

No.	Comment / Response	Commenter
1	<p>Comment period should be extended.</p> <p><i>DPR extended the public comment period for an additional 31 days beyond that required by regulation.</i></p>	1030, 1032, 1033, 1051, 1063, 1079, 1082
2	<p>Support the proposal to adopt the regulation to restrict pesticide sale and use of second generation anticoagulant rodenticides (SGARs).</p> <p><i>DPR agrees.</i></p>	Form letters 1-735; 736-802, 804, 805, 807-816, 818, 819, 821-865, 993-998, 1000-1004, 1007-1012, 1014-1020, 1084, 1088, 1092, 1093, 1111, 1118, Form letters HS1-HS13224; 13225-13995
3	<p>Support the proposal to adopt the regulation to restrict pesticide sale and use of SGARs or support to ban/eliminate rodenticides.</p> <p><i>DPR agrees with the restriction. DPR does not intend to ban SGARs at this time. The restricted materials designation will limit the purchase and use of SGARs to certified applicators and those under their direct supervision. DPR believes limiting the use of SGARs to trained applicators will reduce unintended exposures to nontarget wildlife. SGARs are only one of a number of tools that certified applicators may use for effective rodent control.</i></p>	886-891, 1119
4	<p>Ban SGARs and eliminate their use by both licensed and unlicensed applicators except in extreme emergencies. DPR would still have opportunity to rely upon SGARs under Section 18 of Federal Insecticide, Fungicide and Rodenticide Act. Given the availability of cost effective alternatives these super-toxic rodenticides must be banned in California.</p> <p><i>See response to comment no. 3. If after the implementation of DPR's proposed regulation, DPR continues to receive reports of nontarget wildlife being adversely impacted by SGARs, DPR will consider further regulatory action at that time.</i></p>	Form letters B1-B9297; 806, 817, 820, 892-916, 981, 1078, 1090, Postcards 1-57
5	<p>SGARs should be banned.</p> <p><i>See response to comment no. 3.</i></p>	917-971, 974-980, 982-992, 997, 999, 1005, 1021, 1022, 1023, 1025, 1026, 1027, 1028, 1029, 1115

6	<p>By continuing to allow certified applicators to use SGAR products, these active ingredients will continue to be present in the environment and affect nontarget wildlife as well as children and pets. Not only should consumer availability of the products be restricted, but consider prohibiting the purchase and use of all SGAR products in California by cancelling, refusing to register or renew registration of products that contain SGAR active ingredients.</p> <p><i>See response to comment no. 3.</i></p>	1021, 1022, 1024, 1025, 1078, 1090
7	<p>DPR should take additional steps, restricting all sales of SGARs. Even when applied by a licensed pest control operator within 50 feet of a human structure, SGARs pose an unacceptable risk to wildlife through secondary exposure.</p> <p><i>See response to comment no. 3.</i></p>	994, 995, 1022, 1090
8	<p>Disagree that requiring placement of bait boxes within 50 feet of a building will prevent or reduce wildlife deaths. Rodents travel far greater distances than 50 feet. How will DPR monitor whether this regulation is complied with?</p> <p><i>SGARs are intended to protect structures from commensal rodents. By reducing the baiting distance to 50 feet (unless there is a feature harboring or attracting the pest targeted then the distance is between the 50-foot limit and the placement limit specified on the label), the allowable amount of bait at the site decreases due to the smaller allowable perimeter around the structure. County agricultural commissioners (CACs) are the primary enforcement agents for state pesticide laws and regulations. As part of their duties, CACs regularly inspect and monitor the operations and records of pesticide applicators, including structural pest control businesses, to ensure compliance with label directions and pesticide laws and regulations.</i></p>	1025
9	<p>How is DPR going to make sure that large pot-growing operations in remote locations are not using these products, probably purchased from feed stores?</p> <p><i>Only a registrant, a licensed broker, or a licensed pesticide dealer can sell, offer to sell, or distribute a pesticide into the state (Food and Agricultural Code [FAC] sections 11407(d) and 12400). Restricted materials can only be sold by a licensed pesticide dealer. Therefore, pesticide dealers would be the only entities that can sell restricted materials (SGARs).</i></p> <p><i>Further, restricted materials can only be possessed or used by, or under the direct supervision of, a certified applicator (FAC section 14015), and, unless exempted, restricted materials for agricultural use</i></p>	1025

	<p><i>can only be possessed or used under a permit from the CAC (FAC sections 14006.5 and 14006.6(d)). Accordingly, pesticide dealers cannot sell a restricted material for agricultural use without obtaining a copy of the restricted materials permit issued by the local CAC. Only licensed structural pest control businesses (that must have certified applicators) are exempt from the permit requirement for use of a restricted material. Therefore, restricted materials can only be sold into or within the state by licensed dealers to persons who have a restricted materials permit for the use of that product or to licensed structural pest control businesses.</i></p>	
10	<p>A complete ban will allow easier and better enforcement of the regulations.</p> <p><i>The regulatory scheme to control the use of restricted materials is already in place and will effectively limit the entities that can distribute, sell, possess, and use SGARs. See response to comment nos. 3 and 9.</i></p>	995
11	<p>Additional mitigation measures should be adopted for SGAR use by licensed applicators: Allow use of SGARs only after non-poison alternatives have tried and failed; and require licensed applicators to inform customers of the dangers from SGARs to pets and nontarget wildlife before utilizing SGARs.</p> <p><i>As pest management professionals, certified applicators generally perform qualitative site assessments to determine how to effectively control the target species. Integrated pest management (IPM) strategies and non-pesticidal alternatives, including preventative techniques, are commonly used by the pest control industry.</i></p> <p><i>Prior to applying a pesticide, structural pest control companies are required to provide the owner or owner's agent and tenant of the premises where work is being done with clear written notice which contains the pest to be controlled, the pesticide proposed to be used, and the active ingredient and a warning that pesticides are toxic chemicals.</i></p>	993, 1016, 1017
12	<p>Support the proposal but education about the dangers of their use and the consequences must be addressed as well.</p> <p><i>The product label specifies environmental hazards associated with the product, including that the product is extremely toxic to mammals and birds and that dogs, cats, and other predatory and scavenging mammals and birds might be poisoned if they feed upon animals that have eaten the product. The product label also warns not to expose children, pets, or other nontarget animals to rodenticides.</i></p>	1007, 1010

	<p><i>In addition, DPR has contracted with a major non-profit wildlife rehabilitation organization in California. As a part of that contract, the organization will enhance its existing advocacy efforts regarding rodenticide exposure education and launch a campaign to educate veterinarians and their clients about the dangers of rodenticides to pets and wildlife.</i></p>	
<p>13</p>	<p>There are many other ways to control rodents, including pest management practices. Targeted public outreach campaigns to residents and businesses could go a long way to controlling rodents without toxics.</p> <p><i>DPR agrees. DPR has several outreach documents on IPM practices for controlling rats and mice that focus on prevention, and DPR conducts targeted outreach to school and child care personnel regarding IPM practices. DPR also has a grant program to fund projects that increase IPM adoption and implementation. In addition, the University of California Integrated Pest Management (UC IPM) Program works with county cooperative extension offices across California to help residents, growers, land managers, community leaders, and other professional pest managers prevent and solve pest problems with the least unintended impacts. UC IPM has in-depth information on how to identify and manage pests, such as rodents, using IPM practices.</i></p> <p><i>In addition, DPR has contracted with a major non-profit wildlife rehabilitation organization in California. As a part of that contract, the organization will enhance its existing advocacy efforts regarding rodenticide exposure education and launch a campaign to educate veterinarians and their clients about the dangers of rodenticides to pets and wildlife.</i></p>	<p>1008, 1009, 1090</p>
<p>14</p>	<p>Limit the use of SGARs to within 10 feet of structures and features deemed at risk to rodent impacts. Since above-ground outdoor baiting is intended to protect structures from rodent infestation, SGAR use should be focused where the most significant need for rodent control exists - in the area immediately around structures. Baiting further from those structures does not necessarily protect structures better than focusing on the area immediately around the structure.</p> <p><i>The 50-foot designation, unless there is a feature harboring or attracting the pest targeted then the distance is between the 50-foot limit and the placement limit specified on the label, allows for flexibility to account for rodent harborage areas and other areas attractive to rodents that may not be directly adjacent to the building.</i></p>	<p>1016</p>

15	<p>Licensed applicators cannot control human or wildlife behavior. Animals will not recognize the 50 foot limit, and what is to prevent someone from building a shed 50 feet from their house or barn, for the sole purpose of extending the regulatory limit on placement of the bait?</p> <p><i>The intent of reducing the baiting perimeter from the label maximum (typically 100 feet) to 50 feet from a man-made structure is to reduce the amount of bait being applied. A smaller allowable perimeter reduces the amount of bait that can be applied around the structure. Baiting beyond 50 feet from a man-made structure up to the maximum limit specified on the label is allowed if there is a feature associated with the site that is harboring or attracting the pest targeted on the label.</i></p> <p><i>A man-made structure is defined as being constructed in a manner so as to be vulnerable to commensal rodent invasions and/or to harboring or attracting rodent infestations. Examples of such structures are provided on the label. DPR believes it is unlikely someone would build an entire new structure just so they can apply more bait around the target structure.</i></p>	1026
16	<p>Tables on page 8 of the Initial Statement of Reasons (ISR) indicate that both consumers and certified applicators are major contributors to the problem. The Table on page 6 shows that bromadiolone, preferred by certified applicators, is causing major damage, even somewhat less than brodifacoum. Why only aim at a partial solution?</p> <p><i>The tables demonstrate that brodifacoum is the most commonly detected SGAR in nontarget wildlife samples (appearing in 94 percent of animals testing positive for SGARs) even though more pounds of bromadiolone have been sold than brodifacoum on an annual basis since 2002. Despite pounds of bromadiolone sold surpassing brodifacoum every year since 2002 (for example, by as much as 42 percent in 2009), bromadiolone only appeared in 51 percent of animals testing positive for SGARs. Unlike bromadiolone, brodifacoum is used primarily by noncertified applicators (approximately 92 percent in 2009-2011). In 2009-2011, d-Con loose pelleted consumer use products containing brodifacoum accounted for approximately 89 percent of brodifacoum sales. While consumers are the predominant user of brodifacoum, since 2000, certified applicators have favored using bromadiolone. Although noncertified applicators also use bromadiolone, certified applicators are estimated to account for more than half the bromadiolone sold on an annual basis. This suggests that brodifacoum used by consumers is being found in nontarget wildlife and that restricting all sizes and uses of SGARs furthers DPR's goal to protect nontarget wildlife by increasing the level of regulatory controls on pesticides that are a demonstrated hazard to nontarget wildlife.</i></p>	1029

