



April 22, 2025

Members

Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

REVISED 5/28/2025

Re: Evaluation of pesticide use laws

Dear Chair Harabedian, Vice Chair Laird, and Members of the Committee,

I respectfully request that the Joint Legislative Audit Committee approve an audit examining California's enforcement of specified agricultural pesticide use laws and regulations. Pesticides can serve as an important tool in a broader toolkit for managing agricultural pests and protecting high-value crops. However, they can also pose substantial health risks to farmworkers, bystanders, and nearby residents, as well as negatively impact the environment. With the recent passage of Assembly Bill (AB) 2113 (Garcia, Chapter 60, Statutes of 2024) and its associated increase in funding for the California Department of Pesticide Regulation (DPR), now is an ideal time for the Legislature to examine how these pesticide use laws and regulations are working.¹ The audit outlined below is consistent with the Legislature's aims of supporting good governance, efficient use of state funds, effective enforcement, and the protection of human health and the environment.

Background

In 2023, DPR released a roadmap on sustainable pest management (SPM Roadmap) that expresses the state's commitment to accelerating a "transition away from high-risk pesticides toward adoption of safer, sustainable pest control practices."² To make good on this commitment, California needs to ensure that its state and local regulatory bodies—described below—are well positioned to support the safe and judicious use of these chemicals, through the enforcement of its pesticide use laws and regulations.

California splits responsibility for the enforcement of pesticide laws between two regulatory bodies: DPR and the County Agricultural Commissioners (CACs). At the state level, a pesticide must be registered by DPR before it can be sold or used in California. As part of the registration process, DPR must evaluate potential risks

¹ AB 2113 increases, over a four year period, the mill assessment (a fee on the sale of all pesticides sold into the state), in order to support the programs of DPR.

² Sustainable Pest Management Work Group and Urban Subgroup. (2023). Accelerating sustainable pest management: A roadmap for California. <https://www.cdpr.ca.gov/spm-ipm-overview/>.

associated with the pesticide, as well as consider whether mitigation measures and safer alternatives are needed to protect human health or the environment. State law authorizes DPR to refuse or cancel registration for a pesticide if there is a reasonable, effective, and practicable alternative that is demonstrably less destructive to the environment, and prohibits DPR from registering a pesticide if certain factors are anticipated to result in significant adverse impacts that cannot be avoided or adequately mitigated.³ DPR can also designate pesticides as restricted materials, which are pesticides that present greater risks of harm to people or the environment and, as a result, cannot be used without additional training and oversight.

At the county level, CACs are responsible for “on the ground” enforcement of pesticide laws, including those governing the use of restricted materials. With certain exceptions, restricted materials can only be purchased and used under a permit issued by a CAC. The permitting process allows CACs to assess the potential effects of a proposed pesticide application on human health and the environment, before the pesticide is applied. If a CAC decides that substantial harm is likely, they must evaluate alternatives (including the alternative of “no pesticide application”), deny the permit, or impose permit conditions that are designed to mitigate the risk of harm to people or the environment.⁴ Specifically, with respect to permits and alternatives evaluations, state laws and regulations do the following:

- Require a CAC, prior to issuing restricted material permits, to determine if a substantial adverse environmental impact may result from the use of a pesticide and, if they determine such an impact may occur, assess if there is a feasible alternative or mitigation measure;
- Prohibit a CAC from granting a restricted material permit, if the CAC determines there is a reasonable, effective, and practicable alternative to the pesticide that is demonstrably less destructive to the environment; and,
- Require a CAC, if they have determined that “permit conditions have been or will be violated,” to take appropriate action to assure compliance.⁵

After a CAC has granted a permit, an “interested person” living or working near a pesticide application site can appeal the permit decision, in which case the CAC must respond in writing within ten days, or provide an estimated timeline for their review of the appeal. If the interested person disagrees with the CAC’s decision, they can then advance an appeal to DPR. State law requires that DPR limit its consideration of the appeal to only three issues: whether the proposed use is consistent with pesticide label restrictions and regulations; whether the CAC properly considered the health and environmental impacts on surrounding areas and imposed reasonable mitigation measures; and, whether the CAC abused their discretion in issuing, refusing, revoking, or

³ California Food and Agricultural Code (FAC) § 12825, California Code of Regulations (CCR) § 6158. State regulations define “feasible alternatives” to mean “other chemical or non-chemical procedures which can reasonably accomplish the same pest control function with comparable effectiveness and reliability, taking into account economic, environmental, social, and technological factors and timeliness of control” (CCR § 6000).

