DPR Draft Proposed Anticoagulant Rodenticide Regulation Text

DELIBERATIVE DRAFT

Key to Draft Regulatory Text: Black text is existing reg text, Blue text is new/added, Green text is moved, Red text are proposed deletions

Restricted Materials Regulations (CCR)

Subchapter 4 - Restricted Materials (Article 1 to 5) -

Article 1 - Restricted Materials (§ 6400 to 6402), § 6400 - Restricted Materials

The Director designates the pesticides listed in this section as restricted materials.

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(e) Certain other pesticides:

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Carbofuran (Furadan)

Chlorophacinone

Chloropicrin

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Difethialone

Diphacinone

Diphacinone sodium salt

Disulfoton (Di-Syston), except when labeled only for one or more of the following uses: home use, structural pest control, industrial use, institutional use, and use by public agency vector control districts pursuant to section 116180 of the Health and Safety Code.

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Tributyltin, organotin, or a tri-organotin compound formulated as an antifouling paint, coating or compound and labeled for the control of fouling organisms in an aquatic environment.

Warfarin

Warfarin sodium salt

Zinc phosphide, except when labeled only for one or more of the following uses: home use, structural pest control, industrial use, institutional use, and use by public agency vector control districts pursuant to section 116180 of the Health and Safety Code

Article 2 - Possession and Use Limitations (§ 6404 to 6417)

§ 6414 - Permit Exemptions

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(h) No permit shall be required for products containing brodifacoum, bromadiolone, difenacoum, difethialone, chlorophacinone, diphacinone, diphacinone sodium salt, warfarin, or warfarin sodium salt, unless otherwise required by the commissioner.

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DELIBERATIVE DRAFT

Article 5 - Use Requirements (§ 6453 to 6489)

§ 6471 - Brodifacoum, Bromadiolone, Chlorophacinone Difenacoum, ~~and~~ Difethialone, Diphacinone, Diphacinone sodium salt, Warfarin and Warfarin sodium salt

This section supplements the label restrictions on the use of brodifacoum, bromadiolone, chlorophacinone difenacoum, ~~and~~ difethialone, diphacinone, diphacinone sodium salt, warfarin and warfarin sodium salt. For the purposes of this section, these active ingredients will collectively be referred to as anticoagulant rodenticides.

(a) ~~It is prohibited to place any above ground bait 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.~~
Except as provided in (d), use in and around man-made structures is only allowed at:
(1) Health facilities, as defined in California Health and Safety Code (HSC) § 1250
(2) Clinics, as defined in HSC § 1200
(3) Outpatient settings, as defined in HSC § 1248
(4) Locations storing, collecting, or distributing biologics (as defined in HSC § 1600.1) or human tissue or organs (as defined in HSC § 1635)
(5) Pharmacies, as defined in BPC 4037
(6) FDA-registered and inspected facilities involved in commercial manufacture, preparation, compounding, of drugs
(7) Grocery stores, as defined in HSC § 113948
(8) Permanent food facilities, as defined in HSC § 113849
(9) Food processing facilities, as defined in HSC § 109947
(10) Locations with the primary purpose of producing, storing, holding, or packing an agricultural commodity, livestock, poultry, or fish.

(b) Except as provided in (d), it is prohibited to place any above ground bait more than 50 feet from a listed 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.

(c) Except as provided in (d), applications must not exceed 35 consecutive days. All unconsumed bait must be collected at the end of the 35-day period. Double bag and dispose of bait according to the pesticide label directions. The combined application duration of anticoagulant rodenticides at a site must not exceed a total sum of 105 days within a calendar year.

(d) Use is allowed, and exempt from the restrictions in (a), (b), and (c):

(1) For the eradication of nonnative invasive species inhabiting or found to be present on offshore islands in a manner that is consistent with all otherwise applicable federal and state laws and regulations.

(2) If the Department of Fish and Wildlife determines use is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.

(3) To control an actual or potential rodent infestation associated with a public health need, as determined by a supporting declaration from the State Public Health Officer or a local public health officer. For purposes of this section, a public health need is an urgent, nonroutine situation posing a significant risk to human health in which it is documented that other rodent control alternatives, including nonchemical alternatives, are inadequate to control the rodent infestation.

(4) When used by an employee or contractor of a governmental agency or public utility, as defined in Section 216 of the Public Utilities Code, for purposes of protecting water supply and hydroelectric energy generating infrastructure and facilities in a manner that is consistent with all otherwise applicable federal and state laws and regulations.

