



December 20, 2024

ENF 24-20

TO: County Agricultural Commissioners

SUBJECT: CHLOROPHACINONE AND WARFARIN: RESTRICTED MATERIAL STATUS, PROHIBITIONS, ALLOWED USES, AND QUESTIONS AND ANSWERS

This letter announces a recent revision to Food and Agricultural Code (FAC) section 12978.7 by Assembly Bill (AB) 2552 (Chapter 571, Statutes of 2024). Effective January 1, 2025, **most uses of the first-generation anticoagulant rodenticides (FGARs) chlorophacinone and warfarin are prohibited.**

The Legislature's [findings and text of the amended law](#).

This letter highlights the changes to FAC section 12978.7 under AB 2552 relative to chlorophacinone and warfarin and discusses new FAC section 12997.8. This letter also updates the Questions and Answers from ENF letters 20-20, 21-13, and 23-19 relative to the allowed uses of products containing diphacinone (also an FGAR) and products containing the four second generation anticoagulant rodenticides (SGARs) brodifacoum, bromadiolone, difenacoum, or difethialone.

### **Chlorophacinone and Warfarin as Restricted Materials**

AB 2552 added a new subsection (e) to FAC section 12978.7 which states in part:

(e) Except as provided in subdivision (g) or (h), the use of chlorophacinone or warfarin is prohibited in this state and chlorophacinone and warfarin shall be considered restricted materials pursuant to Section 14004.5. ...

This requirement means any chlorophacinone or warfarin use prohibited by the amended law (see "Prohibited Uses" below) is classified as a restricted material. The practical impact of this subsection is:

- 1) Effective January 1, 2025, chlorophacinone or warfarin products labeled for any use prohibited by the amended law can only be sold to an end user by a Department of Pesticide Regulation (DPR)-licensed pest control dealer. Note that under current law nearly all registered chlorophacinone products and all warfarin products are already required to be sold by licensed pest control dealers. See the response to Question 1 below.
- 2) Effective January 1, 2025, it is unlawful to use chlorophacinone or warfarin for a prohibited use.

- 3) For chlorophacinone or warfarin uses allowed under FAC section 12978.7 subsections (g) and (h) (see “Allowed Uses” below) **no restricted material permit is required.**

These restrictions also apply to products containing chlorophacinone sodium salt or warfarin sodium salt. However, there are currently no products containing chlorophacinone sodium salt or warfarin sodium salt registered for use in California.

### **Prohibited Uses**

Under the amended law, most uses of FGARs and SGARs are prohibited. Prohibitions include residential or home uses and most industrial and institutional uses, such as use in and around restaurants (that do not have an attached brewery or winery), grocery stores, airports, offices, construction sites, ports and terminal buildings, shipyards, timber yards, schools, shopping malls, sewers, and sewage treatment plants.

In addition, uses of FGARs or SGARs on many non-production agricultural sites (such as on cemeteries, golf courses, parks, highways, and railroads) are also prohibited. Use of an FGAR or SGAR in a wildlife habitat area is also prohibited unless the use meets one of the exemptions in subsection (g).

### **Allowed Uses**

The broad prohibition on using an FGAR or SGAR in California does not apply to certain specified users and uses, as set forth in FAC section 12978.7 subsections (g) and (h). These use exemptions are:

- Use by a government agency or public utility, including use by businesses licensed by DPR or registered with the Structural Pest Control Board (Board) contracted with the agency or utility, to protect water supply and hydroelectric energy generating infrastructure and facilities, such as: wells, surface-water intakes, dams, reservoirs, turbines, generators, storage tanks, drinking-water facilities, pipes, or aqueducts.
- Use by a mosquito or vector control district or agency, and certified Vector Control Technicians employed by the district or agency, to protect public health, including use by businesses licensed by DPR or registered with the Board and contracted with the district or agency.
- Use for eradication of nonnative invasive species on offshore islands.
- Use the Department of Fish and Wildlife determines is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.