⁴ DPR. What you need to know about the permit process for restricted pesticides.

⁵ FAC § 14006.5, CCR § 6432. Notably, requirements in these sections, which pertain to the issuance of restricted materials permits, are based on potential impacts to the environment, but not human health. This does not align with the statutorily-established purpose of California’s pest control laws, which state that, among other things, the laws are intended to provide for the protection of public health and safety (FAC § 11501).

conditioning the permit.⁶ This basic regulatory structure—in which DPR registers pesticide products and designates restricted materials, while CACs issue permits and enforce pesticide use laws—has been in place since at least 1949, and many of the state laws governing this structure have not been updated for decades.⁷

In addition to overall statewide enforcement, DPR is responsible for overseeing counties' enforcement programs, to ensure consistent enforcement throughout the state. State law explicitly requires CACs, under the "direction and supervision" of DPR, to enforce California's pesticide use laws and regulations.⁸ In alignment with this directive, DPR specifies the following division of responsibilities:

- DPR, as part of its oversight role, provides supervision, training, guidance, coordination, and technical support to CACs; evaluates county programs through records inspections to review completeness of permits, accuracy and thoroughness of investigations, appropriateness of enforcement actions, and adequacy of other aspects of enforcement programs; and conducts oversight inspections of county staff to provide consistent enforcement of pesticide laws and regulations throughout the state; and,
- CACs, as the local pesticide use enforcement agencies, investigate all reported pesticide incidents and illnesses; inspect the operations and records of growers, pest control businesses, agricultural pest control advisers (PCAs), farm labor contracts, and government agencies; certify private applicators; issue restricted materials permits and operator identification numbers; collect and report to DPR pesticide use information; and monitor pesticide applications in the field.⁹

In California, PCAs also play a vital role in the state's regulatory infrastructure for pesticide use. Although PCAs are not government employees, multiple state laws govern their activities, including the provision of written recommendations to growers on the safe and legal agricultural use of pesticides. Before providing recommendations, PCAs must meet state-mandated educational requirements, obtain a license from DPR, and register with the CAC for the county they work in. Among other things, PCAs are required to include in their recommendations the name and dosage of each pesticide, the identity of each pest to be controlled, and certification that alternatives and mitigation measures have been considered and, if feasible, adopted.

State law expressly prohibits persons from providing recommendations for agricultural use unless they are a licensed PCA and registered as a PCA with a CAC; this essentially means that PCAs are the only individuals allowed under state law to provide these types of recommendations. State law further requires that PCAs submit copies of their recommendations to growers, pesticide dealers, and pesticide applicators before a pesticide is used, which in effect means that a pesticide should not be applied for agricultural use in the state of

⁶ FAC § 14009; AB 2113 added several accountability provisions to this law. Among these provisions is a requirement that CACs report to DPR, no later than January 31 of each year, the number of appeal reviews that the CAC did not complete within 10 days, the average number of days required for review, and the number of restricted materials permits that the CAC affirmed, modified, or cancelled.

⁷ Malloy, T., Froines, J., Hricko, A., Vasquez, K., & Gamble, M. (2019). *Governance on the ground: Evaluating the role of county agricultural commissioners in reducing toxic pesticide exposures*. University of California, Los Angeles. <https://law.ucla.edu/news/governance-ground-evaluating-role-county-agricultural-commissioners-reducing-toxic-pesticide>.

⁸ FAC § 11501.5, FAC § 12977, FAC § 12982.

⁹ DPR. (2025). Enforcement. <https://www.cdpr.ca.gov/enforcement/>.

