

Appendix F

Registration, Private Applicator Certificate, and Permit Refusals, Revocations, Suspensions, and “Denials”

Background Due process requirements must be met regardless of when the refusal or denial occurs. The more relevant question is: In what circumstances does a CAC’s refusal to register, certify a private applicator, or grant a permit trigger the due process requirements of notice and hearing?

“Deny” is the same as “refuse” Merriam-Webster’s definition of “deny” is “to refuse to grant.” To “deny” a permit, certification, or registration is the same as to “refuse” the permit, certification, or registration.

Other resources Compendium Volume 3 *Restricted Materials and Permitting* Chapter 6 *Due Process Related to Permits* contains information specific to permit and notice of intent (NOI) denials, information on the required due process, and a sample permit/NOI denial form that may be used in lieu of a full NOPA.

Due process (including a hearing in front of an impartial hearing officer and the right to present evidence) is required for these denials.

FAC section 11512.5 FAC section 11512.5 allows the CAC to refuse, suspend or revoke a county registration pursuant to the following FAC sections:

- 11735 (Pest Control Business),
- 11924 (Pest Control Pilot), and
- 12035 (Pest Control Advisor).

This section also allows the CAC to refuse, suspend, or revoke a restricted material permit pursuant to FAC section 14008.

FAC section 14098 allows the CAC to refuse, suspend or revoke a private applicator certificate (PAC) for specified reasons following the permit suspension provisions of FAC section 11512.5.

FAC section 11512.5 **also requires** the CAC to provide due process.

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Due process required

If	Then,
The applicant for the registration, PAC, or permit meets the requirements but the CAC decides to refuse, revoke, or suspend the registration, PAC or permit...	The CAC must: 1) Provide due process in the form of notice and an opportunity to be heard, and 2) Make findings to support the decision, to refuse, suspend, or revoke the registration, PAC or permit consistent with the requirements of FAC sections 11735, 11924, 12035, 14008, or 14098.

In other words, the CAC must provide a “notice and an opportunity to be heard” or “due process” when refusing, suspending, or revoking a county registration, PAC, or permit -- unless the applicant does not meet an objectively determined minimum requirement as described below.

Exception

If the CAC can objectively determine from the person’s application or other public record that the person:

- Does not meet a requirement necessary to qualify for the registration or permit (e.g., failed to pass the PAC exam, does not possess a valid Pest Control Aircraft Pilot Certificate, does not possess a category needed to use or supervise the use of a restricted material, or failed to pay an outstanding civil penalty); or
- If the person simply does not have a “complete” application,

Then the application for registration, PAC, or permit may be “denied” or refused without the necessity of a hearing. However, the applicant should be given notice of the application defect and provided with the opportunity to remedy it.

Template

For a template that can be used for PAC refusals, please see Compendium Volume 3 Chapter 3 *Private Applicator Certification*.