

## **PCA Responsibilities (2012)**

### **RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL ADVISERS**

#### **Food and Agricultural Code: Definitions**

11408. "*Agricultural use*" means the use of any pesticide or method or device for the control of plant or animal pests, or any other pests, or the use of any pesticide for the regulation of plant growth or defoliation of plants. It excludes the sale or use of pesticides in properly labeled packages or containers which are intended for any of the following:

- (a) Home use.
- (b) Use in structural pest control.
- (c) Industrial or institutional use.
- (d) The control of an animal pest under the written prescription of a veterinarian.
- (e) Local districts or other public agencies which have entered into and operate under a cooperative agreement with the Department of Public Health.....

11410. "*Agricultural pest control adviser*" means any person who offers a recommendation on any agricultural use, who holds himself or herself forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use.

11411. "*Recommendation*" means the giving of any instruction or advice on any agricultural use as to any particular application on any particular piece of property. "*Recommendation*" does not include any summary that does not specify the use to be made for any designated pest, provided that such summary is not in conflict with any registered pesticide label or with the supplementary printed direction delivered therewith or with any rule or regulation of the director.

#### **Food and Agricultural Code: General Provisions**

12001. No person shall act, or offer to act, as an agricultural pest control adviser without first having secured an agricultural pest control adviser license from the director.

12002. No person shall act, or offer to act, as an agricultural pest control adviser in any county wherein he makes any recommendation for agricultural use without first registering with the county agricultural commissioner.

12003. Agricultural pest control advisers shall put all recommendations concerning any agricultural use in writing. One copy of each such written recommendation shall be signed and dated and shall be furnished to the operator of the property prior to the application. Where a pesticide use is recommended a copy shall also be furnished to the dealer and the applicator prior to the application.

Each written recommendation shall include when applicable, the following:

- (a) The name and dosage of each pesticide to be used or description of method recommended.
- (b) The identity of each pest to be controlled.
- (c) The owner or operator, location of and acreage to be treated.
- (d) The commodity, crop, or site to be treated.
- (e) The suggested schedule, time, or conditions for the pesticide application or other control method.
- (f) A warning of the possibility of damages by the pesticide application that reasonably should have been known by the agricultural pest control adviser to exist.
- (g) The signature and address of the person making the recommendation, the date, and the name of the business such person represents.
- (h) Any other information the director may require.

12004. Agricultural pest control advisers and agricultural pest control operators shall retain one copy of each written recommendation for one year following the date of such recommendation. A copy of a recommendation shall be immediately furnished to the agricultural commissioner upon his request. (Note: Tulare County requires that a written recommendation be submitted with each Notice of Intent submitted by a commercial PCO).

#### **Food and Agricultural Code: Licensing**

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12022. Applicants for licensing shall elect to be examined for certification in one or more of the following categories:

- (a) Control of insects, mites, and other invertebrates.
- (b) Control of plant pathogens.
- (c) Control of nematodes.
- (d) Control of vertebrate pests.
- (e) Control of weeds.
- (f) Defoliation.
- (g) Plant growth regulation.

### **Food and Agricultural Code: Registration**

12031. Each agricultural pest control adviser who makes any recommendation for agricultural use shall register in person with the agricultural commissioner in the county listed in the adviser's address on the license issued .... Registration in any additional county shall be made by mail or in person, at the discretion of the commissioner of the additional county ....

12033. Registration shall be renewed annually by all agricultural pest control advisers.

### **Food and Agricultural Code: Violations**

12051. It is unlawful for any person to act or offer to act as an agricultural pest control adviser without first having secured an agricultural pest control adviser's license from the director ...

12052. It is unlawful for any person to act or offer to act as an agricultural pest control adviser in any county wherein the adviser makes any recommendation for agricultural use without first registering with the county agricultural commissioner of that county.

12054. It shall be unlawful for any pest control adviser to make recommendations in a category for which he is not certified. (Section 12022)

### **Food and Agricultural Code: Recommendations and Usage**

12971. No recommendation shall be in conflict with the registered labeling for the product being recommended.

12972. The use of any pesticide by any person shall be in such a manner as to prevent substantial drift to nontarget areas.

12973. The use of any pesticide shall not conflict with labeling ... which is delivered with the pesticide or with any additional limitations applicable to the conditions of any permit issued by the director or commissioner.

