



Agricultural and Non-Agricultural Pest Control Use

**Bulletin
number**

ENF-003 (Rev. 3-14)

**How pest
control activity
is divided and
why it is
important**

Food and Agricultural Code (FAC) section 11408 provides the criteria to divide pest control activities into agricultural use and non-agricultural use. Pest control use is divided into these two categories by listing what activities are not agricultural uses. This classification is important because it is used to determine the applicability and implementation of other pesticide sale and use requirements.

**What is pest
control?**

Section 11408 describes the activity it is classifying as agricultural and non-agricultural by using the definition of "pest control" found in section 11403. The most complete understanding of what "pest control" includes requires taking into account the definition of "pest" (*FAC section 12754.5*) and "pesticide" (*FAC section 12753*). Combining these sections, "pest control" is the use of any pesticide, method, or device to:

- Control (including prevent, repel, or mitigate) any pest (insect, predatory animal, rodent, or weed)
 - Control a plant disease (viruses, fungi, bacteria, or other microorganism)
 - Regulate growth by the direct application of a plant growth regulator (defined by *FAC section 12756*)
 - Defoliate plants
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What pest control does not include

Pest control does not include the following:

- Monitoring for pest presence (U.S. EPA interpretation)
 - The use of a tool or implement (hoe, rake, disc, or harrow) to control weeds (DPR licensing policy)
 - The use of a fertilizing material to maximize potential plant growth (as opposed to stimulate, regulate, or alter through physiological action)
 - The use of a substance (drug) to control, diagnose, mitigate, treat, or prevent disease in man or other animals, or substances used to control certain external pests considered animal drugs regulated by FDA¹.
 - The control of microorganisms living in or on humans or animals. (These are not pests as defined in FAC section 12754.5.)
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Agricultural pest control use categories

All pest control use that does not fit into the listed non-agricultural use categories is agricultural use. This includes watersheds, rights-of-way, landscaped areas (golf courses, parks, recreation areas, cemeteries, etc.).

Production agriculture: A subcategory has been created for pest control conducted in the "production for sale of an agricultural commodity" or "agricultural plant commodity" for the purpose of triggering certain requirements related to notice/use reporting and worker safety². Commodity is defined as any unprocessed product of farms, ranches, nurseries, or forests (except livestock, poultry, and fish). (*Title 3, California Code of Regulations [3 CCR] section 6000*)

Non-production agriculture: All other agricultural use in non-production agriculture.

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¹ A 1971 Memorandum of Understanding (MOU) between U.S. EPA and the Food and Drug Administration (FDA) (FDA-225-73-8010; available for review at <http://www.fda.gov/oc/mous/domestic/225-73-8010.html>) outlines the basic jurisdictions of each Agency with respect to products that have been classified as a "New Human or Animal Drug." The MOU states that FDA is the Agency responsible for regulation of products that are *classified as Human or Animal Drugs*, even if a product could be considered a pesticide by the other Agency.

² See 3 CCR sections 6618, 6619, 6623, and 6626 relating to notice and use reporting; and sections 6724, 6730, 6731, 6732, and 6761.1 related to worker safety.

Agricultural and Non-Agricultural Pest Control Use, Continued

Non-agricultural pest control use categories

Non-agricultural pest control use includes:

- **Home:** Use within, or in the immediate environment of, a household. (3 CCR section 6000)
- **Industrial:** Use within the confines of, or on property necessary for, the operation of factories, processing plants, packinghouses, or similar facilities, or use for or in a manufacturing, mining, or chemical process. In California, industrial use does not include use on rights-of-way. Post-harvest commodity fumigations at facilities or on trucks, vans, or rail cars are normally industrial use. (3 CCR section 6000)
- **Institutional:** Use within the confines of, or on property necessary for the operation of, buildings such as schools (playgrounds are necessary for the operation of a school), hospitals, office buildings, libraries, or auditoriums. When a licensed Structural Pest Control Operator treats these buildings, it is structural use. Landscaping of walkways, parking lots, and other areas immediately adjacent to these buildings is institutional. Landscaping of larger, more independent areas is not considered institutional. (3 CCR section 6000)
- **Structural:** Use by a licensed Structural Pest Control Operator within the scope of their license. (3 CCR section 6000)
- **Vector control:** Use by certain vector control (mosquito abatement) districts. (FAC section 11408(e))
- **Veterinarian:** Use by or pursuant to the written prescription of a licensed veterinarian within the scope of their practice. There is no requirement for veterinarians to write prescriptions to themselves, so although not specifically mentioned in the law, by policy, veterinarians are covered by this use pattern. (3 CCR section 6000)

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Classifying use -- examples

Both the site or situation of use and the user must be considered to determine how a particular use is classified. A particular use in one context may be classified differently in another.

For example:

- A tree can be residential landscape (home), institutional landscape (institutional), or watershed (non-production agriculture) depending upon where it is growing. However, if that same tree is growing in an orchard, it would be production agriculture.
- Milk-handling equipment located on a dairy would be agricultural, while similar equipment located at a milk processing plant would be industrial.
- An agricultural commodity fumigated in storage on a farm could be production agriculture while that same commodity fumigated in storage at a processing plant would be industrial.
- A swimming pool that is part of a residential property would be home use. A city, school, or other public pool would generally be institutional.