17	<p>If SGARs are not banned completely, then the original January 2006 DPR recommendation that SGARs should be restricted to indoor structural use only should be reinstated. The stated argument against this is that food processing facilities require SGARs - then make the exception for food processing facilities.</p> <p><i>Other structures besides food processing facilities, such as restaurants and trash receptacles, are baited to form a protective outdoor barrier to prevent rodents from entering the structure. Pest control companies also prefer to bait around homes and other residential and institutional structures instead of inside the structure to prevent rodents from entering the structure in the first place and also to prevent rodents from dying inside the structure in inaccessible areas, which may attract flies and create odor and other nuisance problems.</i></p>	1029
18	<p>The observation from the experience of the United Kingdom (where only indoor use of brodifacoum is allowed) that secondary poisoning still occurs is inconclusive. How much poisoning would occur if outdoor use was allowed? Much more we suspect. Commonsense says that such a restriction must reduce the danger substantially, even if not completely. The restriction to within 50 feet of a structure is insufficient.</p> <p><i>The 50-foot restriction is a supplement to the restricted materials designation and is intended to reduce the amount of bait applied around a structure. The restricted materials designation is intended to reduce the hazards to nontarget wildlife associated with SGARs by limiting the use of SGARs to certified pesticide applicators. See response to comment no. 16.</i></p>	1029
19	<p>Urge you to reconsider the proposed rulemaking. Taking SGARs away from consumers who are trying to protect their homes will hurt low income families more than anyone else and will lower the standard of living in those neighborhoods that are already disadvantaged. If SGARs are banned, these families are not going to be able to afford to effectively deal with the problem. Health issues will rise and fester.</p> <p><i>Alternative, efficacious, and affordable rodenticide products are still available on the consumer market. As part of the registration process, DPR has evaluated the currently registered first-generation anticoagulant rodenticide (FGAR) and non-anticoagulant consumer-oriented products on the market and has determined these products are effective and not harmful to human health or the environment when used according to label directions. In addition, non-pesticidal alternatives, such as reusable snap traps, are also available to consumers at a low cost.</i></p> <p><i>The most cost-effective approach to managing commensal rodents is to prevent the rodents from entering the home in the first place. IPM is a very effective approach that can address pest problems while minimizing risks. IPM focuses on long-term prevention or suppression of pest problems through a</i></p>	1030, 1031, 1038, 1039, 1040, 1044, 1045, 1046, 1049, 1050, 1055, 1059, 1062, 1065, 1082

combination of techniques such as using non-chemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls, such as exclusion by sealing openings that permit rodents to enter the home. Pesticides are used only after careful monitoring indicates they are needed. Without proper sanitation, exclusion, and other rodent proofing measures to address the source of the problem, rodents will keep entering the home and will require homeowners to continuously spend resources on short-term solutions, such as rodenticides.

Additionally, included in the comments received from Reckitt-Benckiser (Exhibit 13) is a May 17, 2007 letter to the U.S. Environmental Protection Agency (U.S. EPA) from the Centers for Disease Control and Prevention (CDC), one of the major operating components of the U.S. Department of Health and Human Services. The letter, in part, stated the need to eliminate disease vectors, including rodents, is of great importance to CDC. In this letter, the CDC also specified that they "believe that tamper-resistant packaging of first generation anticoagulants is a reasonable method to both allow the use of rodenticides for private use and to take steps to ensure that children will be better protected from exposure...If a serious urban epidemic plague occurred in commensal rats and conditions seemed to warrant rodenticide use, ...we would almost undoubtedly recommend that rodenticide applications for plague control be done by professionals rather than the general public." In addition, regarding U.S. EPA's 2007 proposed risk mitigation decision to designate SGARs as restricted use pesticides, the CDC stated that they "concur that second generation anticoagulants should only be applied by a trained and licensed pest control operator." The CDC also stated that they believed that any economic disadvantages from removing SGARs from consumer use would be outweighed by the public health and environmental benefits.

For rental housing, the California Civil Code section 1941 states that when a landlord rents property to a tenant as a place to live, the property must be in a condition fit to occupy and must repair all subsequent dilapidations which render the dwelling untenable, meaning the areas under the control of the landlord must be kept clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin (Civil Code section 1941.1). The rental property owner or manager is responsible for ensuring that the property substantially complies with state and local building and health codes that materially affect tenants' health and safety. Substandard housing conditions affecting public health and safety that are not addressed by the property owner or manager should be referred to the department of public health in the county of residence.

20	<p>No significant evidence that SGARs hurt the wildlife from household use, particularly when the same anticoagulants are being used outdoors by professional applicators and for agricultural use.</p> <p><i>See response to comment no. 16. SGARs are not registered for agricultural field uses.</i></p>	1030, 1033, 1038, 1040, 1049, 1068
21	<p>Oppose to restricting consumer use of SGARs. SGARs are cost effective tool for resident and operators to reduce rodent populations, and when used properly, there is little threat to wildlife in the native habitats, pets, or children. There will be a financial burden on residents. Individuals might switch to more deadly forms of poisons without antidotes - risking lives of innocent children and pets.</p> <p><i>Efficacious and affordable alternatives to SGARs are available to consumers. These alternative consumer-sized rodenticides are required to be sold with a bait station in order to reduce direct exposure to children and pets. See response to comment nos. 16 and 19.</i></p>	1031, 1033, 1035, 1036, 1037, 1043, 1060, 1061, 1063, 1064, 1073
22	<p>Oppose the ban. Consumer use of SGARs should be exempt from this rulemaking.</p> <p><i>DPR is not banning SGARs. See response to comment nos. 16 and 19.</i></p>	1031, 1033, 1036, 1038, 1039, 1041, 1042, 1043, 1044, 1045, 1046, 1049, 1050, 1052, 1055, 1059, 1060, 1062, 1066
23	<p>Oppose the ban on rodenticides.</p> <p><i>DPR is not banning rodenticides. DPR is proposing to restrict the purchase and use of all SGARs to certified pesticide applicators and those under their direct supervision.</i></p>	803, 972, 1069-1072, 1083, 1108
24	<p>Oppose the implementation of the draft regulations. This would impose an unnecessary and unreasonable burden on business. Many residents, property managers and business owners depend on affordable and effective products. This could increase health issues and/or property damage.</p> <p><i>See response to comment no. 19.</i></p>	1032, 1035, 1037, 1041, 1042, 1044, 1046, 1047, 1048, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1060, 1061, 1065, 1066, 1073, 1082
25	<p>Proponents of this regulation complain about the effect on wildlife and nature. That is not and will not be an issue in our communities as we only use these products indoors.</p> <p><i>The use of SGARs indoors cannot guarantee that poisoned rodents stay indoors to die. Because anticoagulant rodenticide baits can take several days to produce a lethal effect, rodents may eat the bait and travel outside to die. SGARs are of particular concern because although they are designed to be lethal to a rodent after a single dose, the delayed mortality allows the rodent to feed on a SGAR multiple times before death, creating SGAR concentrations in the target rodent at a high enough level to impact a nontarget predator consuming the poisoned rodent. If access points are not properly sealed, rodents can exit the structure the same way they entered. Rats and mice can easily move through structural</i></p>	1047, 1048, 1054

	<p><i>voids, utility access points, and vents that connect to the outside of structures. Mice can readily move through gaps, cracks, and holes as small as one quarter of an inch in size.</i></p> <p><i>DPR is basing this proposed regulation its analysis of data presented in its June 27, 2013 memorandum, "SGAR Assessment" which was made available as a document relied upon in the rulemaking file. This assessment demonstrates that use of SGARs presents a hazard to nontarget wildlife. Secondary poisonings can still occur from uses in accordance with the label. Therefore, the intent of the proposed regulations is to reduce the hazard by limiting the purchase and use of SGARs to trained and certified pesticide applicators and those under their direct supervision. Certified applicators have the knowledge and skills to determine when the use of SGARs is necessary and how to minimize adverse impacts that may occur from their use. Also, see response to comment no. 16.</i></p>	
26	<p>DPR is basing this on assumptions about possible risks when these products are misused, and not on residential and small business use of the products by real people. Any exposure to people, pets, or domestic animals is controlled by how and where these products are used. Since safe consumer use of SGARs is labeled specifically for use in and around structures, the potential for wildlife contamination is extremely limited.</p> <p><i>See response to comment no. 25.</i></p>	1041, 1056, 1057
27	<p>The proposed ban does not hurt farmers, agricultural workers and professional pest control services that already use licensed applicators; unfairly puts the burden on general consumers without eliminating any proposed risk.</p> <p><i>See response to comment nos. 16 and 19. There are no SGARs registered for agricultural field use.</i></p>	1061
28	<p>While the proposal is not a ban and farmers that receive the necessary licensing can use SGARs on a going forward basis, it would essentially ban household and consumer use of these proven and widespread substances. DPR should reconsider the proposed ban.</p> <p><i>See response to comment nos. 16 and 19.</i></p>	1067
29	<p>DPR should wait until U.S. EPA's action on these products that are being challenged in the courts is resolved.</p> <p><i>DPR is taking action based on its own evaluation of impacts to California wildlife presented in the June 27, 2013 memorandum, "SGAR Assessment" to address the hazard they present. The U.S. EPA action is focused on SGAR products less than or equal to one pound. SGARs in larger package sizes are and will continue to be available even if the U.S. EPA's action is successful.</i></p>	1073