### **California Code of Regulations:**

#### **6000. Definitions.**

“Conflict with Labeling” means any deviation from instructions, requirements or prohibitions of pesticide product labeling concerning storage, handling or use except:

- 1) A decrease in dosage rate per unit treated;
- 2) A decrease in the concentration of the mixture applied;
- 3) Application at a frequency less than specified;
- 4) Use to control a target pest not listed on the label, provided the application is to a commodity/site listed on the label and the use of the product against an unnamed pest is not expressly prohibited;

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- 5) Employing a method of application not prohibited, provided other label directions are followed (i.e.. aerial);
- 6) Mixing with another pesticide or with a fertilizer, unless such mixture is prohibited; or
- 7) An increase in the concentration of the mixture applied, provided it corresponds with the current published UC Pest Management Guidelines of the University of California, which are available from their Statewide Integrated Pest Management Project, One Shields Avenue, Davis, California 95616, or on-line at <http://www.ipm.ucdavis.edu>; or
- 8) The use of personal protective equipment consistent with the exceptions and substitutions in section 6738.

*"Home use"* means use in a house hold or its immediate environment.

*"Industrial use"* means use for or in a manufacturing, mining or chemical process or use in the operation of factories, processing plants, and similar sites.

*"Institutional use"* means use within the confines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums and office complexes.

*"Feasible"* means capable of being accomplished in a successful manner, within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

*"Feasible alternatives"* means 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.

*"Feasible mitigation measure"* means a condition attached to the approval of an activity which if implemented would substantially reduce any adverse impact, taking into account economic, environmental, social, and technological factors and timeliness of control.

*"Authorized representative"* means an employee of the person responsible for making decisions regarding the general operation of the property or a licensed pest control adviser who has written authorization from such person to act on his or her behalf.

*"Ground water protection area" (GWPA)* means an area of land that has been determined to be vulnerable to the movement of pesticides to ground water, as identified in the Department of Pesticide Regulation document EH03-05 (Est. 8/03).

### **6426. Alternatives and Mitigation Measures.**

(a) Each licensed agricultural pest control adviser and grower, when determining if and when to use a pesticide that requires a permit, shall consider, and if feasible, adopt any reasonable, effective and practical mitigation measure or use any feasible alternative which would substantially lessen any significant adverse impact on the environment.

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(b) Each licensed agricultural pest control operator shall have available a copy of a written recommendation covering each agricultural use application of a pesticide that requires a permit, and operate in accordance with a pesticide permit issued by the commissioner. The standards for such recommendations are established in Section 6556.

### **6556. Recommendations.**

In addition to the requirements of Section 12003 of the Food and Agricultural Code, each recommendation shall include:

- (a) Total acreage or units to be treated;
- (b) Concentration and volume per acre or other units;
- (c) Worker re-entry interval, if one has been established; preharvest or preslaughter interval; and label restrictions on use or disposition of the treated commodity, by-products or treated area.
- (d) Criteria used for determining the need for the recommended treatment; and
- (e) Certification that alternatives and mitigation measures that would substantially lessen any significant adverse impact on the environment have been considered and, if feasible, adopted.

In addition, the recommendation shall designate the pest by accepted common name.

### **6564. Appropriate Products.**

All persons engaged in business as licensed pesticide dealers shall:

- (a) Sell or deliver a pesticide for which a recommendation has been provided to him or written by any person employed by him only when the pesticide labeling corresponds to the recommendation; and
- (b) Not knowingly sell or deliver a pesticide for a use not shown in the labeling, or when any condition of use shown in the labeling cannot be complied with.

## **GENERAL POLICIES**

### **A. Applicators Who Follow Faulty Recommendations**

According to Sections 12971 and 12973 of the FAC both the applicator and the person making the recommendation (adviser) are clearly in violation when an applicator applies a pesticide in accordance with a recommendation that is in conflict with approved labeling. Disciplinary action will be taken against both parties for use and recommendation in conflict with approved pesticide labeling.

The adviser is responsible for certain judgment factors in a recommendation just as the applicator is responsible for the condition of his equipment and weather conditions during the application. Each is responsible for complying with the label.

### **B. Agricultural Pest Control Recommendations**

Agricultural pest control recommendations must be in writing, including those made by persons exempt from licensing. Each written recommendation shall include:

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a. *Known Hazards.* Each pest control recommendation must include, when applicable, a warning of the possibility of damages by the pesticide application that should have reasonably been known to exist at the time the recommendation was made.

