



Department of Pesticide Regulation

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Governor

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Acting Director

October 18, 2021

ENF 21-13

TO: County Agricultural Commissioners

SUBJECT: SECOND GENERATION ANTICOAGULANT RODENTICIDES –
REVISED LAW AND UPDATES TO ALLOWED USES

This letter announces a recent revision (Assembly Bill [AB] 1298) to Food and Agricultural Code (FAC) section 12978.7(e)(g) for second generation anticoagulant rodenticides (SGARs). It also serves as an addendum to the 2020 letter ENF 20-20 (AB 1788) by adding clarifications, including provisions for vector control and for certain on-farm uses.

Revised FAC 12978.7 (e)(g), California Department of Fish and Wildlife (CDFW)

AB 1298 (Chapter 479, Statutes of 2021) signed October 4, 2021, is meant to revise a specific FAC section created in 2020 by AB 1788 (Chapter 250, Statutes of 2020) relative to determinations by the CDFW. By moving the statement from 12978(g) to section (e), the requirement for CDFW to make a determination on the DPR Reevaluation decision is removed and the law now provides a similar prohibition exemption where CDFW determines SGARs are necessary. This change is effective January 1, 2022.

Addendum to letter ENF 20-20, Vector Control, On-Farm Uses and Clarification of Terms

Vector Control Exemption – Regarding item #5 in ENF 20-20, Assemblymember Bloom, author of AB 1788, confirmed the intent of the exemption in FAC 12978.7 subsection (e)(3) “should be applied to any vector control district should they need to contract out with a third party to fulfill their vital role in protecting public health.”¹ Therefore, it is not a violation of FAC section 12978.7 for pest control businesses licensed by the Department or registered with the Structural Pest Control Board under contract with a vector control district to apply SGARs under the direction of the vector control agency for purposes of protecting public health.

On-Farm Uses – Regarding various items in ENF 20-20, the exemption in subsection FAC section 12978.7(f)(3)(D) should be interpreted to protect on-farm water supply systems, facilities, and related infrastructure. This includes on-farm areas such as waterways, irrigation canals, levies, dams, ponds, reservoirs, wells, water tanks, irrigation pumps and pump houses, and drip tape or other irrigation lines outside of farm fields. The exemption in FAC section 12978.7(f)(3)(E) is meant to protect on-farm transportation infrastructure. This includes on-farm areas such as driveways (including driveways to barns and houses), farm or ranch roads (such as along farm fields), and bridge or culvert embankments.

¹ Assemblymember Richard Bloom Letter to Acting Director Julie Henderson. August 23, 2021.

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The use of “agricultural” in the terms “agricultural activities,” “agricultural food production site,” and “agricultural production site” found in FAC section 12978.7 should not be confused with the use sites “agricultural buildings and manmade agricultural structures” found on some SGAR product labeling.

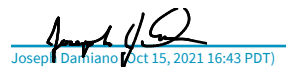
Note that U.S. EPA has primacy on pesticide labeling and that FAC section 12978.7 does not change or affect pesticide labeling use site interpretations. Although some SGAR product labeling may have the use site “agricultural buildings and manmade agricultural structures,” interpretation of this use site should not be confused with the terms “agricultural activities,” “agricultural food production site,” and “agricultural production site” found in FAC section 12978.7. The terms in the law are separate and distinct from SGAR product labeling.

Product Labels and California Requirements


As a reminder, FAC section 12978.7 works in concert with SGAR product labeling, Title 3, California Code of Regulations section 6471, licensing and certification requirements, and county restricted material permit conditions. Even though a use may be allowed under FAC section 12978.7, other use requirements such as the product labeling may be more restrictive and may prohibit certain SGAR uses.

If you have questions, please contact the Enforcement Branch Liaison assigned to your county.

Sincerely,


Joseph Damiano (Oct 15, 2021 16:43 PDT)

Joseph Damiano
Chief, Enforcement Headquarters Branch
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Donna Marciano (Oct 18, 2021 11:00 PDT)

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Chief, Enforcement Regional Offices Branch
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cc: Mr. Joe Marade, DPR County/State Liaison
Enforcement Branch Liaisons