California without a PCA's recommendation.¹⁰ In combination, these laws confer a great deal of responsibility upon PCAs for supporting growers' safe use of pesticides and compliance with state and federal requirements.

Need for an Audit

In 2019, the University of California, Los Angeles released a report that evaluates the role of CACs in reducing toxic pesticide exposures (UCLA Report).¹¹ The UCLA Report contains findings from a two-part study, in which researchers first performed a "broad, statewide assessment of existing permit evaluation policies of all CACs followed by a focused case study." The broad assessment relied on information gathered through the review of documents, including county work plans and pesticide use reports, and extensive online searches. The case study focused on a subset of CACs and involved an examination of their specific permitting decisions, using documents obtained through Public Record Act (PRA) requests.

Regarding alternatives evaluations, the UCLA Report found through an online search that 30% of CACs expressed a "strong ostensible commitment to alternatives evaluation" and 30% expressed "limited commitment to alternatives evaluation." For 40% of the CACs, "there was no indication of whether or how the CACs took potential alternatives into account in the permitting process." Subsequent review of permit files and records from a subset of CACs, obtained through PRA requests, showed that none of the responding CACs reported having office-specific written guidance on alternatives evaluation. Instead, the report's authors state that it "appears that CACs typically delegate the responsibility to identify and evaluate potentially feasible alternatives to the applicant (or, more specifically, to the applicant's [PCA])." The UCLA Report found no evidence that CACs "engage in significant oversight" of PCAs' alternatives evaluations, and concluded that the "nature of the evaluation and underlying justification for the decisions are impenetrable."

Among other things, PCAs recommend the types of pesticides and pesticide dosages that growers should use to control specific types of pests on specific types of crops. To avoid harm to the environment and human health, and to avoid damaging crops or making them unsaleable due to "off-label" pesticide use, PCAs must provide recommendations that comply with applicable federal and state laws, restricted material permit conditions, and pesticide labels approved by the United States Environmental Protection Agency (US EPA).¹² However, according to DPR, violations of pesticide labeling and permit conditions were the "[number one] most common violation of 2022."¹³

A 2015 comment by Jennifer Oleksa Vanzant, published in the *San Joaquin Agricultural Law Review* (Law Review Comment) examines the role of PCAs in California agriculture, as well as potential issues embedded in the state's legal framework for regulating PCA activities.¹⁴ In particular, the Law Review Comment focuses on potential

¹⁰ FAC § 12001-12054.

¹¹ Malloy, T., Froines, J., Hricko, A., Vasquez, K., & Gamble, M. (2019). *Governance on the ground: Evaluating the role of county agricultural commissioners in reducing toxic pesticide exposures*. University of California, Los Angeles. <https://law.ucla.edu/news/governance-ground-evaluating-role-county-agricultural-commissioners-reducing-toxic-pesticide>.

¹² Pesticide labels—which must be approved by the US EPA and accepted by DPR before a pesticide can be registered in the state—establish a legally enforceable set of conditions, directions, and precautions that define who may use a pesticide, as well as where, how, how much, and how often it may be used.

¹³ DPR. "Top ten pesticide violations of 2022."

¹⁴ Vanzant, J.O. (2015). A modern tale of the fox guarding the hen house: The inherent conflict of interest that exists when pesticide distributors employ pest control advisers. *San Joaquin Agricultural Law Review*. <https://www.sjcl.edu/library/san-joaquin-agricultural-law-review>.

conflicts of interest that arise when PCAs are employed by the pesticide industry. The Law Review Comment illustrates this issue with the following statement from a company-affiliated PCA: "Most PCAs are paid a base salary plus commission. The commission generally is paid out as a percentage of the gross profit that [the PCA] made for the company. Many companies pay these out as a bonus...[PCAs] do look at which products will have the highest gross profit..."

