

Article 14. Violations
Sections 6300-6301

6300. Misbranding.

A pesticide shall be deemed misbranding if its labeling contains one or more of the following or any graphic representation which is likely to be deceiving or misleading:

- (a) A false or misleading statement concerning the effectiveness of the product as a pesticide;
- (b) A false or misleading comparison with other pesticides;
- (c) Unwarranted claims as to the safety of the pesticide or its ingredients, including such statements as "Safe," "Nonpoisonous," "Nontoxic," "Noninjurious," or "Harmless" with or without such qualifying phrase as "When used as directed";
- (d) Any statement directly or indirectly implying that a specific brand pesticide is recommended or endorsed by any agency of the Federal Government or the State of California or any political subdivision, agency or instrumentality thereof.

NOTE: Authority cited: Section 12781, Food and Agricultural Code.

Reference: Sections 12881 and 12995, Food and Agricultural Code.

6301. Unregistered Products.

(a) Section 12995 shall not apply to an individual, who personally uses a substance for the purpose of controlling their residence or garden pests, provided no food or feed commodities treated with the substance are sold, distributed, or fed to animals that are sold or distributed for human consumption.

(b) Pesticide products whose registration has lapsed shall not be sold by the registrant, but may be possessed and sold by a dealer for two years after the last date of registration. If acquired while legally registered or within two years after the date of last registration, such products may be possessed and used according to the directions on the label.

(c) Notwithstanding the provisions of (b), it is unlawful to possess or use any pesticide which has been canceled or suspended pursuant to Sections 12825, 12826, or 12827 of the Food and Agricultural Code or under FIFRA (7 U.S.C. Section 136 et seq.), except as provided in such cancellation or suspension.

NOTE: Authority cited: Section 12781, Food and Agricultural Code.

Reference: Section 12995, Food and Agricultural Code.

6302. Sale of Agricultural Use and Restricted Material Pesticides.

(a) It is illegal for any registrant or licensed pesticide broker to sell any pesticide labeled for agricultural use to any person in California other than a registrant, licensed pesticide broker, or licensed pest control dealer.

(b) It is illegal for any registrant or licensed pesticide broker to sell any pesticide designated as a restricted material under section 6400 to any person in California other than a registrant, licensed pesticide broker, or licensed pest control dealer.

(c) It is illegal for any licensed pest control dealer to sell a restricted material to an end user who does not have a permit or, if exempt by regulation from the permit requirement, who is not a certified commercial or certified private applicator.

NOTE: Authority cited: Sections 11456, 12781, and 14005, Food and Agricultural Code.

Reference: Sections 11407, 12116, and 12400, Food and Agricultural Code.

Article 15. Data Cost-Sharing
Sections 6310-6314

6310. Dispute Resolution Proceedings.

If agreement cannot be reached about the terms and amount of payment required pursuant to Food and Agricultural Code section 12811.5, at any time more than 90 days after the issuance of an irrevocable offer to pay, either the applicant, source, or data owner may initiate or with the consent of all parties, join a binding dispute resolution proceeding under the rules prescribed under Title 29 Code of Federal Regulations, Part 1440, or its successor provision, if any, or other rules to which the applicant and data owner may agree.

(a) To the extent feasible, and upon mutual consent of the parties, the proceeding may be consolidated with any dispute resolution process taking place between the same parties and being conducted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136a et. seq.)

(b) In determining the amount due under this section, the decisionmaker(s) of a dispute resolution proceeding shall consider, among other factors, that the data owner's exclusive right to sell the pesticide resulted in the data owner recovering all or part of the cost of generating the data.

(c) The finding of the decisionmaker(s) in a dispute resolution proceeding shall be final and conclusive, and no official or court shall have power or jurisdiction to review that finding and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the dispute resolution proceeding or the decisionmaker(s) where there is a verified complaint with supporting affidavits attesting to specific instances of fraud, misrepresentation, or misconduct.

(d) The parties to the dispute resolution proceeding shall share equally in the payment of fees and expenses of the dispute resolution process, except that each party shall bear its legal fees and its expenses.

NOTE: Authority cited: Section 12811.5, Food and Agricultural Code.
Reference: Section 12811.5, Food and Agricultural Code.

