

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

Food and Agricultural Code: Definitions

11403. "Pest control" means the use or application of any pesticide. It also means the use of any substance, method, or device to do any of the following:

- (a) Control pests.
- (b) Prevent, destroy, repel, mitigate, or correct any pest infestation or disorder of plants.
- (c) Inhibit, regulate, stimulate, or otherwise alter plant growth by direct application to plants.

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.....

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: Registration

11732. It is unlawful for any person to advertise, solicit or operate as a pest control business in any county unless the person has registered with the commissioner for the current calendar year.

11733. The registrant shall keep and maintain a record of each property treated that show all the information required by the director or commissioner. The registrant shall report the information to the commissioner or the director when and in the form as required.

Food and Agricultural Code: Violations

11791. It is unlawful for any person subject to this division to do any of the following:

- (a) Make any false or fraudulent claim, or misrepresent the effects of material or method to be applied, apply any worthless or improper material, or otherwise engage in any unfair practices.
- (b) Operate in a faulty, careless, or negligent manner.
- (c) Refuse or neglect to comply with this division, or any regulation issued pursuant to this division, or any lawful order of the commissioner or the director.
- (d) Refuse or neglect to keep and maintain the records which a required by this division, or to make reports when and as required.

11792. It is also unlawful for any person that is subject to this division to do any of the following:

- (a) Make any false or fraudulent record or report.

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

- (b) Operate in any county without first having registered with the commissioner.
- (c) Operate equipment with incompetent or unqualified persons in charge of the equipment.
- (d) Use any fraud or misrepresentation in making application for a license or for renewal of a license.
- (e) Fail to comply with the provisions of Chapter 3 (commencing with Section 14001), Division 7 of this code.

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;
- 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.

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

"Substantial Drift" means the quantity of pesticide outside of the area treated is greater than that which would have resulted had the applicator used due care. This definition is applicable to section 12972 and section 6614.

"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.

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.

(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.

6460. Drift Control.

Unless expressly authorized by permit ... no liquid Dicamba, 2,4-D, 2,4-DB, 2,4-DP, MCPA, or Propanil shall be:

(a) Discharged more than ten feet above the crop or target. Discharge shall be shut off whenever it is necessary to raise the equipment over obstacles such as trees or poles.

(b) Applied when the wind velocity is more than ten miles per hour.

6470 Cotton Harvest Aids - in part.

S,S,S-tributyl phosphorotrithioate (DEF), tributyl phosphorotrithioate (Folex), or paraquat when used as cotton harvest aids, singly or in combination, shall be used only in accordance with the following restrictions:

(a)(1) Closed systems as specified in subsection 2476(b) (CCR 6746) shall be used for all mixing and transfers conducted by an employee.

(2) Paraquat applications shall not be made within one-eighth of a mile of any school or any area zoned as residential where people are actually residing or other inhabited residential area designated by the commissioner.

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

(3) DEF or Folex applications shall not be made within one-half mile of any area zoned as residential where people are actually residing or other inhabited residential area designated by the commissioner or any school in session or due to be in session within 24 hours.

(4) DEF or Folex applications shall not in any case be made within one-eighth of a mile of any school.

(c) Air carrier ground equipment shall not be used to apply DEF or Folex.

Residential area is defined as 3 houses that are contiguous and on property that is 2 acres or less per house.

6609 Wellhead Protection.

(a) Except as provided in subsection (b), the following activities shall be prohibited within 100 feet of a well (including domestic, municipal, agricultural, dry or drainage, monitoring, or abandoned wells):

(1) mixing, loading, and storage of pesticides.

(2) rinsing of spray equipment or pesticide containers.

(3) maintenance of spray equipment that could result in spillage of pesticide residues on the soil.

(4) application of preemergent herbicides.

(b) Wells shall not be subject to the requirements in (a) if they are:

(1) sited so that runoff water from irrigation or rainfall does not move from the perimeter of the wellhead toward the wellhead and contact or collect around any part of the wellhead including the concrete pad or foundation; or

(2) protected by a berm constructed of any material sufficient to prevent movement of surface runoff water from the perimeter of the wellhead to the wellhead.

(c) Application of preemergent herbicides shall be prohibited between the berm and the wellhead. (For the purposes of wellhead protection only, preemergent herbicides are defined as the Ground Water Protection Herbicides)

6614. Protection of Persons, Animals, and Property.

(a) An applicator prior to and while applying a pesticide shall evaluate the equipment to be used, meteorological conditions, the property to be treated and surrounding properties to determine the likelihood of harm or damage.

