

**NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED CHANGES
IN THE REGULATIONS PERTAINING TO
PREVENTION OF SURFACE WATER CONTAMINATION BY PESTICIDES**

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations (CCR), the Department of Pesticide Regulation (DPR) is providing notice of changes made to the proposed text of sections 6000, 6970, and 6972 of Title 3, CCR. These changes are made for reasons stated below. The public comment period on the originally proposed regulatory action closed on December 12, 2011. The Director finds that the modifications are sufficiently related to the original text of the proposed action. The modified text is being made available to the public for 15 days, during which written comments on the modifications will be received as provided in Government Code section 11346.8(c).

DPR will accept written comments relevant to the modifications between March 6, 2012, and 5:00 p.m. on March 21, 2012. Written comments relevant to the modifications may be sent via e-mail <dpr11004@cdpr.ca.gov>; or may be directed to Ms. Linda Irokawa-Otani, Regulations Coordinator, Department of Pesticide Regulation, 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015. FAX: (916) 324-1452.

DPR has made sufficiently related changes to the text from that which was originally proposed.

- Revised the definition of "crack and crevice treatment" in section 6000 to delete "Suitable equipment capable of applying insecticide directly into cracks and crevices must be used." The purpose of definitions is to explain terms used in the enforceable sections of the regulations, not to contain enforceable language.
- Revised subsections 6970(a), (b), (c), and (d) to advise the pest control business applicator of language in subsection (e) that specifically prohibits certain applications. This change would minimize the chance that an applicator only reading subsection (a), (b), or (c) would miss the prohibition in subsection (e).
- Revised section 6970(d) to delete the term "formulations" because the regulations would specifically require applicators to sweep granules off horizontal impervious surfaces onto the treated soil surface, mulch, gravel, lawn, turf, or groundcover. A "granule formulation" could also be mixed with water and applied as a liquid spray. Liquid spray applications are less likely to impinge on horizontal impervious surfaces because they can be more precisely applied than granules. In any case, liquids could not be practically swept off horizontal impervious surfaces. Only the applications of granules could result in granules landing on horizontal impervious surfaces.
- Revised section 6970(e)(1) to prohibit applications to any site during precipitation except to the underside of eaves. The initial proposal would have allowed applications to areas protected by a structure from precipitation. However, U.S. Environmental Protection Agency (U.S. EPA) label language will only allow applications to the underside of eaves during precipitation, not to other "areas protected by a structure from precipitation." States can adopt requirements that are more restrictive than federal labels, but not less restrictive. Since

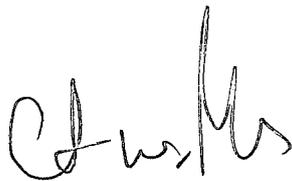
the initial proposed language would be less restrictive than the U.S. EPA-required label language, it would be in violation of federal labels.

- Revised section 6972(e) to clarify that the exemption only applies for applications for which a valid permit has been issued under National Pollution Discharge Elimination System (NPDES) for Pesticide Discharges to Waters of the U.S. from Spray Applications, and Vector Control Applications. The current language would allow anyone to apply the pesticide as long as an NPDES permit is required to be issued, even though the permit may not have actually been issued for a particular application.
- Revised section 6972(g) to replace the term "mist" with "aerosol." The term "mist" is too general, while "aerosol" is more specific and widely understood.

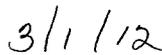
Current wording of the regulation is shown in normal type. Originally proposed additions are shown by underline. Originally proposed deletions are shown by ~~strikeout~~. New proposed deletions are indicated by *italics and strikeout*. New wording to be added by the modifications is shown in **bold double underline**.

All written comments received by 5:00 p.m. on March 21, 2012 which pertain to the indicated changes, will be reviewed and considered in this rulemaking. Please limit your comments to the modifications of the text.

This Notice of Modifications to Text of Proposed Changes and the text of modified regulations are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.



Brian R. Leahy, Director
Department of Pesticide Regulation



Date