

Permits and Exemptions, Continued

Determination of undue hazard

The CAC's determination of "undue hazard" must describe the excessive or unwarranted hazard that results from the pesticide when used under a specific situation. The determination may apply to the entire county, a particular portion of the county, during particular times, or even the vicinity of the particularly sensitive areas. The statutes do not outline specific procedures for making the determination. However, it is recommended that public notice of the intention to require a permit and the basis be given and an opportunity for comment be provided. Consultation with county counsel may be considered. Mitigation measures or permit conditions should be issued with the permit, not designated in the actual determination.

Non-restricted permits and conditions

When a CAC issues a "permit" for a non-restricted pesticide, the permit is handled in the same manner as a restricted-materials permit, including the filing of a NOI prior to making applications of the non-restricted "permit" pesticide.

However, the act of issuing a "permit" for a non-restricted pesticide does not convert the non-restricted pesticide to a "restricted material" as defined in 3 CCR section 6400. This is an important distinction because it means that unless stated otherwise in the permit (for the non-restricted material), use of the material by or under the direct supervision of a certified applicator is not required.

If the CAC determines that a certified applicator is necessary to mitigate the undue hazard, he/she must specify the requirement(s) in the permit conditions (for the non-restricted pesticide). If desired, the CAC could make general restricted material requirements apply through a general condition that requires compliance with all laws and regulations applicable to "restricted materials."

Notification of action

Although approval by DPR is not required, CACs are requested to inform DPR of his/her determination, in writing, when requiring a permit for the agricultural use of a non-restricted pesticide. CACs who make a determination that a permit is required for a non-restricted pesticide must also inform pest control dealers and businesses of this requirement.