(b) Notwithstanding that substantial drift will be prevented, no pesticide application shall be made or continued when:

(1) There is a reasonable hazard of contamination of the bodies or clothing of persons not involved in the application process;

(2) There is a reasonable possibility of damage to nontarget crops, animals or other public or private property; or

(3) There is a reasonable possibility of contamination of nontarget public or private property,

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

including the creation of a health hazard, preventing normal use of such property. In determining a health hazard, the amount and toxicity of the pesticide, the type and uses of the property and related factors shall be considered.

6632. Recommendation and Use Permit.

Each person engaged for hire in the business of pest control shall have available a copy of both the written recommendation and the use permit covering each agricultural use application of a pesticide that requires a permit.

6636. Accident Reports.

Each person engaged for hire in the business of pest control shall report to the commissioner as soon as practicable, by the most expedient methods, any forced landing, or emergency or accidental release of pesticides. Such report shall include the location, the pesticide and estimated amount.

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. All recommendations for pesticides requiring a notice of intent shall be submitted to the Tulare County Agricultural Commissioner along with the notice of intent. Each written recommendation shall include:

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.**

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

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.

The attachment of the label to a 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". If a 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. This way, the adviser could check the appropriate box unless specific statements were called for.

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.

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.

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

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.

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, concentration, methods, timing and target pest.

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

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.

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

RESPONSIBILITIES OF AGRICULTURAL PEST CONTROL OPERATORS 2012

(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.

Notice of Intent Requirements.

All notices of intent shall be received by the Tulare County Agricultural Commissioner's office by 4:00 p.m. the day before the proposed application.

On the following page is a chart listing the California Restricted Material Requirements. The chart may be updated at any time. For a current chart please see DPR's website at <http://www.cdpr.ca.gov/docs/enforce/pr-enf-013a.pdf>.

CALIFORNIA RESTRICTED MATERIALS REQUIREMENTS

A FEDERAL RESTRICTED USE PESTICIDES

(Included by reference as California Restricted Materials.)
PESTICIDES DISPLAYING THE STATEMENT SHOWN HERE  OR A SIMILAR STATEMENT ON THE PRODUCT CONTAINER

RESTRICTED USE PESTICIDE
FOR RETAIL SALE TO AND APPLICATION ONLY
BY A CERTIFIED APPLICATOR OR PERSONS
UNDER THEIR DIRECT SUPERVISION

PRODUCTS BEARING THE "PHYSICALLY PRESENT" STATEMENT ON THE LABEL ARE REQUIRED TO HAVE
A CERTIFIED APPLICATOR PHYSICALLY PRESENT AT THE USE SITE

B CALIFORNIA RESTRICTED MATERIALS

TRADE NAMES ARE INCLUDED IN THE INTEREST OF SIMPLICITY. OTHER PRODUCTS WITH THE SAME COMPOUND AS AN ACTIVE INGREDIENT ARE ALSO SUBJECT TO THE PERMIT REQUIREMENTS. REFER TO TITLE 3, CALIFORNIA CODE OF REGULATIONS (3 CCR) SECTION 6400.