This requirement is designed to ensure that applications are made only under suitable conditions by alerting the applicator to hazards so that precautions may be taken to eliminate or minimize the hazard(s). Also, it serves to remind the adviser of this important consideration that should influence pest management decisions. Advisers are responsible for familiarizing themselves with the area surrounding the intended application site. **When a condition is known to exist that could result in damage, advisers must include it in their written recommendations.**

Examples of situations that could result in damage from pesticide applications are apiaries located within or adjacent to an intended treatment area; bodies of water (including water return systems); buildings including residences, businesses, schools, etc.; domestic animals or livestock; wildlife nesting and grazing areas; and livestock feeds including silage or baled or cubed forages.

If the recommendation is for a groundwater protection pesticide for an application inside a GWPA, the recommendation shall include that the application follow the management practices selected on the permit conditions.

The attachment of the label to written recommendation would be acceptable only if the adviser makes reference to specific warning statements on the recommendation, for example: "NOTE THE WARNING STATEMENTS: #1, #2 and #3 highlighted on the attached label" and how those statements relate to this specific application. If a xeroxed copy of this label is used, it must be readable.

A more effective way to meet this requirement would be for the adviser to revise his recommendation form to include typical warning statements. When the recommendation is written, the advisor can check off the appropriate warning statement and state how it applies to this specific application.

b. *Reentry Intervals.* Written recommendations must include worker reentry intervals required by regulation or labeling.

c. *Preharvest Intervals and Crop Rotation or Disposition.* Written recommendation must include any preharvest intervals and crop rotation, or disposition requirements listed on the label. This may be accomplished in several ways: (1) transcribing these requirements directly onto the written recommendation; (2) referencing the pesticide label and attaching a copy of the label with the appropriate statements highlighted; (3) attaching a supplementary sheet listing the appropriate restrictions; and (4) delivering to both the grower and the Agricultural Pest Control Business (PCO) at the beginning of the season, a listing of each pesticide to be recommended together with the appropriate crop disposition and plantback restrictions. Each written recommendation for these material must reference the listing for that pesticide.

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It is the responsibility of the Pest Control Adviser to assure that each recommendation clearly includes any crop disposition or plant back restrictions incurred by use of that pesticide. As with known hazards, the adviser may want to revise his recommendation form to include crop rotation and disposition requirements.

d. *Certification of Criteria, Mitigation and Alternatives.* The recommendation must state how the adviser came to the decision that treatment was necessary. Pest count, history of infection in the area, preventative measure, etc., are some of the criteria that may indicate the need to treat. The recommendation must also have a certification that alternatives were considered and that mitigation measure have been considered and those that were found feasible have been adopted.

e. *Name and Address of Adviser.* The adviser's address could be the one designated on the license or his employer's address. When the employer has several branch locations printed on the written recommendation form, the address at which the adviser may be contacted must be indicated.

f. *Distribution of Copies of Recommendations.* The grower has the final decision of whether or not to implement a pesticide application resulting from a written recommendation. Therefore, a signed and dated copy of each agricultural use recommendation must be furnished to the grower prior to the application (soon enough to use the recommendation to make treatment decisions). A copy of each recommendation, including the use of a pesticide, must also be furnished to the dealer and the applicator in sufficient time to allow compliance with Section 6566, but at no time later than the time of the delivery of the pesticide. Copies for the dealer and applicator, if they are unknown, shall be delivered to the grower with his copy.

Section 6426(b) requires that a PCO have available a written recommendation covering each agricultural use of a restricted material. It is the responsibility of the adviser or grower, depending upon who made the recommendation, to supply the PCO with the written recommendation. All copies must be in the hands of the grower and PCO before the application.

g. *Location Requirement on Written Recommendations.* Some pest control advisers have used Site Identification Numbers, as listed on restricted materials permits and Operator Identification Numbers, to identify the location to be treated. Using Site Identification Numbers for this purpose does not satisfy the location requirement for agricultural pest control recommendations. The recommendation should stand alone and provide enough information to accurately identify the location to be treated without additional documentation.

### C. Section 18 – Conflict with Directions

Section 18s are exemptions from labeling and, therefore, are not allowed the deviations from label requirements granted in 3 CCR Section 6000 (Conflict with Labeling). Any deviation from a Section 18 would be considered a violation of permit conditions under FAC Section 12973. A pesticide must be used in compliance with all Section 18 requirements, including rate,

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concentration, methods, timing and target pest.

