENF 2020-20
How does this affect farmers, Ranchers, growers?

Enforcement CAC Letter 2020-20

- All sites listed on the label
- Use of SGAR's within 50 feet of ag buildings or agricultural man-made structures on farm producing agricultural products such as poultry or cattle barn or an on-farm grain or hay storage structure is unaffected.
- Farmer/rancher lease in a wildlife habitat area such as "any state park, state wildlife refuge, or state conservancy" most uses are prohibited in those state areas.

12-29-2020 – ENF 2020-20 ALLOWED USES “agriculture product”

Enforcement CAC Letter 2020-20

- Horticulture
- Viticultureal
- Aquacultural
- Forestry
- Livestock
- Bee
- Farm Product
- Dairy

Statewide Pesticide Network

- $10 million allocated to DPR
- Developing a Statewide Pesticide Application Notification system
- Provide advanced notification of certain applications

What is the Pesticide Notification Network?

- Information about applications of certain pesticides
- Equitable access to information so that the public can take precautions to avoid potential exposure.
- Currently under development

When will the Pesticide Notification Network launch?

- The development will occur in 2021-2022
- Implementation anticipated for 2023-2024
- You may sign up for notifications
- To provide input in writing to DPR, please send an email to projectnotify@cdpr.ca.gov

What pesticides will be included in the Pesticide Notification Network?

- DPR seeking input
- Application Methods with high potential to move off-site
- Pesticides with greater potential to cause harm

How far in advanced will the notice be provided?

- DPR seeking input
- No information at this time

How can I provide feedback on the development of the Pesticide Notification Network?

- DPR seeking input
- No information at this time

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