

Contra Costa County Agriculture and Weights & Measures Newsletter



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This is a part of a series of quarterly newsletters designed to inform growers in Contra Costa County about issues important to the Agricultural community. We welcome your questions and comments about any topics in this newsletter as well as suggestions for future newsletters. Contact us at:

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New Rodenticide Restrictions

The U.S. Environmental Protection Agency has placed new restrictions on the sale and use of ten rodenticide active ingredients. The rodenticides are: Diphacinone, Chlorophacinone, Warfarin, Zinc Phosphide, Brodifacoum, Bromodiolone, Bromethalin, Cholecalciferol, Difenacoum, and Difethialone. The restrictions include provisions to make these rodenticides Federal restricted use pesticides.

EPA found that these rodenticides presented too high a risk to children, pets, and wildlife. Every year, home use of rodenticides exposes thousands of children to accidental poisoning. EPA believes that misuse and overuse of rodenticides is more common among general consumers because they are less likely to read, understand, and follow the pesticide label correctly. As a result, EPA will require that all of these rodenticide bait products available for sale to consumers be sold only in

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Some rodenticides used to control ground squirrels, voles, mice, etc. have become Federal restricted use pesticides.



Federal restricted use pesticide labels have statements similar to the one above.

tamper-resistant bait stations. Loose bait such as pellets or grain for home use will be prohibited as a bait form. EPA will also prevent the sale to consumers of the four rodenticides that present the greatest risk to wildlife: brodifacoum, bomadiolone, difenacoum, and difethialone.

Rodenticide bait use also poses a significant risk to wildlife, livestock, and pets. Non-target animals can be poisoned either by eating the bait directly or by eating an animal who has eaten the bait. There have been several reported incidents of these rodenticide baits harming endangered, threatened, or otherwise protected species such as the Bald Eagle, San Joaquin Kit Fox, and Northern Spotted Owl.

The ten rodenticides will still be available to professional applicators and for agricultural use. However, to ensure that applicators are more likely to use them safely, EPA has designated these rodenticides as Federal restricted use pesticides. This means that they may only be used by, or under the supervision of licensed or certified applicators. The Private Applicator Certificates issued by the County Departments of Agriculture satisfy this requirement. Growers who do not wish to take the Private Applicator exam may instead choose to hire a pest control business to apply the rodenticides for them.

When buying any rodenticide product, be aware that there may be label changes as a result of the new restrictions. Also, be sure to always read the pesticide label carefully before use.

California vs. Federal Restriction

The difference between Federal “restricted use pesticides” and California “restricted materials” can sometimes be confusing. This article may help explain them and their requirements.

The need for the restriction of pesticides began in the 1940’s when the San Joaquin Valley started to suffer major crop damage due to drift caused by phenoxy herbicides. California passed laws to establish pesticide restrictions and require permits for the use of phenoxy and certain other pesticides with the potential to cause injury to people, crops or the environment. In 1974, the Federal government followed California’s lead and brought the concept of pesticide restriction to the national level. U.S. EPA classifies each pesticide as either a “general use pesticide” or a “restricted use pesticide”. Federal restricted use pesticides can only be used by, or under the supervision of, certified applicators, although permits are not required.

The Federal list of restricted use pesticides didn’t include some pesticides of special concern in California. Also, some of the pesticides that were on the Federal list didn’t have all the label restrictions that the State of California wanted. Since States are not allowed to require anything on pesticide labeling that differs from federal requirements, California chose to enact regulations at the State level to designate these pesticides as California “restricted materials”.

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Phenoxy herbicide drift problems led to California’s first restricted materials laws.

The use of California restricted materials is controlled with restricted materials pesticide permits, permit conditions, and regulations.

Pesticides are designated California restricted materials based on their hazard to applicators, farm workers, the public, domestic animals, the environment, and neighboring crops. The Department of Pesticide Regulation (DPR) can propose that a pesticide be designated as a California restricted material based on information received from field studies, investigations, or data submitted by registrants. Accidents involving a pesticide can lead to it becoming a California restricted material. In 1991, a train pulling a tank car of the soil fumigant metam sodium derailed and the car fell into the Sacramento River. The 19,000 gallons of metam sodium in the tank car leaked out and killed all the aquatic life in the river over a 40 mile stretch. As a result of this accident and other concerns, metam sodium was designated as a California restricted material in 1994.

Some general classes of pesticides may be designated as California restricted materials based on their hazards. Pesticides formulated as dusts, labeled to permit outdoor use, and packaged in containers of more than 25 pounds are restricted due to their inhalation hazard, drift potential, etc. Pesticides that have been found contaminating groundwater or that are



Pesticides considered to be highly toxic to applicators are often designated California restricted materials.