30	<p>DPR should perform a risk assessment in the interim on the potential impact of alternatives on wildlife.</p> <p><i>DPR has reviewed half-life and other properties of non-SGAR rodenticides. Based on the available information, SGARs have properties that are most conducive to contributing to secondary poisonings of wildlife.</i></p>	1073
31	<p>DPR should conduct an economic assessment on the impact of the potential ban on the State's businesses.</p> <p><i>DPR is not banning SGARs. DPR is proposing to restrict the purchase and use of all SGARs to certified pesticide applicators and those under their direct supervision. DPR did conduct an economic analysis based on the proposed regulation, and it was included in the rulemaking file.</i></p>	1073
32	<p>Do not restrict all SGARs under or within 10 feet of a rural residential premise. Continue allowing without restricting public use under or within 10 feet from residential dwellings, garages, or canopy storing autos or vehicles.</p> <p><i>DPR is not restricting the use of SGARs within 10 feet of a residence. DPR is prohibiting placement of aboveground SGAR baits more than 50 feet from a man-made structure unless there is a feature associated with the site that is harboring or attracting the pests targeted on the label between the 50-foot limit and the placement limit specified on the label. DPR is limiting the purchase and use of SGARs to certified applicators and those under their direct supervision.</i></p>	1074
33	<p>Support DPR's proposal. Amend your proposal to include natural control that is possible using cats.</p> <p><i>While DPR is not opposed to the use of cats, DPR is not amending its proposal to address the use of cats.</i></p>	1075
34	<p>If anticoagulants are outlawed, you will cause the deaths of a lot of dogs and children who may eat rodent bait because people will use the Vitamin D and bromethalin baits instead, for which there is no antidote. Plastic bait boxes are available to hide the bait but any dog with teeth can tear one apart.</p> <p><i>The use of anticoagulants is not being outlawed. SGARs can still be used by certified applicators in residential settings. Alternative, efficacious, and affordable rodenticide products are still available on the consumer market. As part of the registration process, DPR has evaluated the currently registered FGAR and non-anticoagulant consumer-oriented products on the market and has determined these products are effective and not harmful to human health or the environment when used according to label directions. Currently, all bromethalin products registered in California must be in child tamper-resistant bait boxes for indoor use, and in child and dog tamper-resistant and weather-resistant bait</i></p>	1076

	<p><i>boxes for outdoor use. Unlike the SGARs, over 90 percent of consumer-size bromethalin products registered in California contain bittering agents some believe deters accidental poisoning. In addition, non-pesticidal alternatives, such as reusable snap traps, are also available to consumers at a low cost.</i></p> <p><i>DPR will also continue to closely monitor any reports of adverse effects to humans, pets, and wildlife from use of all rodenticides including bromethalin. DPR's monitoring to protect children's health includes collection of pesticide illness reports from the Poison Control Centers, reports from county agricultural commissioners and county health officers, and adverse effects reports that registrants are legally required to submit. These reports are investigated by DPR staff to assure that any increases in adverse events are noted and addressed. To protect wildlife, DPR routinely analyzes data from the Department of Fish and Wildlife and from a contract with Wildcare, a wildlife rehabilitation organization. In addition, Wildcare is working with local veterinarians to collect and report data on pet poisonings. If DPR determines that bromethalin or other rodenticide products are also a hazard to human health or the environment when used according to label directions, DPR will consider taking appropriate regulatory action.</i></p>	
<p>35</p>	<p>This restriction should be limited to the local areas. Each habitat area should be able to decide on any restrictions for their areas of concern.</p> <p><i>DPR has determined that the impact of SGARs is a statewide concern. Individual counties may adopt more stringent permitting conditions or may deny permits to apply any restricted material.</i></p>	<p>1077</p>
<p>36</p>	<p>SGARs pose an unreasonable risk to children. Studies show that more than 70 percent of wildlife tested in California has been exposed to SGARS. Between 1999-2009, the American Poison Control Centers documented 160 severe domestic animal incidents each year and an average of 17,000 human rodenticide exposures each year, approximately 85 percent of which occurred in children younger than six.</p> <p><i>DPR's proposal is intended to address the hazard SGARs pose to nontarget wildlife by limiting the purchase and use of SGARs only to certified pesticide applicators and those under their direct supervision. Effective June 2011, U.S. EPA's Risk Mitigation Decision (RMD) for ten rodenticides, including the four SGARs, required tamper-resistant bait stations to be sold and used with the rodenticides to protect children and pets who may access the bait. DPR's pesticide illness investigation data back to 2009 shows only two exposures to SGARs that caused illness in a child, and that involved SGARs not in a bait box.</i></p>	<p>Form letters B1-B9292; 892-899, 901-908, 910-916, 920, 981-986, 1078, 1090</p>

37	<p>Support the rulemaking except for the use requirements in section 6471 should be eliminated. Licensed pest control operators are professionals and will use their best judgment in treating an infestation. In the majority of cases, pest control operators will treat within 50 feet of man-made structures but there are also many situations where treating is necessary beyond 50 feet but less than 100 feet. The language is subjective and can easily be interpreted differently by a professional pest control operator and an inspector thereby causing unnecessary conflict.</p> <p><i>Baiting beyond 50 feet requires a feature that is harboring or attracting rodents. Pest control operators are encouraged to communicate with their CAC office regarding any interpretation concerns.</i></p>	1080
38	<p>U.S. EPA's original risk mitigation decision had the 50-foot restriction. The pest control industry objected to this more than any other restrictions imposed by the risk mitigation decision. The pest control industry's strong objection to this limitation led to discussions with the U.S. EPA and ultimately resulted in U.S. EPA agreeing to revise the limitation to 100 feet. The 100-foot restriction is needed to provide pest control operators with the flexibility to conduct a successful treatment program.</p> <p><i>The pest control industry's concern with the 50-foot limitation was the inability to apply rodenticides around non-building structures, such as trash receptacles and food storage structures, that typically are located more than 50 feet from a building but are vulnerable to rodent invasions. U.S. EPA addressed this concern by changing the term "building" that was previously on the label to "man-made structure constructed in a manner so as to be vulnerable to commensal rodent invasions and/or to harboring or attracting rodent infestations." By changing the term "building" to "man-made structure," defined above, DPR believes the initial objections were adequately addressed. Further, the proposed rule allows use up to the 100-foot limit in certain instances. See response to comment no. 37.</i></p>	1080
39	<p>Further to comments 37 and 38, a 100-foot restriction would eliminate differences in interpretation between professional pest control operators and inspectors. This restriction is quantifiable and not subject to interpretation. As indicated, licensed pest control operators will use their best judgment.</p> <p><i>See response to comment no. 37.</i></p>	1080
40	<p>Since the label will still show a 100-foot restriction, there is room for confusion. There are numerous third parties that reference the label, namely distributors, dealers, auditors, manufacturers, those involved in advertising and promotions, and extension personnel etc. By not imposing a further restriction, this will eliminate the confusion between what the label says and what the law in California is with regard to the 50 feet versus 100 feet.</p> <p><i>Certified pest control applicators are responsible for knowing and complying with all state laws and regulations, including any state laws and regulations that are more stringent than the product label.</i></p>	1080

41	<p>The limitations proposed are not consistent with that of U.S. EPA, whereby the 100-foot limitation is allowed in all states. Related to comment 40, there are numerous pest management professionals, distributors, manufacturers, etc. that operate businesses in numerous states. The proposed restriction would add further confusion.</p> <p><i>See response to comment no. 40.</i></p>	1080
42	<p>The risk to nontarget, primary and secondary poisoning, is mitigated by U.S. EPA's mandatory requirement that bait stations are to be used for all above-ground applications.</p> <p><i>While bait stations address primary poisonings by limiting a nontarget animal's direct access to bait, bait stations do not address secondary poisonings. By limiting the use of SGARs to certified applicators, if SGAR use is deemed necessary, the amount and area of bait placements can be under the direct monitoring and control of a certified applicator.</i></p>	1080
43	<p>Comment reiterates that DPR data demonstrates that brodifacoum presents the greatest hazard related to persistent residues in target animals and resulting impacts to nontarget wildlife and data strongly suggests that brodifacoum use is strongly linked to non-licensed individuals.</p> <p><i>DPR agrees.</i></p>	1081
44	<p>Opposed to this regulation and questions its necessity and legality. If DPR proceeds to adopt it, at a minimum DPR should: (1) clarify that it intends to allow two years from the anticipated "delayed effective date" for sell through of existing stocks for such stocks to clear the channels of trade; (2) reassure distributors and retail dealers that they will not be subject to enforcement actions alleging the unlawful distribution of restricted materials during that period of time; and (3) provide that consumers and other users of consumer-sized SGAR-containing products purchased lawfully prior to and during the sell-through period may continue to use such products until quantities in their possession are depleted. The ISR does not address DPR's position on the legal status and potential disposition of existing stocks of SGARs that might remain in the hands of distributors and retail dealers following the effective date of the proposed regulation.</p> <p><i>DPR does not intend to provide a two-year, sell-through period following this proposed regulation's effective date. Under Government Code section 11343.4, a regulation becomes effective on a quarterly basis from the date it is filed with the Secretary of State, and therefore, DPR has determined it is not</i></p>	1085, 1086