Vanzant argues that the "potential for substantial commission on sales of pesticides creates an unavoidable conflict of interest," and that this conflict of interest can ultimately result in growers using pesticides that are potentially more hazardous, and in greater volumes, than are necessary to effectively control pest problems. Vanzant points out that this conflict of interest is embedded in state law, which defines a PCA as "any person who offers a recommendation on any agricultural use...or who solicits services or sales for any agricultural use," and defines a "pest control dealer" as "any person, including any manufacturer, distributor, or retailer" who engages in specified business activities, including "soliciting sales of pesticides by making agricultural use recommendations through field representatives, or other agents."¹⁵ According to Vanzant, addressing this conflict of interest will be critical for increasing the use of "sustainable, affordable, and safer pest management" strategies. The state's SPM Roadmap appears to align with this assertion by establishing a goal that, by 2030, "PCA advice is guided by SPM principles and practices and their recommendations are not commission-driven."

Both DPR and CACs can exercise some oversight over PCA activities, including through the refusal, revocation, or suspension of PCA licenses or county registration in certain circumstances. These circumstances include situations in which a PCA fails to put their recommendations in writing, makes false or fraudulent statements in their recommendations, fails to comply with any state law or regulation relating to pesticide use, or engages in unprofessional conduct. State law defines "unprofessional conduct" to mean repeated acts of recommending the excessive use of a pesticide, or recommending the use of an ineffective pesticide.¹⁶ It is unclear the extent to which DPR or CACs have exercised these authorities, or how consistently state laws governing PCA oversight and activities are enforced across counties.

Although not specific to the activities of PCAs, a 2023 audit by Region 9 of the US EPA (Region 9 Audit) notes enforcement inconsistencies among CACs. For example, after reviewing 11 pesticide use investigations involving pesticide exposure of farmworkers and community members, the Region 9 Audit found that some CACs penalized a violation as "serious," while others penalized a violation issued for the "exact same reason" as "moderate." The Region 9 Audit also found that penalty amounts were inconsistent among CACs, and that it was difficult to determine whether enforcement actions taken by CACs were "appropriate" based on available documentation. The Region 9 Audit concludes that a lack of specificity in state laws and regulations "can allow for inconsistencies in how different CACs interpret the severity of the same violation," and that DPR needs to evaluate and modify its enforcement procedures and guidance to address discrepancies in how penalties are assessed.¹⁷

¹⁵ FAC § 11410, FAC § 11407.5.

¹⁶ FAC § 12023, FAC § 12023.5, FAC § 12035.

¹⁷ US EPA, Region 9. (2023). California counties priority exposure episode audit. <https://www.epa.gov/ca/final-report-california-counties-priority-pesticide-exposure-episode-audit>.

Audit Scope

Taken altogether, the above findings raise important questions regarding the regulation of pesticide use in California, including whether the state's regulatory bodies are optimally positioned to consistently enforce key pesticide use laws established to protect human health and the environment. An audit focused on restricted materials permits, oversight of CACs and PCAs, and alternatives evaluations could help the state identify opportunities for improvement, including updates to California's statutory and regulatory framework, that will help ensure the judicious use of high-risk pesticides and, in the long term, support the transition away from these chemicals towards the adoption of safer, sustainable pest control practices. This proposed audit is consistent with the Legislature's focus on exploring and advancing policies that support good governance, efficient use of state funds, effective enforcement, and the protection of people and the environment.

I respectfully request that the Joint Legislative Audit Committee consider an audit structured according to the questions outlined below.

For DPR, conduct an audit that:

- 1) Reviews DPR's approach to providing technical assistance, to support CACs in ensuring consistent statewide enforcement of pesticide use laws and regulations relating to restricted materials permitting, alternatives evaluations, and PCA activities.
- 2) Reviews DPR's approach to identifying and addressing enforcement and oversight capacity challenges raised by CACs.
- 3) Identifies, for the prior 3-year period, the number of times that DPR identified concerns relating to a CAC's processes for restricted materials permitting and PCA oversight; subsequent actions taken by DPR; and the provision of oversight by DPR to ensure that CACs addressed the department's concerns.
- 4) Examines, for the prior 3-year period, the annual number of restricted materials permits that have been appealed by interested persons up to DPR, and how DPR responded to concerns raised in these appeals, including any subsequent enforcement, oversight, or other actions taken by the department.
- 5) Determines, for the prior 3-year period, the annual number of PCA licenses that DPR has issued, refused, revoked, or suspended, and, when possible, the rationales for these decisions.
- 6) Reviews DPR's forms for PCA licensing (both for new licenses and license renewal), to determine if the forms prompt PCAs to provide sufficient information, such that the state could identify:
 - How many PCAs in the state are independent, and how many PCAs are employed by, or otherwise receive financial compensation from, a pest control dealer (including pesticide manufacturers, distributors, or retailers); and,
 - Potential conflicts of interest that might warrant further consideration, before DPR issues a new PCA license or a PCA license renewal.

