

TEXT OF MODIFIED REGULATIONS

Current wording is indicated by regular type.
Originally proposed deletions are indicated by ~~strikeout~~.
Originally proposed additions are indicated by underline.
New proposed deletions are indicated by ~~italics and strikeout~~.
New proposed additions are indicated by **bold double underline**.

DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS
CHAPTER 1. PESTICIDE REGULATORY PROGRAM
SUBCHAPTER 1. DEFINITION OF TERMS
ARTICLE 1. DEFINITIONS FOR DIVISION 6

Amend section 6000 to read:

6000. Definitions.

...

"**Notice of Intent**" means ~~oral or written~~ notification to the ~~e~~Commissioner, ~~as specified by the~~ commissioner, prior to the use of a pesticide pursuant to a permit.

...

"**Time specific**" means a pesticide permit that specifies the date and time the intended application is to commence or a permit with a notice of intent requirement. The pesticide use may commence within four days following such date if delays are caused by uncontrollable conditions such as adverse weather or unavailability of equipment. ~~The commissioner shall require a notice of intent from either the grower, the grower's authorized representative, or the pest control business when necessary to make the permit time and site specific.~~

...

Note: Authority cited: Sections 11456, 11502, 12111, 12781, 12976, 12981, 13145, 14001 and 14005, Food and Agricultural Code. Reference: Sections 11401.2, 11408, 11410, 11501, 11701, 11702(b), 11704, 11708(a), 12042(f), 12103, 12971, 12972, 12973, 12980, 12981, 13145, 13146 and 14006, Food and Agricultural Code.

CHAPTER 2. PESTICIDES
SUBCHAPTER 4. RESTRICTED MATERIALS
ARTICLE 3. PERMIT SYSTEM

Amend section 6424 to read:

6424. Forms.

(a) Each application and permit to possess or use a restricted material shall be on a form either

provided or approved by the ~~d~~Director.

(b) ~~For notices of intent that are not submitted electronically via www.CalAgPermits.org. All information required for a written notice of intent shall be on forms either provided or approved by the~~ ~~d~~Director.

Note: Authority cited: Sections 11456, 14005 and 14102, Food and Agricultural Code.

Reference: Sections 11501 and 14006, Food and Agricultural Code.

Amend section 6428 to read:

6428. Agricultural Permit Applications.

Except as provided in ~~S~~section 6434(a), each application for a permit for agricultural use of a restricted material shall include the following information:

- (a) Name and business address of the ~~permitee~~permit applicant and signature of either the ~~permitee~~permit applicant, or when allowed by the ~~e~~Commissioner, the permit applicant~~permitee~~'s authorized representative or licensed agricultural pest control adviser;
- (b) Location and base, meridian, township, range, and section of each property to be treated;
- (c) Identification of all known areas that could be adversely impacted by the use of the restricted material(s) including hospitals; schools, and playgrounds; residential areas (including labor camps); parks; lakes, waterways, estuaries, and reservoirs; state wildlife management areas; critical habitats of rare, endangered or threatened species; and livestock and crops; (a map or aerial photograph may be used for designating such areas);
- (d) Identification of each commodity or crop, or if there is no commodity or crop the site to be treated;
- (e) Anticipated pest problem(s) for each crop (pest(s) to be controlled);
- (f) Restricted material(s) requiring a permit necessary to control each pest on each commodity, crop, or site;
- (g) Approximate date(s) or crop stage(s) of intended restricted material application(s);
- (h) Expected method of application including the dilution, volume per acre or other units, and dosage;
- (i) Name of the pest control business, if any; and
- (j) Name, business address, and license or certificate number, expiration date, and category(ies), of the certified private or certified commercial applicator(s) responsible for supervising the possession or use of the restricted material(s).

NOTE: Authority cited: Sections 11456, 14005 and 14102, Food and Agricultural Code.

Reference: Sections 11501 and 14006, Food and Agricultural Code.