Acrolein, when labeled as an aquatic herbicide Aldicarb (Temik) All dust (except those products containing only exempt pesticides)** Aluminum phosphide (Phostoxin) Any pesticide containing active ingredients listed under section 6800(a), when labeled for agricultural, outdoor institutional, or outdoor industrial use ¹ Any pesticide pursuant to section 18 of FIFRA (Emergency exemption) 4-Amino pyridine (Avitrol) Azinphos-methyl (Guthion) Calcium cyanide Carbaryl (Sevin)** Carbofuran (Furadan)	Chloropicrin 3-Chloro-p-toluidine hydrochloride (Starlicide) Dazomet (Basamid), when labeled for production of agricultural plant commodities Dicamba (Banvel) [†] 2,4-dichlorophenoxyacetic acid (2,4-D)* 2,4-dichlorophenoxybutyric acid (2,4-DB)* 2,4-dichlorophenoxypropionic acid (2,4-DP)* 1,3-dichloropropene (Telone II) Disulfoton (Di-Syston)** Endosulfan (Thiodan)** Ethoprop (Mocap), when labeled for turf use Fenamiphos (Nemacur) Lindane**	Magnesium phosphide Metam sodium, when labeled for production of agricultural plant commodities Methamidophos (Monitor) Methidathion (Supracide) Methomyl (Lannate)** Methyl bromide Molinate (Ordram)² 2-methyl-4-chlorophenoxyacetic acid (MCPA) Methyl isothiocyanate (MITC), when labeled for production of agricultural plant commodities Mevinphos (Phosdrin) Oxydemeton-methyl (Metasystox-R) Paraquat (Gramoxone) Parathion-methyl Phorate (Thimet) Phosphine gas	Potassium n-methyldithiocarbamate (metam-potassium), when labeled for production of agricultural plant commodities Propanil (3,4-dichloropropionanilide) Sodium cyanide Sodium fluoroacetate (Compound 1080) Sodium tetrathiocarbonate (Enzone) Strychnine** Sulfotepp Sulfuryl fluoride Thiobencarb (Bolero) Tribufos (DEF, Folex) Tributyltin, organotin, or a tri-organotin compound formulated as an antifouling paint, coating, or compound and labeled for the control of fouling organisms in an aquatic environment Zinc phosphide**
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EXCEPTIONS FROM RESTRICTION

**Products labeled only for home, structural, industrial, institutional, or public agency vector control district uses.

- Carbaryl formulated as a bait
- Fly bait containing 1% or less Methomyl
- Use on livestock or poultry
- Diluted, ready-to-use solution of certain restricted herbicides
- One quart or less of a product containing certain restricted herbicide in a liquid formulation
- 2,4-D products labeled only for use as a plant growth regulator

- One gallon or less of a product containing the following percentages of restricted herbicide in a liquid formulation:
 - 15% or less Dicamba
 - 15% or less MCPA
 - 15% or less 2,4-D
 - 15% or less 2,4-DB, OR
 - 15% or less 2,4-DP
- Up to 50 pounds of certain restricted herbicide (Phenoxy and Dicamba) containing 10% or less of active ingredient prepared for use without further dilution
- One pound or less of a product containing certain restricted herbicide (Phenoxy and Dicamba) in a dry formulation

APPLICATORS WHO HAVE MET THE CERTIFICATION REQUIREMENTS FOR RESTRICTED MATERIALS PURSUANT TO FOOD AND AGRICULTURAL CODE §14015

CERTIFIED COMMERCIAL APPLICATORS

(PERSONS OTHER THAN PRIVATE APPLICATORS USING RESTRICTED PESTICIDES.)

- JOURNEYMAN PILOTS
- QUALIFIED APPLICATOR LICENSEES
- QUALIFIED APPLICATOR CERTIFICATE HOLDERS
- STRUCTURAL PEST CONTROL FIELD REPRESENTATIVES
- STRUCTURAL PEST CONTROL OPERATORS
- VECTOR CONTROL TECHNICIANS

A PESTICIDES ONLY IN "A" ABOVE -- NO PERMIT REQUIRED

B PESTICIDES ONLY IN "B" ABOVE -- PERMIT REQUIRED; EXCEPTIONS APPLY

CERTIFIED PRIVATE APPLICATORS

(GROWERS, NURSEYMEN, AND OTHERS USING RESTRICTED PESTICIDES TO PRODUCE AGRICULTURAL COMMODITIES.)

- HOLDERS OF A VALID PRIVATE APPLICATOR CERTIFICATE

A PESTICIDES ONLY IN "A" ABOVE -- NO PERMIT REQUIRED

B PESTICIDES ONLY IN "B" ABOVE -- PERMIT REQUIRED; EXCEPTIONS APPLY

EXCEPTIONS FROM PERMIT REQUIREMENT

¹ PESTICIDES LISTED UNDER 3 CCR SECTION 6800(a) (POTENTIAL TO POLLUTE GROUND WATER); NO PERMIT REQUIRED FOR CERTIFIED APPLICATORS USING THESE MATERIALS OUTSIDE OF A GROUND WATER PROTECTION AREA.
Atrazine Bentazon (Basagran®) Bromacil Diuron Norflurazon Prometon Simazine

² U.S. EPA issued *Molinate; Product Cancellation Order and Amendment to Terminate Uses* which indicated the stop use date of August 31, 2009. Molinate (Ordram) will be deleted from this listing after the regulation change occurs.