	<i>necessary to delay the effective date. As restricted materials, SGARs may only be sold by licensed pesticide dealers and may only be purchased, possessed, and used in California by certified private applicators or certified commercial applicators. Accordingly, after this regulation goes into effect, it will be illegal for entities that are not licensed pesticide dealers to sell SGARs, and it will be illegal for non-certified persons to purchase, possesses, and use SGARs in California.</i>	
45	<p>We should not be introducing more restricted pesticides in California, but ban these extremely dangerous rodenticides that continue to endanger children, domestics pets, and wildlife all over California. There are safer, more effective ways to eradicate 98 percent of rodents. Regulating pesticides in California is a joint responsibility of the DPR Director and CACs. However, each CAC has full authority to override DPR recommendations on restricted pesticides, which has repeatedly occurred with CACs.</p> <p><i>DPR is not intending to ban SGARs at this time. Restricting SGARs would allow for the continued use of these rodenticides in specific situations when certified applicators determine their use is necessary. SGARs are only one of a number of tools that certified applicators may use for effective rodent control. DPR agrees that regulating pesticides in California is a joint responsibility between DPR and the CACs. CACs cannot override regulations, but have the authority to implement additional permit conditions or deny permits for restricted materials based on local conditions.</i></p>	1087
46	<p>Prohibiting placement of products containing SGARs more than 50 feet from a man-made structure may not adequately protect wildlife from secondary exposures through consumption of poisoned rodents. Nontarget wildlife may approach within 50 feet of human infrastructure. Additionally, because targeted small mammals can live for up to 10 days after lethal ingestion of anticoagulant rodenticides, they may wander beyond the 50-foot radius. The proposed regulations give certified applicators broad discretion to decide when a larger placement radius is needed.</p> <p><i>By limiting the use of SGARs to certified applicators, if SGAR use is deemed necessary, the amount and area of bait placements can be under the direct monitoring and control of a certified applicator. See response to comment no. 15.</i></p>	1088
47	<p>DPR should adopt additional use restrictions specifying that SGARs are to be used as a last resort with conditions for use falling under the following conditions:</p> <p>(1) A federal, state, or local public health agent discovers that a significant public health hazard exists, there is demonstrated local resistance to first generation anticoagulant rodenticides by the target species, and other, less-toxic measures have been implemented, including sanitation, trapping and structural reinforcement of human infrastructure.</p>	1088, 1095

	<p>(2) SGARs are found necessary to control, eradicate, or prevent the invasion of non-native species that pose significant harm to imperiled species or threaten ecosystem integrity of any island or designated mainland area, and other, feasible, less-toxic measures are unlikely to be effective. "Imperiled species" include protected, threatened or endangered species, or wildlife that are candidates for protection under federal or state endangered species laws.</p> <p><i>The intent of the restricted materials designation is to limit the use of SGARs to certified applicators who have the knowledge and skills to make informed decisions about which pesticides to use given the conditions of the pest problem. SGARs are only one of a number of tools that certified applicators may use for effective rodent control. Certified applicators are more likely to be aware of IPM strategies and non-pesticidal measures, such as prevention techniques, that are critical to long-term management of rodent problems. See response to comments nos. 3 and 11.</i></p> <p><i>If DPR determines that the restricted materials designation does not reduce the unintended impacts to nontarget wildlife, additional mitigation measures may be considered.</i></p>	
48	<p>Duration of SGAR use based on the determinations and findings in comment 47 shall not exceed one year.</p> <p><i>Before the purchase and use of a restricted material, a certified applicator (other than structural pest control operator) must obtain a permit from the CAC. Permits for nonproduction agriculture or nonagricultural sites may be issued for up to a three-year period. The CAC may revoke or suspend a permit at any time.</i></p>	1095
49	<p>Applicators, including those businesses conducting residential, industrial, structural, and other non-agricultural applications, shall identify locations where SGARs are used by specific coordinates to be included in standard pesticide use reports.</p> <p><i>This is outside the scope of the proposed regulations and would require modifications to the pesticide use reporting requirements.</i></p>	1088, 1095
50	<p>DPR should work with Department of Fish and Wildlife to rapidly develop and implement an incident reporting system for nontarget animal poisonings.</p> <p><i>DPR is currently coordinating with the Department of Fish and Wildlife on reports of wildlife incidents. DPR has a contract with Wildcare, a wildlife rehabilitation organization, to track incidents related to</i></p>	1088, 1095

	<i>rodenticide poisonings. Registrants are also under a legal obligation to report any adverse effects to the department (FAC section 12825.5 and Title 3, California Code of Regulations [3 CCR] section 6210).</i>	
51	<p>The ISR seems to conflict with the text of proposed regulation. "Additionally, DPR proposes to adopt section 6471 to add further use restrictions on brodifacoum, bromadiolone, difenacoum, and difethialone... If a certified applicator has evidence to indicate that a bait placement needs to occur beyond 50 feet due to evidence of rodent harborage or attraction, the certified applicator may make the necessary bait placement." It appears the rice mills would have some flexibility in placement of the bait from man-made structures.</p> <p><i>DPR disagrees that the ISR conflicts with the text of the proposed regulations. Rice mills would have flexibility placing their bait beyond 50 feet up to the label limit as long as there is a feature that is harboring or attracting the pest.</i></p>	1089
52	<p>The proposed regulation could provide an example--"<i>In milling facilities handling rice, the bait placement for the first line of defense may be a fence or natural barrier at a distance of more than 50 feet.</i>" Food companies use a three-ring defense system for rodent control. The first line of defense is perimeter fence line bait usually spaced 50 to 100 feet apart, and located along the property line, which can be man-made (i.e. fencing) or natural (i.e. berms). Some areas of the perimeter fence are often farther than 50 feet from the facility. Losing the first ring of defense would actually increase the amount of bait being used. In regards to food safety, the mills must prioritize efforts to minimize the risk of potential human food contamination by these compounds.</p> <p><i>Baiting can occur beyond 50 feet as long as there is a feature associated with the site that is harboring or attracting the pest. The unique circumstances of each case will determine whether or not there is a feature that acts as a harborage. Generally speaking, the farther out the "ring" of rodenticide is placed, the more will be used.</i></p>	1089
53	<p>SGARs pose an unreasonable risk to pets and domestic animals as well. Between 1999 and 2009, data indicate that rodenticides caused about 160 severe (death or major effect) domestic animal incidents each year, which U.S. EPA believes is a significant underestimate. More than 100 pets needlessly die each year due to rodenticide exposure.</p> <p>SGARs also pose an unreasonable risk to wildlife. U.S. EPA's ecological incident report documents anticoagulant residues in 27 avian species and 17 mammalian species. Poisonings and deaths in California</p>	1090

	<p>have been documented in numerous species such as eagles, hawks, falcons, owls, bobcats, mountain lions, and even the imperiled San Joaquin kit fox and northern spotted owl. The problem is so severe that 73 percent of wildlife tested in California had been exposed to super-toxic rat poisons.</p> <p><i>See response to comment no. 36. Because of the documented impacts to wildlife, DPR is proposing to designate all SGARs as restricted materials for use only by certified applicators and individuals under their direct supervision. Only licensed pesticide dealers would be able to sell these products to certified applicators.</i></p>	
54	<p>A range of viable, cost-effective alternatives exist that can address the threat posed by rodent infestations. Integrated pest management strategies prevent infestations by sealing buildings and eliminating food and water sources, and are a necessary first step. Lethal rodent control strategies that involve snap traps, electric traps, and other non-toxic methods can then be implemented to address any infestations. Several types of less toxic rodenticides are available as well.</p> <p><i>DPR agrees.</i></p>	Form letters B1-B9297; 892-895, 897-909, 911-916, 920, 981-986,1090
55	<p>While the intent of the proposed changes is to minimize the potential adverse effects on SGARs on domestic pets, children, and wildlife, it's unlikely these restrictions will achieve the desired outcome. An example of a lack of sound science was the statement made in a memorandum to the Pesticide Registration Branch dated June 27, 2013 that "the data also show that exposure of wildlife to second generation anticoagulant rodenticides can lead to sub-lethal effects." There is no basis for this statement and it is absolutely misleading.</p> <p><i>The purpose of the proposed regulation is to protect nontarget wildlife. DPR's June 27, 2013 memorandum, "SGAR Assessment" contains several study citations that indicate sub-lethal exposure to anticoagulants is correlated with diseases such as mange or receiving trauma. DPR's assessment cites evidence showing that rodenticide-induced blood loss increased animal vulnerability to the proximate cause of death (e.g., automobile strike, predation, or disease).</i></p>	1091
56	<p>There is likely to be an increased risk of morbidity and mortality to pets due to increased use of non-anticoagulant rodenticides for which no specific antidotes exist and which treatment is more complicated and costly. The proposed mitigation measures appear to be extreme given current data gaps and potential problems associated with the use of alternative non-anticoagulant rodenticides. It would seem that one or more pilot studies could have been conducted in geographically restricted environments to better assess the impact of various and less severe mitigation.</p> <p><i>These alternative consumer-sized rodenticides are required to be sold with a bait station in order to</i></p>	1091

