

Chapter 1

California's Restricted Materials Permitting Program

Introduction Volume 3, *Restricted Materials and Permitting*, is part of the Pesticide Use Enforcement Program Standards Compendium, intended to assist the county agricultural commissioner (CAC) with different aspects of the restricted materials permit evaluation, review, and appeal processes.

Background Permits for pesticide use originated in Imperial County in 1931. The concept of restricted materials was enacted into law in 1950, incorporating permits as a general requirement at the State level.

In 1976, an opinion by the California Attorney General determined that the issuance of county permits was subject to the requirements of the California Environmental Quality Act (CEQA) and therefore, required an environmental impact report (EIR) for the pesticide permit.

The Restricted Materials Permit Program (RMPP) was developed as an alternative program to provide for an abbreviated environmental review procedure that serves as the “functional equivalent” to a full-scale EIR normally required by CEQA. (For information on CEQA, see Public Resources Code section 21050 et seq. and Chapter 3, *Environmental Impact Report Functional Equivalency*.) Although the State and the CACs do not need to prepare an EIR, documentation of environmental impacts, mitigation measures, and alternatives are required. The RMPP was designed to meet these requirements. This program requires the CACs to issue time specific and site specific permits for the agricultural use of restricted materials.

Core enforcement program The core enforcement program encompasses related program areas to meet pesticide regulatory program mandates and strategic goals--this includes restricted materials permitting.

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Restricted materials permitting

The Department of Pesticide Regulation (DPR) and the CACs must assure that our restricted materials permit system protects people and the environment while allowing for effective pest control. Generally, in addition to use by or under the direct supervision of a certified applicator, applications of California restricted materials may occur only under a permit issued by the CAC. CACs must evaluate each proposed application before it occurs and document their determination that the application poses no unacceptable risks, or, that the permit is conditioned to mitigate identified hazards. CACs conduct pre-application site monitoring when they determine that only an on-site evaluation will allow an appropriate assessment of risk.

Restricted materials permit applicant

Title 3, California Code of Regulations (3 CCR) section 6428(c) requires permit applicants to identify all known areas that could be adversely affected by the use of restricted materials.

Permit applicants should plan their needs in advance, consider reduced use of restricted materials, and promote open dialogue with the people who live near application sites before applying for their permits. CAC involvement will ensure that the public receives accurate and complete information.

Why a pesticide is restricted

The criteria to designate a pesticide as a California “restricted material” include hazards to: public health, applicators, farm workers, domestic animals, honeybees, the environment, wildlife, or crops other than those being treated.

DPR may propose pesticides for designation as restricted materials at any time, often based on a review of data submitted by registrants, information obtained from field studies, or incident investigations. For example, pesticides found in ground water from routine agricultural use are designated as restricted materials to allow for greater local control over their use to prevent leaching to ground water.

Only DPR can give pesticides a “restricted material” designation and must do so through the regulation process.

(Reference: *Food and Agricultural Code [FAC] section 14004.5*)

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Federal restricted use pesticide classification

The Administrator of the U.S. Environmental Protection Agency (U.S. EPA) declares a pesticide to be a "restricted use pesticide" when he/she determines that when the pesticide is applied in accordance with its directions for use, it may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator. The Administrator shall classify the pesticide, or the particular use or uses to which the determination applies, to be a "restricted use."

(Reference: *Section 3(d)(1)(C)(i-ii) of FIFRA (Title 7, United States Code, section 136a)*)

Exempt materials

Food and Agricultural Code section 14006.7 requires the Director of DPR to designate by regulation, a list of exempt materials. The exempt materials may be used without a permit if the use conforms with the registered labeling. Exempt materials include those materials specified in 3 CCR section 6402. Materials or formulations of materials exempt from permit requirements are specified in 3 CCR sections 6414 and 6416.

Quick reference list

The most recent version of the codes should always be referenced before initiating an enforcement action. For a complete list of California restricted materials, see 3 CCR section 6400(e).

A quick reference, *California Restricted Materials Requirements*, is available in Appendix B and on-line at:

<http://www.cdpr.ca.gov/docs/enforce/dpr-enf-013a.pdf>. The quick reference in Spanish, *Requisitos Para Materiales Restringidos en California*, is available at <http://www.cdpr.ca.gov/docs/enforce/dpr-enf-013a-sp.pdf>.

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