6312. Noncompliance Notification.

Pursuant to Food and Agricultural Code section 12811.5(g), any notification to the Director of an applicant's failure to comply with its obligation under Food and Agricultural Code section 12811.5(a-d) shall be in writing and shall include, organized by the subsection and subparagraph below to which it is responsive:

- (a) Identification of the applicant and the product registration challenged, including:
- (1) Applicant name and address;
 - (2) Brand name and U.S. Environmental Protection Agency Registration Number of the product;
 - (1) Date of the Department's registration of the product; and
 - (4) Identification of each current and/or past Department data requirement for which you claim the applicant failed to submit a study or otherwise satisfy, and for which the applicant failed to make your company an offer to pay.

(b) With respect to the data for which the data owner claims the applicant failed to make an offer to pay.

- (c) No permit shall be required for antifouling paints or paints containing tributyltin.
- (d) No permit shall be required for restricted materials used only for experimental or research purposes when possessed or used, by or under the supervision of, research personnel from colleges and universities provided they are operating according to the current established policy of the college or university which covers experimental pesticide use.
- (e) No permit shall be required for restricted materials used according to a valid research authorization issued pursuant to section 6260.
- (f) A permit is not required of a licensed pesticide broker when possessing a pesticide designated as a restricted material for sale to a registrant, licensed pest control dealer, or another licensed pesticide broker in California.

NOTE: Authority cited: Sections 11456, 12976, 14005 and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, 14006.6, and 14015, Food and Agricultural Code.

6416. Groundwater Protection Restrictions.

- (a) A permit is required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is:
 - (1) applied in an agricultural, outdoor institutional, or outdoor industrial use within a runoff ground water protection area or in a leaching ground water protection area, or
 - (2) restricted for purposes other than ground water protection.
- (b) A permit is not required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is used in a pest eradication program approved by the Department of Food and Agriculture, unless the pesticide is also restricted for purposes other than ground water protection.
- (c) Notwithstanding the provisions of this article and Article 4, the chemicals listed in section 6800(a) may be applied for research or experimental purposes pursuant to a valid research authorization. The applicant must provide the location of the research or experimental site with the research authorization request. The exemptions found in section 6268 do not apply when a person wishes to use these chemicals for research or experimental purposes.

NOTE: Authority cited: Sections 11456, 12976, 13145, 14004.5, 14005, 14006, and 14102 Food and Agricultural Code.
Reference: Sections 11501, 13145, 13150, 14004.5, 14005, and 14006, Food and Agricultural Code.

6417. Research Authorization for Groundwater Protection List Chemicals.

NOTE: Authority cited: Sections 407, 12781, 12976, 13145, 14005 and 14006, Food and Agricultural Code.
Reference: Section 14006.6, Food and Agricultural Code.

Article 3. Permit System
Sections 6420-6444

6420. Permit Requirements.

(a) Permits for agricultural use of a restricted material shall be issued in the name of the operator of the property to be treated. The permittee or, when allowed by the commissioner, the permittee's authorized representative or licensed agricultural pest control adviser, shall sign the permit. The authorized representative or licensed agricultural pest control adviser shall provide the commissioner with written documentation from the permittee to act on his/her behalf.

(b) Permits for nonagricultural use of a restricted material may be issued in the name of the operator of the property to be treated or a pest control business. A permit issued to the operator of the property shall be signed by either the permittee or, when allowed by the commissioner, the permittee's authorized representative. The authorized representative shall provide the commissioner with written documentation from the permittee to act on his or her behalf. A permit issued to the pest control business shall be signed by the owner or a qualified applicator licensee or qualified applicator certificate holder responsible to supervise the operations of the pest control business.

(c) The permittee shall be responsible for compliance with all permit conditions.

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

6422. Permit Duration.

(a) Each permit issued for agricultural use of a restricted material shall be site and time specific. Pursuant to Food and Agricultural Code section 14007, any permit may be issued for a one-year period. Permits issued for perennial agricultural plantings, nonproduction agricultural sites, or nonagricultural sites may be issued for up to a three-year period. Permit applicants may apply for and obtain a permit for a shorter duration.

(b) A permit to use restricted materials shall be valid for the time specified unless sooner revoked or suspended.

NOTE: Authority cited: Sections 11456, 14005 and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006 and 14007, Food and Agricultural Code.

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 director.

(b) All information required for a written notice of intent shall be on forms either provided or approved by the director.

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