	<p><i>reduce direct exposure to children and pets. As part of the registration process, DPR has evaluated the currently registered FGAR and non-anticoagulant consumer-oriented products on the market and has determined these products are effective and not harmful to human health or the environment when used according to label directions.</i></p> <p><i>DPR believes the level of mitigation is appropriate given the concerns about the hazards to nontarget wildlife associated with SGARs and the widespread use of SGARs by noncertified applicators.</i></p> <p><i>Also see response to comment no. 100.</i></p>	
57	<p>"In accordance with FAC section 14015, restricted materials can only be possessed or used by, or under the direct supervision of, a certified private applicator or a certified commercial applicator." The difficulty here is how "under the direct supervision" is defined. If the supervisor can be a "phone call" away, the "direct supervision" aspect becomes essentially moot.</p> <p><i>3 CCR section 6406 states that the certified applicator responsible for this supervision shall be aware of the conditions at the site of application and be available to direct and control the manner in which applications are made by the noncertified applicator. In the case of structural pest control, the operator or field representative must provide direct supervision "in presence of" for the first 30 days for uncertified structural applicators. On the 31st day, direct supervision is defined by 3 CCR section 6406.</i></p>	1094, 1121
58	<p>Ensuring that outdoor targeted poisoned rodents are located and properly disposed of, especially in areas with much vegetation, is an impossible task. Would it not be better to ban SGARs altogether from the outdoor environment?</p> <p><i>Proper disposal for all poisoned rodents may not be possible, but limiting the use of SGARs to certified applicators is intended to offer more accountability when SGARs are applied, including monitoring of the site.</i></p>	1094
59	<p>"In contrast to noncertified residential, institutional, or industrial users, certified applicators are more likely to implement integrated pest management strategies and use non-pesticidal measures, especially preventative strategies, before resorting to pesticides." This strategy is the ideal, but what independent data are available that indicate that this is the actual practice?</p> <p><i>Certified applicators are required to take continuing education courses. IPM strategies are covered in both the certification examination process and continuing education courses attended by certificate holders and licensees. Structural pest control operators are required to obtain two hours of continuing education in IPM during their license renewal cycle. CACs, when evaluating a restricted materials</i></p>	1094

	<i>permit, consider if there is a feasible alternative, including the alternative of no pesticide application, or other feasible mitigation measures. The CAC can condition the permit by adding additional use restrictions to address that county's specific nontarget wildlife exposure risks and that county's unique local conditions (3 CCR section 6432).</i>	
60	<p>Amending the definition of "private applicator" to adopt the definition of "agricultural commodity" found in 40 CFR 171.2(5) will provide livestock, poultry, and fish producers the option of obtaining a private applicator certificate instead of a DPR-issued qualified applicator certificate or license, to use these products around structures involved in their operations. Will this involve the same criteria for knowledge required of certified applicators? Will application of SGARs require direct line-of-sight supervision? If not, the risks to nontarget species are likely to increase.</p> <p><i>Yes, a private applicator must be certified by the CAC. Certification is accomplished through a written examination process designed to evaluate the knowledge and abilities of a private applicator. To become certified, a private applicator must demonstrate competency to use and supervise the use of restricted use pesticides and restricted materials properly and safely, by passing the written examination with a minimum score of 70 percent. See response to comment no. 57.</i></p>	1094
61	<p>Further use restrictions are added by prohibiting the placement of aboveground baits more than 50 feet from a man-made structure unless there is a feature associated with the site that is harboring or attracting the pests targeted on the label between the 50-foot limit and the placement limit specified on the label. Would this be in tamper-resistant bait stations that are anchored to the ground or an immovable object?</p> <p><i>Current labeling requires the use of tamper-resistant bait stations for all outdoor uses if children, pets, nontarget mammals, or birds may access the bait. The label also states that if bait can be shaken from the station when lifted, units must be secured or otherwise immobilized.</i></p>	1094
62	<p>Restrict the distance proposed in section 6471 to 25 feet or to ONLY indoor applications in order to best contain the perimeter of risk to nontarget species, especially wildlife. If the long-term goal is to de-emphasize pesticidal approaches, further restrictions as suggested would thus emphasize alternative interventions. Logically, if a man-made structure is to be protected, physical exclusion is likely to be more successful and sustainable than any rodenticide-dependent approach.</p> <p><i>See response to comment nos. 14 and 17. DPR agrees that physical exclusion is a critical component of preventing rodent problems.</i></p>	1094

63	<p>"DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California." Some new employment could be stimulated if IPM strategies are highlighted. IPM can require a considerably different skill set than one might find in the average pest control technician.</p> <p><i>Although it is possible new businesses could be created, DPR's analysis is based on assumptions that many pest control companies already incorporate IPM practices. See response to comment no. 59.</i></p>	1094
64	<p>Questions remain about whether limiting rodenticide use to certified applicators and eliminating consumer use will significantly reduce the risk of wildlife poisonings. The licensing process, while imposing additional formalities, is not unduly burdensome from a financial perspective, DPR estimated that businesses that use SGARs such as agricultural operations or food-handling establishments may face minor additional costs associated with hiring a pest control business or having the owner/employee become a certified applicator. Many businesses and individuals could likely continue to use SGARs after obtaining the necessary certifications. Operators of both legal and illegal marijuana growing operations could obtain certification, which would allow continued use of SGARs in rural areas with proximity to wildlife.</p> <p><i>See response to comment no. 9. SGARs are not labeled for agricultural field uses and can only be used in and within 50 feet of a building, unless there is a feature associated with the site that is harboring or attracting the pest to justify baiting beyond 50 feet up to a maximum of 100 feet. CACs could not issue a permit for use around a marijuana field.</i></p>	1095
65	<p>DPR contemplates that after the new regulations are implemented, only certified applicators will be able to purchase and use restricted materials. However, the regulations currently allow permit holders to also access restricted use materials. DPR needs to further clarify whether its proposed regulations will leave open the possibility that permit holders without the licensed applicator certification can access restricted use materials.</p> <p><i>With certain exceptions, restricted materials may be purchased and used only by, or under the direct supervision of, a certified commercial or private applicator and with a permit from the CAC. Prior to sale or delivery, a pesticide dealer must obtain documentation from the purchaser that they are a certified applicator. Also, pesticide dealers cannot sell a restricted material without obtaining a copy of the permit when required. Only licensed structural pest control businesses (that must have certified applicators) are exempt from the permit requirement for use of a restricted material. Therefore,</i></p>	1095

	<i>restricted materials can only be sold into or within the state by licensed pesticide dealers to certified commercial or private applicators who have a restricted materials permit for the use of that product or to licensed structural pest control businesses.</i>	
66	<p>Designating SGARs as restricted use materials will likely not reduce the amount of SGARs applied by licensed applicators. It will likely increase the amounts used by licensed applicators, as some consumers will choose to hire licensed applicators who will still be able to apply SGARs.</p> <p><i>DPR does not believe this proposal will increase the use of SGARs. For example, an analysis of sales and use data indicates that consumers were the predominant users of brodifacoum, which is the SGAR most commonly detected in nontarget wildlife. Consumers will most likely shift to alternative rodenticides available on the retail market rather than hire a certified applicator solely to continue applying SGARs. Certified applicators have many rodenticide options available in addition to SGARs.</i></p>	1095
67	<p>Expanding the "private applicator" license definition will allow producers of livestock, poultry and fish to qualify for the "certified private applicator." Allowing agricultural operations to apply for "private applicator" certification will greatly expand the pool of those authorized to use restricted materials, and will lead to an increase in pesticide use, and a corresponding increased risk of improper uses and wildlife poisoning.</p> <p><i>SGARs are only one of many options to control rodents. To become certified, a private applicator must demonstrate competency to use and supervise the use of restricted materials properly and safely, and must pass a written examination with a minimum score of 70 percent. Renewal of the certification requires completion of continuing education hours. Further, no increased pesticide use is likely to occur, as these operations can currently use these pesticides without restriction. The proposed regulation will require those users to either choose to be licensed to have more knowledge and understanding of appropriate use, or to use another pesticide that does not pose the same risks to wildlife.</i></p>	1095
68	<p>Proposed section 6471 does not adequately protect wildlife from secondary exposures through consumption of poisoned rodents. There is little practical difference between a 50 foot and 100 foot placement limit in protecting wildlife from certain species of poisoned rodents. Certified applicators will be given broad discretion to decide when a placement radius of more than 50 feet is needed. There is no justification on how the proposed placement limitation serves to protect wildlife, and does not provide sufficient assurance that certified applicators will take necessary measures to protect wildlife.</p> <p><i>See response comment nos. 8 and 15.</i></p>	1095

69	<p>Please investigate completely before "restricting" all rodent rodenticides.</p> <p><i>This proposal is not restricting all rodenticides, just SGARs. This decision was based on an evaluation of extensive wildlife incident and mortality data presented in DPR's June 27, 2013 memorandum, "SGAR Assessment."</i></p>	1097
70	<p>Who are those in favor of making these rodenticides restricted use products? Who are not in favor?</p> <p><i>This comment is not relevant to the proposed rulemaking. However, the commentor can submit a public records request to review the approximately 24,500 unique comments received on this rulemaking proposal.</i></p>	1098
71	<p>There is nothing regarding alternative measures of rodent pest control in any of these documents. It seems that a ban on end-user rodenticides is proposed without studying how to control rodents without the use of rodenticides. Prior to restrictions, alternative measures of control should be studied by a completely independent non-partisan organization, and have them compared to rodenticides.</p> <p><i>DPR is not banning rodenticides. There are many rodenticide products still available on the consumer market, including FGARs and non-anticoagulants. The rulemaking documents address the availability of SGAR alternatives as well as the use of IPM, including non-pesticidal strategies. Information on alternative measures of pest control and prevention techniques is readily available on the internet. For example, the UC IPM has extensive information on alternatives to rodenticides.</i></p>	1104, 1120
72	<p>Would this include banning the kind of little blue pellets in the yellow cardboard carton found in the hardware store for mice?</p> <p><i>It is unclear as to what rodenticide product the commenter is referring. This proposal designates all SGARs containing brodifacoum, bromadiolone, difenacoum, and difethialone as California restricted materials. Once SGARs are restricted, they will no longer be available to purchase at hardware stores or other retail stores unless the business obtains a pesticide dealers license, and the purchaser is a certified applicator.</i></p>	1106
73	<p>Will your proposed changes to the sale of rodenticides restrict homeowners from retail purchase of amounts of rodenticides in reasonable quantities for household use?</p> <p><i>Homeowners would still be able to purchase "consumer-size" FGARs and non-anticoagulant rodenticides at the retail level.</i></p>	1107