Pesticide accidents, such as the metam sodium spill into the Sacramento River, can lead to a pesticide becoming restricted in California.

considered likely to contaminate groundwater are restricted in certain areas. Also, pesticides used under a Federal Section 18 emergency exemption (which allows their use before all the studies required for registration have been completed) are California restricted materials due to the lack of information about their potential hazards. Certain formulations of California restricted materials (primarily 2,4-D, MCPA, and Dicamba) may be excepted from restriction such as when they occur in low concentrations or in small quantities and therefore, present fewer hazards.

All pesticides must be registered with U.S. EPA before the registrants can apply for registration in California. California may then choose whether or not to register them based on data provided during the registration review process. There are four general categories of pesticides used in California. The first are the pesticide products that are considered exempt under both Federal and California law. These include materials such as pheromones, citronella oil, cedar oil, etc. The use of these materials does not require certification, operator I.D.'s, or restricted materials permits.

Another type are called non-restricted materials under California law and general use pesticides under U.S. EPA laws. The use of these requires

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Licensed pest control businesses can apply both Federal restricted use pesticides and California restricted materials for growers.

no certification and may be used for agricultural production in California with a current operator I.D. or restricted materials permit.

The third type of pesticides are the Federal restricted use pesticides which are not also California restricted materials. U.S. EPA requires that only certified applicators use restricted use pesticides. The label for Federal restricted use pesticides will have a statement such as “Restricted Use Pesticide for retail sale to and application only by a certified applicator or persons under their direct supervision” (see the picture on page 2 of this newsletter for an example). Pesticides that are Federal restricted use pesticides but not California restricted materials may be used by a licensed or certified applicator for agricultural production with either an operator I.D or a restricted materials permit.

The last type are California restricted materials. The possession and use of these requires both applicator licensing or certification and a restricted materials permit. There is a special type of “Pest Control Business Possession and Use Only” restricted materials permit for growers who do not wish to become certified. For this type of permit, a licensed pest control business handles all Federal restricted use pesticides and California restricted materials for the grower.

Scanner Inspection

Since 2006, Contra Costa County has had an ordinance that allows the County Division of Weights and Measures to register and inspect price look-up scanner systems. Price look-up systems electronically retrieve the price of commodities when a code is scanned. The most common type are store scanners that read the bar code printed on the product or label.

State law makes it illegal for a person or business to represent a false quantity or price in connection with the sale or advertising of any commodity or service. This means that the price charged for an item using a scanner or other price look-up system must agree with the lowest price that is quoted, advertised, or displayed for that item.

Stores must make sure that consumers are never charged more for an item than is advertised or displayed. So, when prices are reduced during business hours, the price must be changed in the scanner system first before the new price is advertised or displayed. When prices are increased, the advertised or displayed price must be increased before the higher price is put in the scanner system. In this way, any differences in price will be in the consumer’s favor.

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The lowest price on the item, shelf tag, display, or in an advertisement is the price that must be charged to the consumer.



When a sale sign is present, the sale price applies even if it has an expiration date.

The Contra Costa County Division of Weights & Measures conducts price verification scanner system inspections on a regular basis. Inspections may also be made in response to consumer complaints, State surveys, or as a part of an investigation in cooperation with other government agencies. Widespread and severe violations can lead to companies being penalized hundreds of thousands of dollars.

A routine price verification inspection involves an Inspector choosing a random sample of items throughout the store and having them scanned at one of the store's registers. Usually, at least half must be regularly priced items. The Inspector then verifies that the price shown at the register is the same as the posted or advertised price. The number of items the Inspector selects will depend on the number of scanners the store uses. As few as ten items are checked at small stores with few scanners while the sample size for very large stores using many scanners will be at least fifty. Stores must have at least 98% of the prices correct in order to pass the inspection.

If the store fails the initial inspection, then the Inspector will do a follow up inspection within three months. This time, the Inspector may choose any items from the entire store. Usually, the focus will be on the types of items that failed during the first inspection. If the store fails three times in a row, the business will be fined for Unlawful Computation of Value. Inspections for

complaints, surveys, and investigations will also be done using nonrandom sampling to check for a specific problem.

There are two kinds of store pricing errors that are very common. The first is not removing expired sale signs and the second is having signs that fail to clearly spell out the requirements under which the special price applies. Stores are responsible for taking down sale displays when the sales are over. If old sale signs are left up, the consumer still gets that sale price. Signs that require the consumer to buy more than one item in order to get a sale price must clearly state that if fewer items are purchased, the regular price still applies. Other common examples of sale signs that must be clearly marked are prices that are subject to a condition such as membership in a retailer club. This is permitted as long as the condition is conspicuously marked in the same location as the price. Store pricing errors can also come from computer systems not being updated, errors in the entry of prices into the computer, buy one get one free promotions and percentage off sales not being calculated correctly, and old stock with old labels that weren't changed.