- 7) Provides recommendations to the state, if the California State Auditor identifies opportunities to improve:
- DPR's ability to provide meaningful oversight of, and support to, CACs, particularly as it relates to restricted materials permitting, alternatives evaluations, and PCA oversight;
 - DPR's and CACs' ability to provide effective oversight of PCA activities and address potential conflicts of interest; and,
 - The state's overall statutory and regulatory framework, to improve specificity and reduce inconsistencies in enforcement and oversight.

For 4-6 counties, selected based upon their rates of pesticide use, conduct an audit that:

- 8) Examines capacity challenges that the CAC faces and the implications of these challenges for the CAC's enforcement and oversight work.
- 9) Determines, for the prior 3-year period, the annual numbers of restricted materials permits that the CAC:
- Approved without requiring mitigation measures, beyond those specified on pesticide labels and in state and federal law;
 - Approved, but conditioned upon the use of mitigation measures; and,
 - Denied, due to the potential for harm to human health or the environment, or because feasible alternatives to a pesticide were available.
- 10) Determines, for the prior 3-year period, the annual numbers of violations of restricted materials permit conditions identified by the CAC, and the resulting permitting, enforcement, oversight, follow-up, or other actions taken by the CAC.
- 11) Reviews a selection of cases in which interested persons have submitted restricted materials permitting appeals to the CAC, including how the CAC responded to concerns raised in the appeal, the CAC's decision on the appeal, and subsequent permitting, enforcement, or other actions taken by the CAC.
- 12) Determines, for the prior 3-year period, the annual number of alternatives evaluations that a CAC conducted as part of the permitting process for restricted materials.
- 13) Reviews the CAC's process for conducting alternatives evaluations, including:
- The CAC's policy on how alternatives evaluations should be conducted, including recommended or required procedures for documentation and decisionmaking; for decisionmaking, examine the CAC's

approach to deciding when alternatives evaluations should be conducted and whether "feasible alternatives" are available; and,

- Whether the CAC conducts these evaluations, or relies upon external evaluations conducted by PCAs or other entities.

14) Reviews the CAC's overall restricted materials permitting process—including enforcement, oversight, and follow-up to ensure permit violations are addressed—and identifies opportunities for improvement.

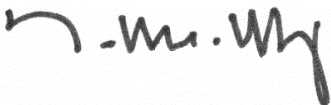
15) Determines, for the prior 3-year period, the annual number of PCA registrations that a CAC has approved, refused, revoked, or suspended; examines, when possible, the rationales for these decisions.

16) Reviews the CAC's policy and procedures for providing oversight of work conducted by PCAs, including the CAC's approach for:

- Ensuring that PCAs are providing written recommendations that comply with applicable state laws and regulations, including the state's requirement that recommendations include certification that alternatives and mitigation measures have been considered and, if feasible, adopted;
- Deciding whether to require PCAs to submit their written recommendations to the CAC; and,
- Identifying and addressing situations in which PCAs have violated state laws and regulations, including instances in which PCAs have shown "unprofessional conduct," as defined in FAC § 12023.5.

Thank you for your consideration of this audit request. If you have any questions, please do not hesitate to contact my committee staff member, Naomi Ondrasek, on the Assembly Environmental Safety and Toxic Materials Committee at 916-319-3965.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Connolly", with a stylized flourish at the end.

Damon Connolly

Chair, Assembly Committee on Environmental Safety and Toxic Materials
Assemblymember, 12th District