Amend section 6432 to read:

6432. Permit Evaluation.

(a) Each ~~e~~Commissioner, prior to issuing any permit to use a pesticide and when evaluating a notice of intent, shall determine if a substantial adverse environmental impact may result from the use of such pesticide. If the ~~e~~Commissioner determines that a substantial adverse

environmental impact will likely occur from the use of the pesticide, the eCommissioner shall determine if there is a feasible alternative, including the alternative of no pesticide application, or feasible mitigation measure that would substantially reduce the adverse impact. If the eCommissioner determines that there is a feasible alternative or feasible mitigation measure which significantly reduces the environmental impact, the permit or intended pesticide application shall be denied or conditioned on the utilization of the mitigation measure. When the eCommissioner determines that there is a likelihood that permit conditions have been or will be violated ~~he the Commissioner~~ shall take appropriate action to assure compliance.

Each eCommissioner is responsible for knowing local conditions and utilizing such knowledge in making these determinations. Each eCommissioner shall also consider and where appropriate utilize the provisions of Ssection 14006.5 and other applicable sections of the Food and Agricultural Code, applicable sections of this code, applicable pest management guides, restricted materials hazard chart, pesticide safety information series, information obtained from monitoring other pest control operations, and other information required by the dDirector.

(b) In addition to the requirement of Ssections 6428 and 6430 each permit shall contain the following:

- (1) Appropriate conditions or limitations on the use of the pesticide(s) including available pesticide safety information series leaflets for each pesticide included on the permit;
- (2) Requirements, ~~if any~~, for notice prior to an agricultural use pesticide application. In the case of nonagricultural use, notice shall be required to the extent it is necessary to comply with inspection responsibilities and with the monitoring requirements of Ssection 6436; and
- (3) Appropriate conditions or limitations such as those described in available pest management guides. The eCommissioner shall inform the permittee of, and where to obtain, any pest management guide applicable to the pest control authorized in the permit.

Note: Authority cited: Sections 11456, 14005 and 14102, Food and Agricultural Code.
Reference: Sections 11501 and 14006, Food and Agricultural Code.

Amend section 6434 to read:

6434. Notice of Intent.

(a) If the information required by (g), (h), ~~and (i), and (j)~~ of Ssection 6428 is not provided on the permit, it shall be included in the notice of intent.

(b) ~~When~~To make a permit site and time specific, a notice of intent is required ~~by the commissioner,~~for all agricultural use restricted material applications. A notice of intent shall be submitted to the Commissioner electronically via www.CalAgPermits.org by the operator of the property to be treated, by such operator's authorized representative, or by the pest control business who is to apply the pesticide, and it shall ~~provide~~include the following information concerning the proposed application. ~~If the information required by this paragraph has been provided on the permit it may be referenced on the notice of intent.~~

- (1) Permit and county number;
- (2) Name and address of permittee and applicator;
- (3) Location of areas to be treated and name of ~~farm~~operator of the property;

- (4) Crop or commodity, or if there is no crop or commodity the site to be treated;
- (5) Approximate acres or other units to be treated;
- (6) Method of application;
- (7) Pesticide product name(s) and registration number(s) to be applied;
- (8) Dilution, volume per acre or other units, and dosage;
- (9) Pest(s) to be controlled;
- (10) Date and time intended application is to commence; ~~and~~
- (11) Location and identity of areas specified in ~~§~~section 6428 which have changed since the permit was issued and which may be adversely impacted. A map or aerial photograph may be used for designating such locations; and
- (12) Base, meridian, township, range, and section of the area to be treated.

~~(c) The commissioner shall be notified at least 24 hours prior to commencing the use of a pesticide requiring a permit. The notice of intent to apply a pesticide may be submitted to the commissioner by the operator of the property to be treated, by such operator's authorized representative, or by the licensed pest control operator who is to apply the pesticide. Except as provided in subsections (e) and (f), a notice of intent shall be submitted to the Commissioner prior to the date and time the application is intended to commence as follows:~~

~~(1) for soil fumigants requiring a permit, at least 48 hours prior to the date and time the application is intended commence;~~

~~(2) for all *non-soil fumigant* other pesticides requiring a permit, at least 24 hours prior to the date and time an application is intended to commence.~~

~~(d) When a notice of intent is required for the use of a restricted material requiring a permit for the production of an agricultural commodity, **either at least 48 hours prior to the date and time a soil fumigation is intended to commence or at least 24 hours prior to the date and time an application of all other pesticides is intended to commence, the operator of the property to be treated, the operator's authorized representative, or the pest control business who is to apply the pesticide** *the following information shall be additionally provided to the Department **the following information** electronically via www.CalAgPermits.org by the operator of the property to be treated, the operator's authorized representative, or the pest control business who is to apply the pesticide, at least 48 hours prior to the date and time a soil fumigation is intended to commence and at least 24 hours prior to the date and time an application of all non-soil fumigant pesticides is intended to commence:*~~