Another safeguard for the consumer is a display that shows the price charged when the item is scanned. The checkout system price indicator at each register must be easily seen and read from a typical customer position. Customer displays are required to ensure that the price of each good or service to be paid by the consumer is conspicuously displayed to the consumer at the time that the price is interpreted by the system.



If an item is advertised as “2 for \$15” without clearly stating that two must be bought to get the sale price, one item should cost \$7.50.



Weights & Measures Inspectors regularly check stores for correct pricing.

Failure to have a functional customer display is a violation of the law.

Consumers need to be careful when choosing items, having them scanned, and checking the receipt afterwards. Customers may mistakenly think an item is on sale due to its placement on the shelf or the way the sale sign is worded. At the register, watch the customer display as the items are being scanned and check the receipt before leaving the store. If there is an error, ask the store to fix it on the spot.

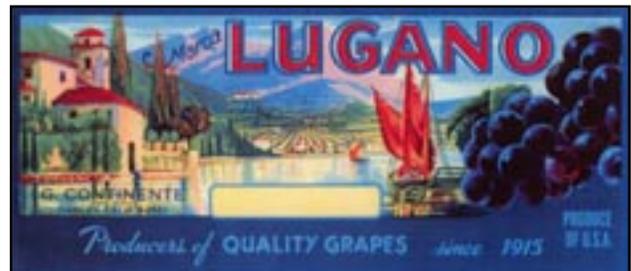
When investigating a complaint, an Inspector will get as much information as possible from the complainant. Then, the Inspector visits the store and tries to duplicate the circumstances under which the complainant's purchase was made. Usually, the store manager will first be told about the complaint, although the investigation can be done undercover if necessary. The Inspector writes a report at the end of the investigation and notifies both the business and the complainant of what was found. The Division will also take appropriate enforcement action if needed. Consumers who want to register a complaint can call and let us know the store's name and address, and what type of item was charged incorrectly. Complainant names are confidential although consumers may choose to remain anonymous. It helps us to have copies of the receipt, weekly ad, or even pictures of the item in question.

Contra Costa County Yesterdays

In the late 19th century through the middle of the 20th, fruit and vegetable growers used the labels on their wooden crates of produce as a form of advertising. In auction halls, the bolder and more attractive the label, the better it caught the attention of potential buyers. Newly built railroad lines and shipping ports, combined with improved refrigeration methods, allowed easier shipping of fresh fruits and vegetables. As a result, California actively promoted its produce to the big East coast markets and throughout the world. California growers were among the first to use brightly colored fruit-crate labels to advertise their produce. There are a large variety of these types of labels that were used by growers in Contra Costa County.

Fruit-crate labels included just about every possible theme and often reflected what was happening in popular culture and politics at the time. Label art had beautiful women, animals,

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Early labels featured natural themes such as landscapes, flowers, and animals.





Labels often had humorous or graphic designs that illustrated the brand name.



flowers, cowboys, Indians, airplanes, ships, sports, historical figures, etc. The label art often was an illustration of the brand name, sometimes in a humorous way.

Most fruit crate labels were produced by San Francisco lithographic companies. Lithography uses a series of stone or metal plates on which an image has been drawn. Each plate is inked with a different color and passed through a printing press. A finished label design was created by superimposing up to twelve plates, one after another, to form a single image. Later labels were made using a cheaper photo offset method. These used photographically processed plates and did not require artists to draw the images.



An example of a stock label that growers could overprint with their own name and crop.

Both individual growers and large marketing associations used fruit crate labels. Marketing associations such as Sunkist and the California Fruit Exchange provided their member growers with more power to negotiate shipping and sales. Members of the association could use either the association's label or have their own printed with the association's logo on it. Some associations would add the name of the grower's county or region to their label. Individual growers could either design their own labels or use a stock label that could be overprinted with their name and other information.

The type of designs on fruit-crate labels tended to change over time. Early label designs showed natural themes that included landscapes, flowers, children, and farm scenes. Later designs began to feature bigger, bolder images. They often had catchy and humorous designs to attract the buyer's attention and illustrate the brand name. By the 1940's, fruit crate labels followed the art trends of the time by having bold graphic or geometric designs. The era of fruit crate labels finally ended in the 1950's when cardboard boxes replaced wooden crates.

Today, fruit crate labels are a popular collectible due to their historical interest and colorful designs. Since they have a nearly endless variety of themes and regions, they are also often framed and used as decorative art.



Later labels had bold letters and stylized designs to catch the buyer's attention.





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