- Use to control an actual or potential infestation associated with an urgent, non-routine public health need declared by the State Public Health Officer or a local public health officer.
- Use for research funded by the California Department of Food and Agriculture under FAC section 6025.5 to protect the food system and the environment.
- Use for research authorized by DPR to provide information for DPR’s diphacinone or SGAR reevaluations.
- Use at medical waste generators as defined in Health and Safety Code section 117705, such as the following examples:
  - Medical, dental, and veterinary offices, clinics, hospitals, surgery centers, etc.;
  - Pet shops; and
  - Trauma scene waste management practitioners.
- Use at FDA-registered and inspected facilities involved in commercial manufacture, preparation, compounding, etc., of drugs.
- Use on agricultural sites producing any horticultural, viticultural, aquacultural, forestry, dairy, livestock, poultry, bee, or farm product, unless the use is in a wildlife habitat area.
- Use at other noted sites, specifically:
  - A warehouse used to store foods for human or animal consumption;
  - A food manufacturing or processing plant, such as a slaughterhouse or cannery;
  - A factory, brewery, or winery;
  - On-farm water storage and conveyance facilities 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.
  - On-farm storage housing rights-of-way and other transportation infrastructure materials 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.

For an FGAR or SGAR use allowed under FAC section 12978.7 subsections (g) and (h), the product labeling and other applicable pesticide laws and regulations must continue to be followed. In the event of a conflict between labeling requirements, other pesticide laws and regulations, and FAC section 12978.7, the strictest requirement must be followed.

### **“Per Day” Civil Penalty Fines**

Existing law (FAC sections 12997, 12998, and 12999) provides DPR, the Attorney General, and the local District Attorney, City Attorney, or Circuit Prosecutor authority to file a civil enforcement action against violators for violations of FAC Division 7 of up to \$30,000 for each violation and up to \$75,000 for each subsequent violation. AB 2552 added FAC section 12997.8 to FAC Division 7, Chapter 2, Article 12.

This new section provides that persons who sell or use FGARs or SGARs in violation of FAC section 12978.7 can face a civil penalty of up to \$25,000 *per day* in addition to any other penalty established by law.

Newly added FAC section 12997.8 does not apply to County Agricultural Commissioner (CAC) pesticide administrative civil penalties under FAC section 12999.5 or Business and Professions Code section 8617. CAC civil penalty fine amounts are unaffected by this law.

### **Questions and Answers**

To help ensure statewide consistency with the implementation of these new chlorophacinone and warfarin sales and use requirements, DPR prepared the following questions and answers.

#### **Product Sales**

**1. Q: Will retailers be allowed to sell existing stocks of chlorophacinone or warfarin products after January 1, 2025?**

A: No. All but one of the actively registered chlorophacinone products are currently required to be sold by DPR-licensed dealers under existing law. Many are labeled as a “Restricted Use Pesticide” (RUP), and all but one product include on the labeling an “agricultural use” under California’s broad legal definition in FAC section 11408. These include use sites such as vineyards, orchards, groves, nurseries, tree farms, golf courses, parks, noncrop areas, and in and around agricultural buildings. DPR’s Registration Branch contacted the registrant of the one home-use only chlorophacinone product to inform them it will not be able to be sold or used in California beginning January 1, 2025.

Similarly, all actively registered warfarin products are labeled for an agricultural use under FAC section 11408 and can only be sold by DPR-licensed dealers.

**2. Q: Does the law apply to retailers selling chlorophacinone or warfarin online?**

A: Yes. If you encounter an online retailer selling a product which must be sold by a licensed dealer, please collect the available information (such as website or social media link; retailer name, address, phone number; and screenshot of webpage or advertising language, or copy of the online brochure) and refer the matter to DPR’s Product Compliance Unit at [ProductCompliance@cdpr.ca.gov](mailto:ProductCompliance@cdpr.ca.gov) for follow-up.

**3. Q: What should retailers who are not pest control dealers do with existing stocks?**

A: Existing stocks must be removed from sale by January 1, 2025. Existing stocks may be recovered by distributors or appropriately disposed. Retailers may contact their state or local hazardous waste disposal program to find out how to dispose of products appropriately.

**4. Q: How will licensed dealers determine if a chlorophacinone or warfarin product can be sold?**

A: In accordance with existing requirements, such as Title 3, California Code of Regulations (3 CCR) section 6568 which requires dealers to obtain a copy of the permit authorizing the use prior to delivery of the pesticide, dealers routinely question potential purchasers to determine if regulatory requirements can be met prior to sale or delivery of the pesticide. This will be especially important for chlorophacinone and warfarin products as product labeling may contain a mix of uses, some of which are prohibited and some of which are allowed under FAC section 12978.7.