### **D. Cotton Defoliation**

*Different from previous policy, PCA's are no longer asked to place "Meets restrictions for cotton defoliation" on their recommendation. If you are writing a recommendation for one of the defoliant (Def, Folex or Paraquat), it is assumed that the field you are writing the recommendation for meets the restrictions stated below unless specific warning is on the recommendation that the applicator would be violating cotton defoliation restrictions.*

**Pest Control Advisors making written recommendations contrary to following restrictions will be in violation of FAC Section 12003(f) and CCR Section 6556(e).**

#### **Restrictions for Cotton Defoliation**

1. Applications of "DEF", "Folex" and paraquat shall not in any case be made within 1/8 mile of any school.
2. Applications of paraquat shall not be made within 1/8 mile any area zoned as residential, or area designated by the Commissioner as inhabited residential.
3. Applications of "DEF" or "Folex" shall not be made within 1/2 mile of any area zoned as residential, or area designation by the Commissioner as inhabited residential.  
Applications of "DEF" or "Folex" shall not be made within 1/2 mile of any school due to be in session within 24 hours.

*Inhabited residential areas designated by the Commissioner include, but are not limited to, the following: 3 or more houses on 2 or less acres per house that are contiguous; hospitals, rest homes, highway rest areas, parks, labor camps, businesses and churches when occupied or due to be occupied within 24 hours. Also included are dairies with 3 or more houses.*

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### **Restricted Entry Intervals. Section 6772.**

- (a) The restricted entry intervals specified in this Section shall be applied according to the following:
- (1) Other restricted entry intervals are found on pesticide product labeling. In case of an inconsistency between the pesticide product labeling and this Section, the longer restricted entry interval shall be followed;
  - (2) If more than one restricted entry interval in this Section is applicable to a given situation, the longer restricted entry interval shall apply, except as provided in Section 6774;
  - (3) When reference is made to pounds of a pesticide in a restricted entry interval, the reference means pounds of active ingredient;
  - (4) A day is considered to be a 24-hour period beginning at the conclusion of the application to the identified field or portion of a field.
- (b) The restricted entry intervals in days in the following table apply to the pesticide/crop combinations listed.

PESTICIDE	CROPS					
	Apples	Citrus	Corn	Grapes	Peaches/Nectarines	Other Crops
<b>Azinphos-methyl</b>	14(B)	30		21	14(B)	14(A)(B)
<b>Chlorpyrifos</b>		2				
<b>Diazinon</b>		5		5	5	
<b>Endosulfan</b>	2	2	2	2	2	2
<b>Malathion</b>		1		1	1	
<b>Methidathion (Supracide)</b>		30				
<b>Methomyl (Lannate)</b>				7(C)		
<b>Parathion-methyl (non-encapsulated)</b>	14	14(D)	14(D)	14(E)	21	14(D)
<b>Phorate (Thimet)</b>			7			
<b>Phosmet (Imidan)</b>				5	5	
<b>Propargite (Omite/Comite)</b>	21	42	7	30	21	21(F)(G)
<b>Sulfur</b>				3(H)		

Footnotes:

- (A) This restricted entry interval for other crops applies to stone fruit, such as apricots, cherries, plums and prunes, and pome fruit, such as pears, only. Stone fruit does not include almonds and other nut crops.
- (B) If the total Azinphos-methyl applied in the current calendar year is 1.0 pounds per acre or less, thinning may be done after seven days.
- (C) Applications of methomyl made after August 15 have a 21-day restricted entry interval. This interval may be terminated after 10 days if leaf samples tested pursuant to Section 6774 (c)(4) show 0.1 micrograms per square centimeter or less of dislodgeable foliar residue of methomyl.
- (D) This restricted entry interval applies only when more than one pound per acre of non-encapsulated parathion-methyl is applied.
- (E) The restricted entry interval for non-encapsulated parathion-methyl on grapes in Monterey County is six days.
- (F) The restricted entry interval for strawberries and field grown roses treated with propargite is 3 days.
- (G) The restricted entry interval for cotton fields treated with propargite is seven days. However, from the end of the restricted entry interval until the beginning of harvest, the employer shall assure that employees entering propargite treated cotton fields wear work clothing with long sleeves and legs and gloves.
- (H) This restricted entry interval for sulfur applies from May 15 through harvest in the counties of: Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare; and during March and April in Riverside County.

**INFORMATIONAL NOTE FOR Section 6772:** The inclusion of a restricted entry interval in this Section does not imply that the use of a pesticide is currently registered. Consult the pesticide product labeling for permitted registered uses.