74	<p>Is there any science behind this?</p> <p><i>DPR evaluated an extensive amount of wildlife incident and mortality data and presented the results in the June 27, 2013 memorandum, "SGAR Assessment." This assessment was formally peer-reviewed by an external panel of scientific experts from across the U.S. The peer reviews were included in the rulemaking file as "documents relied upon."</i></p>	1110
75	<p>This proposal addresses two issues: insecticides that may affect ground water; and rodenticides that affect wildlife. These are two separate issues that should be dealt with separately.</p> <p><i>This rulemaking addresses SGAR rodenticides. The proposal does not address insecticides affecting groundwater.</i></p>	1112
76	<p>DPR should amend this proposal by adopting language consistent with the U.S. EPA's 2008 "Risk Mitigation Decision for Ten Rodenticides" which states that the restrictions: <i>Do not impact island conservation uses of rodenticides. These uses are important in preventing the extinction of native plant and animal species due to rat (or mouse) predation, and in restoring larger and more diverse island ecosystems.</i></p> <p><i>DPR's proposed regulations do not impact SGARs approved by U.S. EPA for use by or in cooperation with government conservation agencies for eradication programs on federally-owned land. There are currently no island conservation uses of SGARs registered in California.</i></p>	1019
77	<p>Support the ban on SGARs. <i>Raticator</i> is an alternative to eliminate rats and mice.</p> <p><i>DPR is designating SGARs as restricting materials and not banning SGARs. Raticator is a not pesticide that is subject to DPR's registration of pesticide products, but alternatively is a pest control device. DPR does not promote the use of specific products.</i></p>	1013
78	<p>Stop pesticides now.</p> <p><i>Comment not relevant to the proposed regulations. No response necessary.</i></p>	1099
79	<p>More regulations are the last thing California needs.</p> <p><i>Comment not relevant to the proposed regulations. No response necessary.</i></p>	1100
80	<p>Please pay as much attention to experts' opinions as business interest.</p> <p><i>Comment not relevant to the proposed regulations. No response necessary.</i></p>	1101

81	I would strongly urge you to curb pesticide use due to the known and unknown detriment it causes to our society. <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1102
82	Wish DPR and the state assembly were as concerned about protecting jobs in California as you are about protecting wildlife. <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1103
83	Who is going to catch all the rodents and rats that will repopulate and over run some of these communities? <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1105
84	Humankind has lived quite happily and healthfully for millennia without the use of chemical pesticides. <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1109
85	I am totally opposed to this practice. <i>Comment is unclear; no response necessary.</i>	1113
86	This is enough pollution, chemicals, toxins, pesticides, carbons and chemical trails without adding to them. <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1114
87	Comment is indiscernible. <i>No response necessary.</i>	1116
88	The anti-rodenticide law will be just one more hidden government failure. <i>Comment not relevant to the proposed regulations. No response necessary.</i>	1117
89	In support of the proposed regulation, documents relied upon were made public for the first time on or about July 19, 2013, including many of the underlying reports on which DPR relied. Also, DPR's economic analysis was not made available to Reckitt until August 8, 2013. Requesting an extension of 60 days is consistent with the purposes of the Administrative Procedure Act. <i>Upon request, documents relied upon were sent electronically on July 19, 2013. DPR inadvertently sent a duplicate file of the cover memorandum for the economic analysis instead of the actual economic analysis itself. However, DPR was not notified until August 6, 2013, that the economic analysis was not</i>	1079

	<i>included in the email transmission. Upon receiving notification, DPR sent an electronic copy to the requestor. On August 14, 2013, DPR issued a notice extending the comment period to October 4, 2013, and also published the notice in the August 23, 2013 issue of the California Regulatory Notice Register.</i>	
90	<p>DPR has failed to demonstrate with substantial evidence that the proposed regulation protects public health and provides for the proper, safe, and efficient use of rodenticides by consumers and small businesses, and has ignored the potential negative consequences of prohibiting consumer uses of such SGAR products.</p> <p><i>The purpose of the proposed regulation is to protect nontarget wildlife. DPR's June 27, 2013 "SGAR Assessment" presents substantial evidence that SGARs are a hazard to the environment, specifically to nontarget wildlife that consumes target animals containing persistent SGAR residues. Therefore, DPR has presented substantial evidence that SGARs meet the criteria for listing a pesticide as a restricted material and this listing carries out the purpose of this proposed regulation.</i></p> <p><i>Efficacious pesticidal and non-pesticidal alternatives to SGARs are available to consumers. See response to comment no. 19.</i></p>	1096
91	<p>DPR's ISR, "White Paper," and the Economic Impact Assessment do not address the various impacts on public health that rodents present to society, and in particular to persons living in high density dwellings and in economically disadvantaged communities.</p> <p><i>DPR's documents address the fact that rodents are public health pests. However, the purpose of these documents was not to provide a detailed assessment of the well-known health and economic impacts that rodents present to society, but rather to document how the use of a certain class of rodenticides, SGARs, constitute a hazard to nontarget wildlife. Alternative and efficacious alternatives to SGARs are available to consumers. See response to comment no. 19.</i></p>	1096
92	<p>DPR's proposal will have significant impact on small businesses. Do-it-yourself (DIY) rodent control will be forced to rely on the remaining unrestricted consumer-use rodenticides such as the neurotoxin bromethalin, and FGARs, which numerous studies have shown to be less effective at rodent control than SGARs. Business establishments that continue to use DIY pest control could face a significant increase in rodent populations. DPR's cost estimates do not include any assessment of the public health impacts.</p> <p><i>Efficacious alternatives, both pesticidal and non-pesticidal, to SGARs are available to consumers and other noncertified applicators. See response to comment no. 19. Businesses that prefer to use SGARs instead of the alternative rodenticides currently available on the consumer market have the option of either obtaining a qualified applicator certificate (QAC) or hiring a pest control company to perform the pest control work.</i></p>	1096

93	<p>DPR has overstated the risk to wildlife from consumer uses of SGARs and has failed to demonstrate that consumer use of SGARs contribute significantly to wildlife risk. The White Paper is a hazard assessment rather than a risk assessment. DPR should assess actual risk by analyzing toxicity and exposure to evaluate and characterize what is probable rather than what is possible.</p> <p><i>DPR is not required to conduct a risk assessment to designate a pesticide as a restricted material. DPR may designate a pesticide as a restricted material for use by certified applicators based on the pesticide being a hazard to the environment (FAC section 14004.5). DPR's June 27, 2013 memorandum, "SGAR Assessment," presents substantial evidence demonstrating that SGARs present a hazard to nontarget wildlife from exposure to persistent SGAR residues in target animals-- regardless of the use pattern. The purpose of the restricted materials program is to ensure that a pesticide determined to be hazardous is not available for sale and use by the general public.</i></p> <p><i>DPR is not required to present substantial evidence that SGARs sold for a specific use in a specific package size harm nontarget wildlife, because DPR is proposing to restrict SGARs generally. Additionally, sales and use data available to DPR suggest that brodifacoum targeted specifically for consumer-use products is being found in nontarget wildlife.</i></p> <p><i>See response to comment no. 16.</i></p>	1096
94	<p>DPR acknowledges that "The document is an assessment of available data, not a complete risk assessment," and that "DPR does not conduct deterministic or probabilistic risk assessments." This statement is an admission that DPR lacks substantial evidence to demonstrate that this proposed regulation is necessary to carry out one of its purposes: protecting nontarget wildlife.</p> <p><i>DPR has the authority to designate a pesticide as a restricted material if there is a hazard to the environment. DPR's June 27, 2013 memorandum, "SGAR Assessment" presents substantial evidence that SGARs present a hazard to the environment, specifically to nontarget wildlife. Determining that a pesticide poses a hazard to the environment does not require DPR to complete a deterministic or probabilistic risk assessment. In other words, DPR is not required to determine the probability that an animal will die from exposure to SGARs or that SGARs pose a greater risk to nontarget wildlife than other anthropogenic factors. To designate SGARs as a restricted material, DPR only must find that SGARs pose a hazard to the environment (FAC section 14004.5).</i></p>	1096

95	<p>California EPA has specific guidance that governs how assessments should be conducted to determine the risks of contaminants in the environment. That guidance follows the U.S. EPA's approach as "an appropriate scientific process for conducting and evaluating ecological risk assessments." These guidance documents requiring evaluating "co-occurrence" of the chemicals and wildlife (i.e., the 'stressors' and 'receptors') as a "critical" aspect of exposure analysis. DPR did not follow this guidance in the White Paper, and the DPR needs to revise its risk assessment consistent with this guidance before it completes this rulemaking action.</p> <p><i>See response to comment no. 94.</i></p>	1096
96	<p>DPR only has documented evidence of a handful of wildlife fatalities per year that were definitely or likely attributable to SGAR exposure, and has not attributed these exposures to indoor rodent control efforts by consumers, thus failing to demonstrate with substantial evidence the necessity for this proposed regulation insofar as it would designate small quantity indoor use only SGARs as restricted materials.</p> <p><i>See response to comment nos. 25 and 93.</i></p>	1096
97	<p>DPR improperly conflates liver residue concentrations with lethal concentration values. The White Paper provides an analysis of SGARs residues in the livers of nontarget wildlife and describes, among other things, the number of samples where the concentration of SGARs found in livers exceeded the lethal doses (LD₅₀) for each ingredient. The relationship between liver residues and acute oral lethal doses is not documented, and there is no basis to conclude what level of SGAR found in liver residues constitutes a fatal level.</p> <p><i>LD₅₀s, the lethal dose expected to kill 50 percent of animals tested, are scientifically established numbers that are available for all rodenticides. They are used to determine the descriptive toxicity and, in part, to determine the labeling requirements. In DPR's June 27, 2013 memorandum "SGAR Assessment," the LD₅₀s were used to demonstrate the descriptive toxicities and determine the number of animals that tested above the LD₅₀, but were not used to determine how many animals died due to rodenticide exposure. The animals that had residues were also examined and necropsies were used to establish the likely cause of mortality and the number and percent of animals that likely died due to each rodenticide.</i></p>	1096
98	<p>DPR does not demonstrate impacts to wildlife populations. DPR provides no evidence that SGARs are posing a threat to any populations of wildlife species, including protected species.</p> <p><i>DPR's June 27, 2013 memorandum "SGAR Assessment" included information on the half-lives of the rodenticides, as well as LD₅₀s for the most sensitive animals. DPR provided the data in terms of the</i></p>	1096