Chlorophacinone or warfarin uses prohibited under FAC section 12978.7 are restricted materials; only those uses require a permit. A pest control dealer would meet its obligation by determining whether a prospective purchaser's stated intended use is allowed by FAC section 12978.7 and whether the stated intended use sites are on the product labeling to determine if the sale can be made without obtaining a copy of a permit.

**5. Q: CACs may sell chlorophacinone rodent bait for agricultural uses. How will they be impacted by the amended law? Can they continue to sell the bait?**

A: Since 2011, the chlorophacinone treated grain products sold by CACs (either 0.005% or 0.01%) have been labeled as "Restricted Use Pesticides." However, under existing law (FAC section 12102), the dealer licensing requirements of FAC section 12101 do not apply to federal, state, or county agencies which provide pesticides for agricultural use, such as these products.

Similar to pest control dealers, a CAC selling these treated grain products should determine if the purchaser intends to use the product for a use allowed under FAC section 12978.7.

Structural Uses

**6. Q: How do the changes affect Branch 2 chlorophacinone and warfarin uses?**

A: Registered Branch 2 companies practicing structural pest control are prohibited from using chlorophacinone or warfarin with certain limited exemptions allowed under the law (such as for vector control applications or at medical waste generators, slaughterhouses, factories, and certain warehouses) provided the use site is listed on the product labeling. As noted above, all chlorophacinone and warfarin uses that are not exempt under FAC section 12978.7, subsections (g) and (h) (such as use in residential areas) are prohibited starting January 1, 2025.

**7. Q: FAC section 12978.7(h)(3) lists additional "agricultural activities" where use of FGARs and SGARs are allowed. For example, breweries and wineries may be in industrial parks, shopping centers, or other stand-alone locations. These are often not located in an "agricultural setting." Can Branch 2 companies use FGARs and SGARs at these sites?**

A: Many of the sites listed in subsection (h) can be found in business or commercial parks, industrial parks, shopping centers or mini-malls, or other similar areas. These sites, including, slaughterhouses, canneries, breweries, wineries, and certain warehouses and factories, are not required to be in an “agricultural setting” to be considered “agricultural activities” pursuant to FAC section 12978.7(h)(3) and for Branch 2 companies to use FGARs or SGARs in these sites consistent with label direction and any other applicable legal requirements.

**8. Q: FAC section 12978.7(h)(3)(A) exempts use of FGARs and SGARs in “warehouse[s] used to store foods for human or animal consumption” Are distribution centers that contain food considered “warehouses”?**

A: Distribution centers are not covered by the exemptions in the law and FGAR and SGAR use in and around them is prohibited. The law exempts warehouses that are used to store foods for human or animal consumption. Warehouse is defined by Merriam-Webster as “a structure or room for the storage of merchandise or commodities.” Warehouses tend to store food products for longer periods of time and usually don’t serve consumers as they tend to be more focused on the retail supply chain.

While somewhat similar, distribution centers serve a different purpose than a warehouse. Distribution centers store products other than just food products and typically only for a short time. Flow of products through a distribution center is much greater and these facilities also offer other value-added services such as product mixing, order fulfillment, packaging, etc. Distribution centers can serve many different types of customers, including retailers and consumers.

**9. Q: What is a factory under this law?**

A: In FAC section 12978.7(h)(3)(C), the word “factory” is used in context with winery and brewery and thus is interpreted to be facilities related to the manufacture of food products.

In the context of this law, a factory is a facility that processes foods or engages in agricultural activities as defined in FAC section 564. Processes occurring at these food processing sites include canning, freezing, cooking, pasteurization or homogenization, irradiation, milling, grinding, chopping, slicing, cutting, or peeling food.

**10. Q: What if a building where use is exempt is within 50 feet of a building where use is prohibited?**

A: SGARs are subject to the requirements of 3 CCR section 6471(a), which restricts above ground use of SGARs to “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.”

Regardless of the buildings, facilities, or sites within 50 feet (or the placement limit specified on the label) of an exempt use site, use of SGARs in or around any exempt site (e.g. a brewery) meets the exemption in the amended law. The use must follow the product labeling and all other current pesticide laws and regulations.

Note that many FGAR labels may limit use to within 100 feet of man-made structures constructed in a manner so as to be vulnerable to commensal rodent invasions and/or to harboring or attracting rodent infestations. The restrictions in current 3 CCR section 6471(a) do not apply to FGARs.