Difficult cases

Classification is important because different regulatory requirements apply to each class. The difference between production agriculture and non-agriculture use often requires more analysis. Generally, treatments done by and on an agricultural production establishment tend to be production agriculture if the physical form of the commodity has not been changed (simply drying a commodity is not normally considered a change in its form). This rule may not apply if the agricultural production establishment also does treatments as a service or handles commodity from other producers. In that case, they are considered to have established an industrial facility adjacent to their agriculture production enterprise.

This general rule also applies to packing facilities. Packing produce in the field as part of the harvesting operation is normally considered production agriculture. However, if the agricultural production establishment has a separate packing facility, it would usually be considered an industrial facility and use in that situation would be considered industrial.

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Difficult cases
(continued)

A unique situation is created by items such as drip lines and other irrigation systems, farm roads, egg-handling equipment, milk-handling equipment, and other similar items. While at first glance they would seem to be production agriculture, at least on a farm, their relationship to production is indirect, rather than direct. Treating weeds in ditches, algae in drip lines, and sanitizing egg or milk-handling equipment are considered non-production agricultural uses.

Federal labeling definition is not the same

The California definition of agricultural use and non-agricultural use was created to determine the applicability of requirements related to licensing, restricted material permits, worker protection, and pesticide use reporting³. The definition of agricultural use on federal pesticide labels is different and is determined by federal law. The federal definition is more closely related to what DPR would call production agriculture. Therefore, when interpreting pesticide labeling statements such as, "for use in agricultural areas" or "for use in non-agricultural areas" the key factor is whether or not the pesticide is being used to produce an agricultural commodity.

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³ See FAC sections 11407, 11407.5, and 11410 related to licensing; 3 CCR sections 6618, 6619, 6623, and 6626 related to notice and use reporting; sections 6724, 6728, 6730, 6731, 6732, and 6761.1 related to worker safety; and sections 6420 and 6430 related to restricted material permits.

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Production Agricultural Use*:

- Apiaries
- Aquaculture
- Christmas tree production
- Crop production (orchards, groves, fields)
- Crops grown for seed
- Drying product in the field
- Egg production
- Feed and forage
- Field packing
- Fish production
- Flowers (cut and sold)
- Forests/timber production
- Greenhouse/nursery/mushroom production
- Livestock production (meat)
- Milk production
- Post-harvest commodity treatment on the farm
- Poultry production (meat/eggs)
- Preplant soil treatments
- Rangeland and pasture
- Research (production)
- Tree hole fumigation
- Turf (grown for sod)
- Washing produce in the field

Non-Production Agricultural Use*:

- Cemeteries
- Ditches and ditch banks
- Drip lines
- Egg handling equipment (on farms)
- Farm roads
- Field borders and headlands
- Golf courses
- Greenbelts
- Greenhouse/nursery/mushroom operations (outside general weeds and pests, as well as pest control within alley ways and other interior areas)
- Ground water recharge ponds
- Highway medians
- Irrigation canals
- Irrigation systems (drip lines)
- Lakes, rivers, and streams
- Milk-handling equipment (on farms)
- Mushroom (post-harvest kill)
- Parks
- Railroad shoulders
- Recreation areas
- Research (commodity destroyed)
- Reservoirs
- Roadsides
- Rights-of-way
- Uncultivated (fallow) agricultural ground

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Agricultural and Non-Agricultural Pest Control Use, Continued

Non-Agricultural Use*:

- Airports-*Industrial*
- Amusement parks-*Institutional*
- Apartments/townhouses-*Home*
- Auditoriums-*Institutional*
- Clubhouse landscape-*Institutional*
- Condominiums-*Home*
- Construction sites-*Industrial*
- Food manufacturing plants-*Industrial*
- Grain elevators (production agriculture if on farm)-*Industrial*
- Home gardens (no distribution)-*Home*
- Homeowner Association (HOA) Property (except golf courses)
- Homes and residences-*Home*
- Hospitals-*Institutional*
- Libraries-*Institutional*
- Lumber yards-*Industrial*
- Mobile home parks-*Home*
- Mosquito abatement districts-*Vector control*
- Nurseries (retail non-production)-*Industrial*
- Office complex (around outside)-*Institutional*
- Office parking lots-*Institutional*
- Oil wells-*Industrial*
- Packing houses-*Industrial*
- Paper mills-*Industrial*
- Pet animals-*Home*
- Ports-*Industrial*
- Post harvest commodity treatments-*Industrial*
- Prescription from veterinarian-*Veterinarian*
- Ranchette pasture (no distribution)-*Home*
- Restaurants-*Industrial*
- Schools (buildings and grounds)-*Institutional*
- Seed treatment-*Industrial*
- Sewage treatment plants-*Industrial*
- Sewer lines-*Industrial*
- Shipyards-*Industrial*
- Shopping malls (inside or outside)-*Institutional*
- Swimming pools-*Various*
- Uncultivated non-agricultural ground-*Various*
- Water treatment plants-*Industrial*
- Wood treatment plants-*Industrial*
- Zoos-*Institutional*

*The most common designation is indicated in italics. However, as previously discussed in this document, some of these use designations may change depending upon the setting or the status of the user.