	<p><i>percentage of animals with residues, the percentage of animals with residues above the LD₅₀s of sensitive species, and the percentage of animals that likely died due to exposure to rodenticides. While the assessment did not include impacts on the overall populations of various species including protected species, the data support DPR's conclusion that SGARs present a hazard related to persistent residues in target animals resulting in impacts to nontarget wildlife.</i></p>	
<p>99</p>	<p>DPR asserts that the Endangered Species Act, the Migratory Bird Treaty Act, and the California Fish and Game Code confer liability based on the death of a single animal, rendering a finding of population impacts unnecessary. This argument is inapt. DPR is not, in this regulatory proposal, alleging liability under these statutes against any individual or individuals. There is no legal basis to assert liability under these statutes for the behavior being regulated here: consumer application of small quantity packages containing SGARs in residential settings that lead to accidental secondary poisoning of wildlife.</p> <p><i>DPR is designating SGARs as restricted materials because SGARs are a hazard to the environment, specifically to nontarget wildlife. DPR is not required to determine the impact of SGARs to overall wildlife populations or on a wildlife population's future viability. Rather, under FAC section 14004.5, DPR only must find that SGARs are a hazard to the environment. DPR's June 27, 2013 memorandum, "SGAR Assessment" presents substantial evidence to support this conclusion. In addition, DPR does not enforce the Endangered Species Act, the Migratory Bird Treaty Act, or the California Fish and Game Code. Therefore, any assertion that a consumer applying SGARs in a residential setting will be liable under these statutes is immaterial to this proposed regulation.</i></p>	<p>1096</p>
<p>100</p>	<p>DPR has failed to demonstrate with substantial evidence that the proposed regulation protects wildlife from exposures to alternative rodenticides that are not proposed for restricted materials classification such as the potent neurotoxin bromethalin, and FGARs, which are likely to be used excessively in the environment due to their reduced effectiveness.</p> <p><i>The purpose of the proposed regulation is to reduce the impact of SGARs on nontarget wildlife. DPR is not required to provide substantial evidence that this proposed regulation protects wildlife from bromethalin, FGARs, or any other rodenticide product because DPR is not proposing to designate these other rodenticides as restricted materials. In the future, if use of these other rodenticide products is found to pose a hazard to wildlife, DPR will then evaluate whether these other rodenticides should be designated as restricted materials. Any speculation regarding future use of other rodenticides and other rodenticides' impact on the environment is speculative and inapplicable to this proposed regulation. Further, bromethalin and FGARs do not present the same concern to nontarget wildlife as repetitive</i></p>	<p>1096</p>

	<p><i>exposures to SGARs. Bromethalin is not an anticoagulant and FGARs are designed to require multiple doses to produce a lethal effect. SGARs are intended to produce a lethal effect after a single dose. However, the delay between the time of the target pest's initial feeding of a SGAR and the actual mortality from the initial feeding of a lethal dose allows the target pest to keep feeding on the SGARs during this period, resulting in target pests containing concentrations of SGARs well beyond a lethal dose. The accumulation of SGARs well beyond a lethal dose in a target pest presents a hazard to nontarget wildlife that prey on the target pest.</i></p>	
101	<p>DPR should evaluate the comparative risks of bromethalin, as well as all alternative products that will be available to consumers, before it can reasonably conclude that there is substantial evidence of the necessity for classifying small quantity packages of SGARs that are labeled for indoor use only as restricted materials. At present, with no comparative risk analysis for replacement products, the Department can reach no such conclusion.</p> <p><i>To designate SGARs as restricted materials, DPR must only find that SGARs are a hazard to the environment (FAC section 14004.5). DPR's June 27, 2013 memorandum "SGAR Assessment" presents substantial evidence that SGARs are a hazard to the environment. DPR does not need to make a determination regarding the comparative risk of alternative rodenticides and SGARs.</i></p> <p><i>As part of the registration process, DPR has evaluated currently registered bromethalin and FGAR consumer products and has determined these products are effective and not harmful to human health or the environment when used according to label directions. If DPR later determines that these alternative rodenticide products are also a hazard to the human health or the environment when used according to the labeled direction, DPR will consider taking appropriate regulatory action.</i></p>	1096
102	<p>There is no substantial evidence that consumer uses contribute to nontarget wildlife exposure. The White Paper states explicitly that it reaches no conclusions regarding the significance of a consumer use pathway to wildlife exposure. Because the White Paper did not examine and address the issue of the pathway by which wildlife are exposed to SGARs, this question was not subject to peer review.</p> <p><i>See response to comment no. 93.</i></p>	1096
103	<p>Locations of incidents, mill assessment data, and registration records do not constitute substantial evidence that indoor consumer uses of small quantity SGARs products is the source of nontarget wildlife incidents. The White Paper states that the incident data show instances of wildlife exposure to SGARs in both urban and rural environments; however, this does not address whether the source of SGARs involved</p>	1096

	<p>in such incidents originated from licensed or non-licensed users, since both licensed and non-licensed users apply rodenticides in urban, suburban and rural environments.</p> <p><i>See response to comment no. 93.</i></p>	
104	<p>Given the nature of such outdoor placements by professional applicators, the length of time such baits remain in place, and the proximity of both the bait and the target animals to nontarget wildlife, professional pest control applications, in contrast to consumer uses, are the more likely pathway for nontarget wildlife exposures.</p> <p><i>See response to comment no. 93.</i></p>	1096
105	<p>Rodents targeted by consumers are an unlikely source of secondary exposures. House mice, the predominant target rodent for consumers, generally do not leave indoor harborages to venture outside, and when they do, they are unlikely to be consumed by nontarget predators.</p> <p><i>See response to comment nos. 25 and 93.</i></p>	1096
106	<p>DPR's sole discussion of the consumer use exposure pathway appears to be its reference to the U.S. EPA's 2007 proposed Risk Mitigation Decision for Ten Rodenticides for the proposition that "[b]ecause rodents move in and out of indoor spaces, a rodent exposed to rodenticide bait indoors may be preyed upon or die outdoors, resulting in potential secondary exposures." DPR does not -- either in the ISR or in the White Paper -- delve into the scientific basis for U.S. EPA's conclusion.</p> <p><i>See response to comment no. 93.</i></p>	1096
107	<p>DPR assumes that SGAR use by licensed professionals will contribute less to nontarget wildlife exposure than will consumer use because of the training and professional development licensed users receive. DPR fails to demonstrate that the training and certification curriculum addresses the importance of or means to reduce nontarget wildlife exposure. DPR provides no evidence that PCOs are more likely to use "preventative strategies" rather than apply bait, and that continuing education requirements for certified applicators may not address exposure of nontarget wildlife impacts at all, despite advances in scientific understanding.</p> <p><i>See response to comment no. 59. In addition, there are several CE courses addressing wildlife impacts and limiting endangered species exposure to pesticides.</i></p>	1096

108	<p>DPR attempts to use several published studies to suggest that consumer use was a pathway for nontarget wildlife exposures.</p> <p><i>See response to comment no. 93.</i></p>	1096
109	<p>Recent information gathered from California rodenticide users shows that outdoor consumer uses can be easily curtailed through new labeling with use limitations.</p> <p><i>See response to comment nos. 25 and 93.</i></p>	1096
110	<p>Bulk sales of SGARs to non-licensed users are likely to continue via internet and interstate purchases.</p> <p><i>See response to comment no. 9. Accordingly, any SGAR sales to a non-licensed user via the Internet and interstate purchases will be illegal, and DPR will bring administrative and civil enforcement actions to address these unlawful sales and/or purchases of restricted materials (FAC sections 12998, 12999.4, and 12999.5).</i></p>	1096
111	<p>DPR cites the experience of rodenticide regulation in the United Kingdom (UK) as supportive of DPR's conclusions about the sources of exposures to nontarget wildlife and its decision to classify SGARs as restricted materials and its rejection of an exception for small-sized consumer products for indoor-use only. In fact, the UK policy on rodent control directly contradicts DPR's position.</p> <p><i>The UK's indoor use only policy for brodifacoum was cited as an example that nontarget incidents still occur despite an indoor use-only designation.</i></p>	1096
112	<p>DPR has not adequately considered less impactful and less costly alternatives that will achieve comparable or greater wildlife protection while continuing to provide effective and affordable rodenticides to Californians who cannot afford professional rodent control services.</p> <p><i>DPR is responsible for mitigating adverse impacts to the environment. DPR considered making an exception from the restricted material designation for indoor structural use of SGARs, however, DPR concluded this was not a reasonable alternative and would not adequately mitigate SGARs' adverse impact on the environment. See response to comment nos. 19 and 31.</i></p>	1096

