

WHAT YOU NEED TO KNOW

about

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION

The permit process for restricted pesticides



California Department of Pesticide Regulation

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P.O. Box 4015
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www.cdpr.ca.gov

BRANCHES

Enforcement

916-324-4100

Northern Regional Office

916-376-8960

Central Regional Office

559-297-3511

Southern Regional Office

714-279-7690

Environmental Monitoring

916-324-4039

Fiscal Operations

916-324-1350

Human Health Assessment

916-445-4233

Information Technology

916-445-2992

Personnel

916-322-4553

Pest Management

and Licensing

916-445-3914

Licensing and Certification

Office

916-445-4038

Pesticide Registration

916-445-4400

Worker Health and Safety

916-445-4222

California law allows the Department of Pesticide Regulation (DPR) to put special controls on pesticides designated as California restricted materials—limiting their use to trained individuals and then only at times and places approved by the state's County Agricultural Commissioners (CACs).

The CACs are uniquely positioned to evaluate the potential effects an application might have on people and the local environment and can restrict use based on these conditions.

Before a restricted material can be purchased or used in California, the user must be certified and obtain a restricted materials permit. The major exception to the permit requirement, but not for certification, is structural pest control (for example, to get rid of a termite infestation). California is the only state with such a pesticide permitting system.

You can get a list of these California restricted materials from your CAC or from DPR's website: www.cdpr.ca.gov.

For information on how to become certified, see DPR's Licensing and Certification webpage: <http://cdpr.ca.gov/docs/license/liccert.htm>

How does someone get a restricted materials permit?

To get a permit, the property owner or business operator applies to the CAC. Among other things, the application must list the areas to be treated, their location and size, crops or commod-

ities, pest problems, names of restricted pesticides that are being requested to be applied, and application method. If a permit applicant has several locations in a county (for example, different fields or fumigation facilities), they can all be covered with a single permit so long as each is clearly identified and described.

The permit application must also include a map or description of the surrounding area showing any places that could be harmed by pesticides. These could include rivers, schools, hospitals, labor camps, residential areas, endangered species habitats, and nearby susceptible livestock or crops.

How does the CAC decide whether to issue the permit?

The CAC must evaluate each permit application and decide if it will cause substantial harm to people or the surrounding environment. The size of the surrounding environment varies based on the pesticide and how it is applied. For example, a liquid pesticide applied from the air would potentially affect a larger surrounding area than a dry pesticide applied from a tractor and worked into the soil.

If the CAC decides that substantial harm is likely, he or she can require the permit applicant to evaluate alternatives (including not using a pesticide at all), or impose extra controls designed to reduce the risk of harm to people or the environment in addition to those already on the pesticide label and in regulation. CACs tailor these extra controls—called permit

More information about the state's permit process

conditions—based on their local knowledge of the application site. If the CAC determines the risk cannot be reduced to the point where safe use is possible, he or she will deny the permit application.

Can the CAC deny a request for a permit?

Yes. In fact, the CAC must deny a permit application if he or she concludes that use of the pesticide may harm people or the environment and no restrictions are available to mitigate that harm.

Even after granting a permit, the CAC can cancel it if new information justifies such an action.

Users of restricted materials must have permits so CACs can evaluate the effects an application might have on people and the environment before the pesticide is used.

Why doesn't the permit application show the date the pesticide will be used?

The restricted material permit process involves two steps. The CAC must approve both the place and date of pesticide treatment. Because the place doesn't change, it is included in the permit application with the names of the restricted pesticides the permittee may use. Since permits are typically issued for a year and it is not possible (or desirable) to schedule pesticide treatments months in advance, applicants must let the CAC know each time they plan to use any of the restricted materials on their permit. They do this by filing a "Notice of Intent to Apply a Restricted Material," usually referred to as a "Notice of Intent" or "NOI." The NOI is the second part of the permit. The applicator or permittee must send the notice to the CAC at least 24 hours before the scheduled treatment. The notice must describe the specific site to be treated and the pesticides to be applied.

Sometimes applications have to be postponed due to weather, or failure of application equipment. The applicator has up to four days after the planned

date (the date on the notice) to begin the application. If the pesticide application is not started in four days, a new Notice of Intent must be filed.