~~(1) County number;~~

~~(2) Date and time the intended application is to commence;~~

~~(3) Base, meridian, township, range, and section of the areas to be treated;~~

~~(4) Pesticide product registration number(s) to be applied;~~

~~(5) Method of application; and~~

~~(6) Approximate acres or other units to be treated.~~

~~(e) Upon a finding of undue hardship by the Commissioner, the Commissioner may allow a notice of intent to be submitted to the Commissioner as prescribed in section 6424(b). An undue hardship may be a situation in which compliance with section 6434(b) is not possible without significant difficulty or expense. Following a finding of undue hardship:~~

~~(1) In lieu of the operator of the property, the operator's authorized representative, or the pest control business submitting the information enumerated in subsection (d) to the Department for an application of a restricted material requiring a permit for the production of an agricultural commodity, the Commissioner shall submit the information enumerated in subsection (d) to the~~

Department electronically via www.CalAgPermits.org either at least 48 hours prior to the date and time an application of a soil fumigant is intended to commence ~~and~~ 24 hours prior to the date and time an application of all ~~non-soil fumigant~~ other pesticides is intended to commence;

(2) the Commissioner shall require a notice of intent for use of a restricted material requiring a permit for the production of an agricultural commodity to be submitted to the Commissioner earlier than the time requirements outlined in subsection (c) to provide adequate time for the Commissioner to submit the information electronically to the Department; and

(3) the Commissioner shall document that an undue hardship was found.

(f) The Commissioner may grant an exemption to the time requirements outlined in subsections (c), (d), and (e) if the Commissioner allow less than the 24 hours notice if he determines that because of the nature of the commodity or pest problem safe and effective pest control cannot be attained or when 24 hours are not necessary to adequately evaluate the intended application. At the time the Commissioner grants the exemption, the Commissioner shall note that an exemption was granted electronically via www.CalAgPermits.org.

(g) ~~By [DATE]~~ Beginning 30 calendar days after the effective date of this action, the Department shall provide to the public the information outlined in subsections ~~(d)(1)-(d)(6), and include the pesticide product name(s) and active ingredient(s), for intended applications of restricted materials that are reported to the Department under subsections (d) and (e)(1). The Department shall provide this information to the public upon receipt, but at least 24 hours prior to the date and time an application of a non-soil fumigant is intended to commence and~~ at least 48 hours prior to the date and time a soil fumigation is intended to commence **and at least 24 hours prior to the date and time all other applications are intended to commence**, or as soon as practicable.

~~*(h) The Department shall evaluate its system and process of providing the information in subsection (d) to the public and three years after the effective date of subsection (g), or as soon as practicable, shall issue a report.*~~

(h)(1) Until a draft report is issued pursuant to subsection (h)(2), the Department shall annually issue a status update on its system and process of providing information to the public pursuant to subsection (g), feedback received, and any changes to this system and process. The Department shall:

(A) receive feedback on the status update specified in subsection (h)(1) from, and present the status update to, the Department of Pesticide Regulation Environmental Justice Advisory Committee, pursuant to Food and Agricultural Code section 11519, and the State Board of Food and Agriculture, pursuant to Food and Agricultural Code section 901; and

(B) accept public comments on the status update specified in subsection (h)(1) for a minimum of 30 days.

(2) Three years after the effective date of this regulation, or as soon thereafter as reasonably practicable, the Department shall issue a draft report, followed by a final report, on its system and process of providing information to the public pursuant to subsection (g) and any changes made. The Department shall:

(A) receive feedback on the draft report specified in subsection (h)(2) from, and present the draft report to, the Department of Pesticide Regulation Environmental Justice Advisory Committee and the State Board of Food and Agriculture; and

(B) accept public comments on the draft report specified in subsection (h)(2) for a minimum of 45 days.

Note: Authority cited: Sections 11456, 14005 and 14102, Food and Agricultural Code.
Reference: Sections 901, 11501, 11519, 14001 and 14006, Food and Agricultural Code.