



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

May 18, 2007

EXECUTIVE OFFICE #07-01

TO: County Agricultural Commissioners

SUBJECT: STATE PREEMPTION OF RESTRICTIONS ON PESTICIDE USE IN
LAND USE PERMITS.

The Department of Pesticide Regulation has become aware of several instances where restrictions on pesticide use are being placed in local land use permits. Such restrictions are void and of no force or effect pursuant to Food & Agricultural Code section 11501.1. A copy of the statute is attached.

When this statute was passed, the Legislature clearly articulated its intent that "matters relating to [pesticides] are of statewide concern and are to be administered on a statewide basis, unless specific exceptions are made in state legislation for local administration." (Section 3, Chapter 1386, Statutes of 1984.) The language of the statute itself clearly reflects this intent by declaring that Divisions 6 and 7 of the Food & Agricultural Code "occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation." The statute goes on to provide that "no action by a local governmental agency or department . . . may prohibit or in any way attempt to regulate any matter relating to . . . the use of pesticides."

Please share this memorandum with your local planning agency if appropriate.

Sincerely,

Polly Frenkel
Chief Counsel
(916) 324-2666

Attachment

cc: Ms. Mary-Ann Warmerdam
Mr. Paul H. Gosselin
Mr. Jerry Campbell
Mr. Jim Shattuck



Food & Agricultural Code

11501.1. (a) This division and Division 7 (commencing with Section 12501) are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this **code**, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, and any of these ordinances, laws, or regulations are void and of no force or effect.

(b) If the director determines that an ordinance or regulation, on its face or in its application, is preempted by subdivision (a), the director shall notify the promulgating entity that it is preempted by state law. If the entity does not repeal its ordinance or regulation, the director shall maintain an action for declaratory relief to have the ordinance or regulation declared void and of no force or effect, and shall also bring an action to enjoin enforcement of the ordinance or regulation.

(c) Neither this division nor Division 7 (commencing with Section 12501) is a limitation on the authority of a state agency or department to enforce or administer any law that the agency or department is authorized or required to enforce or administer.

(d) At the request of any state agency disseminating information on the pesticidal uses of any product, the director shall consult with, and provide technical assistance to, that agency to ensure that the dissemination is based on valid scientific information and consistent with state law.