In cases where pesticide applications are going on regularly—such as in commodity fumigation facilities, plant nurseries, or along roads—applicators may file a pesticide treatment schedule instead of a Notice of Intent. Schedules must be approved by the CAC in writing, attached to the permit, and updated when any changes occur.

How do I find out about permits issued in my area?

You can get copies of restricted material permits and Notices of Intent from the local CAC's office. Counties have varying procedures for requesting the information, and may charge a fee for copying.

Keep in mind, most pesticides used in agriculture are NOT restricted materials. If a material is not restricted, farmers do not need a permit to use it. Also, no permits are required for pesticides used to manage pests in buildings.

Can I appeal the CAC's decision?

You can appeal a permit decision if you are a "directly affected" person living or working near the pesticide application site.

What steps are there in filing an appeal?

Your appeal must be in writing and must include:

- Location of the property.
- Name of the pesticide.
- Name and address of the property operator.
- Location of people, property or areas that would be affected by the application.
- The reasons you want a review and what actions you want the CAC's office to take.

The CAC will respond to your appeal in writing within 10 days or as soon as

Users of restricted materials must have permits so County Agricultural Commissioners can evaluate the effects an application might have on people and the environment before the pesticide is used.

practical. After reviewing your appeal, the CAC may decide the application can go on as scheduled, may require more controls, or may cancel the permit.

Is the pesticide treatment put on hold when I file my appeal?

The CAC or DPR may put a hold on the pesticide use while an appeal is under review. However, the law also requires that permit reviews be done so “needed pest control measures” are not affected. Therefore, pesticide treatment may be allowed if a delay would mean damage to a crop.

Can I challenge the CAC’s decision?

Yes, by submitting an appeal in writing to the DPR.

Send the information including your name and contact information to:

Director
California Department of Pesticide Regulation
1001 I St., P.O. Box 4015
Sacramento, CA 95812.

Or, you can fax to: 916-324-1452.

When DPR reviews an appeal, we can only consider three things about the permit:

1. Whether the proposed use is consistent with pesticide label restrictions and

regulations.

2. Whether the CAC properly considered the health and environmental impacts on surrounding areas and imposed reasonable mitigation measures, if necessary.

3. Whether the CAC abused his or her discretion in issuing, refusing, revoking or conditioning the permit.

Be as factual and specific as possible.

If you need help or have questions, ask the CAC’s office or call DPR’s regional office. You can get the phone number of your CAC’s office by calling toll-free, 187PestLine (1-877-378-5463).

Any directly affected party including the farmer can appeal the CAC’s decision to DPR.

Pesticide Complaint ?

1-87PestLine
INFORMATION LINE

1-877-378-5463



If you don’t want a restricted pesticide used, or want it used differently, your first step is to work with the CAC’s office to see if it is possible to revise the use restrictions on the permit.

What about non-restricted materials? Can controls be placed on their use?

On occasion, a County Agricultural Commissioner (CAC) finds a local problem in using a pesticide not on DPR’s restricted material list. The problem might be in a whole county, or just in a particular area, at a particular time.

Under Food and Agriculture Code Section 14006.6, a CAC may determine that, under specified conditions, a non-restricted pesticide presents an “undue hazard.” In this case, he or she can require a permit to use the pesticide.

To make this determination, the CAC must describe the unacceptable hazard when the pesticide is used in that particular situation, and how requiring a permit will resolve the situation. The CAC can require a permit for that pesticide, or just in parts of the county where the risk is greatest, or only in certain situations (for example, when the pesticide on the permit is used near schools, around beehives, or next to susceptible crops). A permit allows the CAC to require certain use practices besides those on the product label. For example, he or she can set a buffer zone around the application (an area where the pesticide cannot be used), or can prohibit applications by air, or limit the amount of acreage treated at any one time.

Making the legal determination that permits are necessary for non-restricted materials can be a lengthy and difficult process. The CAC may have to consult with county counsel and other local officials. Public notice is required, and an opportunity made available for the public to comment, a process similar to rulemaking at the state level. Requiring a permit does not make a pesticide a restricted material. Only DPR can do that, through a statewide regulation.