#### Other Uses

**11. Q: Can agencies contract with a DPR-licensed or a Board-registered pest control business to conduct rodent control with FGARs or SGARs?**

A: Yes. A business licensed by DPR or registered with the Board may conduct rodent control with a registered FGAR or SGAR product to any site listed in the “Allowed Uses” above.

Specifically, FAC section 12978.7(g)(2) notes that contractors (i.e., a business licensed by DPR or registered with the Board) can apply FGARs and SGARS for governmental agencies and public utilities to protect water supply and hydroelectric energy generating infrastructure and facilities. Furthermore, as noted in ENF letter 21-13, the intent of the mosquito or vector control district exemption subsection (g)(3) was to include contractors should any vector control district “need to contract out with a third party to fulfill their vital role in protecting public health”.

**12. Q. What about public health uses?**

A: As noted above, there are two exemptions for public health. One is for applications by Vector Control Technicians employed by vector control or pest abatement districts or agencies, or their contractors, using FGARs or SGARs for public health activities.

The other exemption is if the State Public Health Officer or a local public health officer declares a public health need where there is an urgent, non-routine situation posing a significant risk to human health and where it is documented that other rodent control alternatives, including nonchemical alternatives, are inadequate to control the rodent infestation. Under this exemption, a pest control business could potentially conduct some limited FGAR or SGAR applications within the scope and duration of the declaration. In the event of a declared local health emergency involving FGAR or SGAR use for a public health need, as defined in FAC section 12978.7, please consult with your local public health officer.

**13. Q: Who will notify the CACs when DPR authorizes diphacinone or SGAR use for research purposes?**

A: In order to generate data for the reevaluation of diphacinone or SGARs, DPR may approve specific diphacinone or SGAR applications in California.

These research programs must be reviewed by DPR scientific staff involved in the reevaluation of diphacinone or SGARs to receive approval from the Director. As a courtesy, DPR will provide the local CAC with a copy of the approval. This is separate from the research authorization program detailed in 3 CCR sections 6260-6272.

**14. Q: How do the changes affect chlorophacinone and warfarin use by farmers, ranchers, or growers?**

A: Under the amended law, FAC section 12978.7 subsections (h)(2), (h)(3)(D), and (h)(3)(E) allow use on agricultural sites producing farm products, an agricultural production site housing water storage and conveyance facilities, and an agricultural production site housing rights-of-way and other transportation infrastructure. The prohibition on chlorophacinone or warfarin use by FAC section 12978.7 does not apply to these uses. As such, these allowed uses are unaffected by the amended law provided the product is registered for such use. For these allowed uses, **no permit for chlorophacinone or warfarin is required.**

However, there may be cases where a farmer or rancher has a grazing or agricultural lease in a wildlife habitat area. Use of FGARs and SGARs is broadly prohibited in wildlife habitat areas, except as provided in FAC section 12978.7 subsection (g).

**15. Q: What can end users do with chlorophacinone or warfarin products they have in storage which they can no longer use?**

A: For all end users, if the container is unopened the end user can consider contacting the dealer or registrant to ask about returning it. Alternatively, end users who have open containers, including homeowners and apartment managers, may contact their state or local hazardous waste disposal program to find out how to dispose of chlorophacinone or warfarin products appropriately.

**16. Q: Does this law affect FGAR or SGAR applications on federal property?**

A: Other than certain “pollution control standards,” federal agencies and their employees are not subject to California pesticide laws and regulations. The amended law instructs state agencies to encourage federal agencies to comply with the law’s requirements. However, DPR-licensed or Board-registered pest control businesses conducting pest control on federal property are still subject to California laws and regulations.

Restricted Material Permits


**17. Q: Who needs a restricted material permit to purchase or use diphacinone, chlorophacinone or warfarin?**

A: In practical terms, restricted material permits cannot be issued for use of FGARs. Allowed FGAR uses are exempt from the permit requirement and CACs **cannot** issue permits for uses prohibited by FAC section 12978.7.

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If you have any questions about implementing these requirements, please contact the Enforcement Branch Liaison assigned to your county.

Sincerely,

  
Joshua Ogawa (Dec 20, 2024 11:37 PST)

Joshua Ogawa  
Chief, Enforcement Headquarters Branch  
916-324-4100

  
Fidel Perez (Dec 20, 2024 12:22 PST)

Donna Marciano  
Chief, Enforcement Regional Offices Branch  
916-603-7700

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