(5) When used by a governmental agency employee who complies with Section 106925 of the Health and Safety Code to protect public health or by a mosquito abatement and vector control district formed under Chapter 1 (commencing with Section 2000) of Division 3 or Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code to protect public health.

(6) When FGARs are used at a location with the primary purpose of producing, storing, holding, or packing an agricultural commodity, livestock, poultry, or fish.

(7) For research purposes. Before using a department-registered anticoagulant, a written authorization for research shall be obtained from the director. The director may specify the conditions in the authorization for research under which the research shall be conducted. The director may terminate, amend, or refuse to issue an authorization for research if the director determines any of the following:

(A) The research may involve a hazard to the environment.

(B) The research may be used for purposes unrelated to pesticide data development.

(C) A violation of the authorization for research, prior authorization for research, or Division 6 (commencing with Section 11401) or this division, or a regulation adopted pursuant to either or both of those divisions, has occurred in connection with the research.

§ 6471.5 Sustainable Rodent Management training and plan

For all uses of anticoagulant rodenticides, subsections (a) and (b) apply:

(a) Sustainable Rodent Management Training Course. Commencing one year from the effective date of the regulations, a sustainable rodent management course approved by the Director must be completed each calendar year by every person applying or supervising the application of anticoagulant rodenticides. The course must include Integrated Pest Management and Sustainable Pest Management principles as defined in sections 11401.7 and 11412 of the Food and Agricultural Code respectively, including at a minimum:

(A) Anticoagulant rodenticide non-target effects,
(B) Rodent biology, zoonotic diseases, and identifying target rodents,
(C) Inspection & monitoring,
(F) Sanitation & exclusion,
(E) Anti-rodent landscaping,
(F) Pest management thresholds,
(G) Non-chemical rodent management options,
(H) Rodent management methods & toxicity scales,
(I) Resistance prevention & product rotation,
(J) Safe carcass handling & disposal,
(K) Safe rodenticide storage & disposal site information,
(L) Anticoagulant rodenticides use requirements (CCR Article 5)
(M) Maintaining records

(1) The employer and certified private or commercial applicator as defined in section 6000 must maintain a written record of training course attendance for two years following the date of completion at a central location at the workplace accessible to employees and be provided to the employee, Director, or commissioner upon request. The record must include:

(A) Applicator or handler's name;
(B) License or certificate number if applicable;
(C) Title of the course;
(D) Name of the course provider;
(F) Course completion date;
(G) The applicator or handler's signature confirming attendance.
Other records of course attendance, such as the records required by section 6513, can be used to fulfill this requirement.

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DELIBERATIVE DRAFT

(b) Sustainable Rodent Management Plan. Commencing one year from the effective date of the regulations, before using anticoagulant rodenticides, each business location, certified commercial applicator, or operator of the property must have a written general Sustainable Rodent Management Plan and maintain records. This plan can be general (i.e., not required to be site-specific) and must be reviewed each calendar year and updated as necessary.

(A) In instances where anticoagulant rodenticides are not exclusively applied by pest control businesses, the operator of the property is required to develop a general Sustainable Rodent Management Plan and maintain records.

(B) The operator of the property must provide a copy of their general Sustainable Rodent Management Plan and records to any hired business applying anticoagulant rodenticides on their property.

(1) The written general Sustainable Rodent Management Plan must reflect Integrated Pest Management and Sustainable Pest Management as defined in FAC section 11401.7 and section 11412 respectively and must include the following elements at minimum:

(A) Identifying target rodents,
(B) Inspection & monitoring,
(C) Sanitation & exclusion,
(D) Anti-rodent landscaping,
(E) Pest management thresholds,
(F) Non-chemical rodent management options,
(G) Rodent management methods & toxicity scales,
(H) Resistance prevention & product rotation,
(I) Safe carcass handling & disposal,
(J) Safe rodenticide storage & disposal site information,
(K) Maintaining records.

(2) The pest control business, certified commercial applicator or the operator of the property shall maintain records for all locations where anticoagulant rodenticides are applied. These records must list applicator name, location address, dates anticoagulant rodenticides were deployed and collected, number of anticoagulant rodenticide bait boxes deployed, and U.S. Environmental Protection Agency Registration Number and brand name of anticoagulant rodenticide products used. Records shall be maintained at a central location for two years.

(3) The current and prior written general Sustainable Rodent Management Plan must be available for inspection by the Director or commissioner upon request. Prior copies of the plan must be retained for two years.

(4) Pest control businesses and applicators using anticoagulant rodenticides must follow relevant components of the General Rodent Management Plan when making decisions to apply anticoagulant rodenticides.