113	<p>DPR has failed to demonstrate with substantial evidence that this proposed regulation will protect public health in that DPR has not assessed the risks to children and pets that would result from exposures to alternative rodenticides that are not proposed for classification as restricted materials, such as non-anticoagulant rodenticides which include potent toxins like bromethalin.</p> <p><i>The purpose of the proposed regulation is to protect nontarget wildlife. See response to comment nos. 90 and 101. With the exception of the brodifacoum products of Reckitt Benckiser, all consumer rodenticides, including bromethalin, now comply with U. S. EPA's Risk Mitigation Decision that require the rodenticide to be sold with and placed in bait stations to protect children and pets. See response to comment no. 34.</i></p>	1096
114	<p>DPR's proposal would leave consumers with access only to products containing FGARs or non-anticoagulants, including the neurotoxin bromethalin, as active ingredients.</p> <p><i>Non-pesticidal control measures such as reusable snap and sticky traps are also available. There are also battery operated reusable traps that kill by electronic shock. Additional rodenticide options may become available in the future if they meet U.S. EPA and DPR registration standards.</i></p>	1096
115	<p>DPR has failed to demonstrate with substantial evidence that this proposed regulation will protect public health in that DPR has not evaluated the efficacy of alternative products or the impacts on public health that are likely to result from the widespread use of less effective rodent control products that will remain as one of only two commercially-available options if SGARs are designated as restricted materials.</p> <p><i>The purpose of the proposed regulation is to enhance protection to nontarget wildlife in the environment. See response to comment nos. 19, 90, and 101.</i></p>	1096
116	<p>DPR appears to base its conclusion regarding the efficacy of alternative products entirely on its assumption that "All rodenticides must demonstrate efficacy against target pests prior to registration." This assumption is flawed.</p> <p><i>3 CCR section 6186 specifies that each application for registration or amendment to the labeling of a pesticide shall be accompanied by data (or citation of data) supporting each efficacy claim. DPR evaluates submitted or cited efficacy data to support claims for controlling pests on the label prior to registration and when pesticide product labeling is amended to add new pests. As part of the registration process, DPR has evaluated currently registered bromethalin and FGAR consumer products and has</i></p>	1096

	<i>determined these products are effective and not harmful to human health or the environment when used according to label directions.</i>	
117	<p>DPR's economic analysis dramatically understates the costs of the proposal to Californian consumers, small businesses, state and local government, and the registrants of consumer-use rodenticides.</p> <p><i>DPR's assumptions and economic analysis were reviewed by the California Environmental Protection Agency-wide Economic Analysis Unit and it was determined that the proposed regulation is unlikely to have a significant cost or impact on agricultural operations, pest control businesses, food manufacturing and other-food related facilities, representative consumers, or businesses that market rodenticides. DPR's economic assessment under the Administrative Procedures Act is meant to assess the impact to California businesses operating in the state (job creation and elimination, and expansion), not registrants in general who may sell their product into the state.</i></p>	1096
118	<p>Absent an exemption for consumer-sized SGAR products, a final restricted materials designation would be tantamount to a de facto cancellation of d-CON®'s products in violation of California and federal law.</p> <p><i>This proposed regulation is not tantamount to cancellation of d-CON's consumer SGAR products. This proposed regulation will make brodifacoum, an active ingredient used in d-CON's product line, a restricted material. However, DPR will continue to register d-CON SGAR products for sale and use as restricted materials in California. Under this proposed regulation, d-CON SGAR products can be sold by licensed pest control dealers and purchased and used in California by certified commercial applicators and certified private applicators with a restricted materials permit or structural pest control operators without a permit (FAC sections 11407 (d), 12400, 14006.5, 14006.6(d), and 14015). Therefore, under this regulation, DPR will still register d-CON SGAR products for sale and use in California. Accordingly, this regulation is not tantamount to cancellation of d-CON SGAR products' registrations.</i></p>	1096
119	<p>DPR has not complied in several material respects with the California Environmental Quality Act (CEQA), including to have adequately consulted with public health agencies and has not given sufficient consideration to alternatives, including limiting consumer use of SGARs to indoor only use. DPR has failed to meet its CEQA obligations.</p> <p><i>DPR's adoption of regulations is a certified regulatory program under CEQA (Title 14 CCR section 15251). Accordingly, California's Secretary of Resources found that DPR's regulatory program for adopting regulations fulfilled the criteria provided in section 21080.5(d) of the Public Resources Code. As a certified regulatory program, DPR complies with CEQA if DPR complies with its CEQA-certified</i></p>	1096

	<p><i>regulations (Californians for Alternatives to Toxics v. California Department of Pesticide Regulation (2006) 39 Cal.App.4th 1049, 1068). Section 6110 requires DPR to issue a public report for all proposed regulations. This public report shall state any significant adverse environmental impacts and any reasonable alternatives that would reduce any significant adverse environmental impact (3 CCR section 6110). In this case, DPR's proposed regulation will not have any significant adverse environmental impact as there are a number of other options to control rodents both pesticidal and non-pesticidal that are effective and not harmful to human health and the environment when used according to label directions. Therefore, DPR was not required to consider alternatives to making SGARs a restricted material to eliminate the hazard posed to nontarget wildlife from these products. (W.M. Barr & Company, Inc. v. South Coast Air Quality Management District (2012) 207 Cal.App.4th 406, 423.). Accordingly, DPR complied with CEQA.</i></p>	
120	<p>DPR's proposal unnecessarily duplicates federal rodenticide requirements and proposals.</p> <p><i>DPR's proposal does not duplicate federal requirements and proposals. DPR's proposal is more stringent than federal requirements. U.S. EPA does not limit the purchase and use of SGARs to certified pesticide applicators.</i></p>	1096
121	<p>DPR has not adequately complied with state requirements to consider the environmental justice impacts of its proposal. The rulemaking record does not reflect any analysis by DPR of how loss of effective rodent control methods will affect low-income and minority communities, inner-city populations, and communities living on Native American reservations and tribal lands.</p> <p><i>This proposed regulation will not have a disproportionate effect on low-income and minority communities because this proposed regulation applies uniformly throughout California. Further, alternative rodenticide products and non-pesticidal methods are available in California at a comparable cost to SGARs. See response to comment no. 19. As this regulation applies uniformly throughout California and there are comparable alternative products available, this regulation does not disproportionately burden any particular neighborhoods or populations. Lastly, any suggestion that communities living on Native American reservations and tribal lands will be disproportionately affected is misplaced because California law does not apply to these sovereign lands.</i></p>	1096
122	<p>DPR failed to consult with the California Department of Food and Agriculture (CDFA) as required by FAC section 11454.2.</p> <p><i>DPR consulted with CDFA as specified in FAC section 11454.2 and the August 20, 2013, Memorandum of Understanding which was developed as provided in section 11454.2. Correspondence between DPR and CDFA are contained in the rulemaking file.</i></p>	1096

<p>123</p>	<p>DPR has failed to demonstrate with substantial evidence why DPR's proposal does not exclude small-quantity, indoor use only SGAR products from the restricted materials designation, an exception that applies to all other restricted material designations for active ingredients which are used, in part, in the home by consumers, and which was the clear legislative intent underlying the law establishing the restricted material designation.</p> <p><i>DPR is proposing to classify SGARs as restricted materials because SGARs are a hazard to the environment (FAC section 14004.5). DPR's June 27, 2013 memorandum "SGAR Assessment" provides substantial evidence that SGARs are a hazard to nontarget wildlife and supports the purpose of this proposed regulation. DPR is not required to present substantial evidence that SGARs sold for a specific use in a specific package size harm nontarget wildlife, because DPR is proposing to restrict SGARs generally. Even so, DPR's Initial Statement of Reasons presents sales data for the time period of 2009 through 2011 demonstrating that consumer-sized brodifacoum products accounted for approximately 90 percent of brodifacoum sold into California, and that brodifacoum was found in approximately 95 percent of tested animals. This demonstrates that some brodifacoum used by consumers is being found in nontarget wildlife and that restricting all sizes and uses of SGARs, including consumer SGAR use, furthers DPR's interest in providing additional regulatory controls on pesticides that are a hazard to nontarget wildlife.</i></p> <p><i>Further, the express language of section 14004.5 does not limit restricted materials to agricultural use - only products and the legislative history for sections 14004.5 and 14005 does not demonstrate any legislative intent to limit the restricted materials designation to agricultural use-only pesticide products. SB 1021 strengthened DPR's restricted materials program to ensure "that pesticides may be issued only under permit if deemed to be injurious to environment, persons, animals or crops." (Letter to Governor Reagan from Senator Nejedly, October 21, 1971). Contrary to the commentor's statement, Senator Nejedly's letter demonstrates the Legislature's intent to designate a restricted material and require a restricted materials permit for <u>any</u> pesticide posing a hazard to the environment. Moreover, in 1984 the Legislature amended section 14005, which requires DPR to adopt regulations governing the "possession and use of any restricted material." The 1984 Legislature replaced "application in pest control or other agricultural operations" with "possession and use of any restricted material." This broadening of section 14005 to authorize DPR to adopt regulations regarding the general "possession and use" of restricted materials, as opposed to regulations regarding "application in pest control or other agricultural operations" further demonstrates that the Legislature did not intend to restrict DPR from designating non-agricultural pesticides as restricted materials. Lastly, the Legislature, by implication, confirms the express language of section 14004.5 that all pesticides determined to be a</i></p>	<p>1096</p>
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	<i>hazard to the environment or human health qualifies for restricted material designation when the Legislature amended section 14006.6 in 1984 to exempt pesticides used in structural pest control from the restricted material permit requirement.</i>	
124	<p>DPR does not address the continuing impact on wildlife in California due to the unregulated access to SGARs through internet sales of such products in bulk-quantity containers, or from purchase of such products in neighboring states or from Mexico.</p> <p><i>See response to comment no. 110.</i></p>	1096
125	<p>DPR has justified its proposal -- as documented in numerous instances described below -- either (i) without providing any substantive analysis or (ii) by uncritically accepting analyses and studies conducted by the U.S. EPA for a related but distinct proposal and without considering the critiques of EPA's scientific analyses by that agency's own Scientific Advisory Panel, which was comprised of select technical peer reviewers.</p> <p><i>DPR's proposal is independent of U.S. EPA and is based on a June 27, 2013 memorandum "SGAR Assessment" analyzing wildlife incident and mortality data from California.</i></p>	1096