

**NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED CHANGES
IN THE REGULATIONS PERTAINING TO
NOTIFICATION AND APPLICATION-SPECIFIC INFORMATION**

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations (CCR), the Department of Pesticide Regulation (DPR) is providing notice of changes made to the proposed text of sections 6618, 6619, 6761.1, and 6770 of Title 3, CCR. These changes are in response to comments received during the public comment period and for reasons stated below. The public comment period on the originally proposed regulatory action closed on December 5, 2008. The Director finds that the modifications are sufficiently related to the original text of the proposed action. The modified text is being made available to the public for 15 days, during which written comments on the modifications will be received as provided in Government Code section 11346.8(c).

DPR will accept written comments relevant to the modifications between May 7, 2009, and 5:00 p.m. on May 22, 2009. Written comments relevant to the modifications may be sent via e-mail <dpr08002@cdpr.ca.gov>; or may be directed to Ms. Linda Irokawa-Otani, Regulations Coordinator, Department of Pesticide Regulation, 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015. FAX: (916) 324-1452.

DPR has made sufficiently related changes to the text from that which was originally proposed.

Modify sections 6618 and 6619:

- Revise subsections 6618(a) and (b) and 6619(a), (f), and (g) to clarify that notification is to be given orally or in writing.
- Revise subsections 6618(a) and (b) to address concerns, based on comments received during the public comment period, on the concept of “ample time.” The revisions acknowledge that the time needed to make all of the notifications required in this section, and the time needed for those persons receiving these notifications to take appropriate action, will differ depending on the circumstances of each notification. This offers flexibility to those persons responsible for giving the required notices and for those who are responsible for keeping employees away from areas scheduled to be treated with pesticides based on the variety of circumstances that can be encountered for each situation (i.e., prevailing local weather conditions, number of employees to notify).
- Revise subsections 6618(a)(1)(D), (b)(1)(B), (b)(2)(B), and subsection 6619(a)(3) to require that spray adjuvants be included in notices given if their use is applicable to clarify that spray adjuvants are pesticides and are commonly included in pesticide applications.

- Revise subsections 6618(a)(1)(G) and (b)(1)(C) to clarify that other precautions printed on the pesticide product labeling, or those included in applicable laws and regulations, related to the protection of employees or other persons during or after an application must be included in the notice. This is consistent with federal Worker Protection Standard (WPS) language found in Title 40 Code of Federal Regulations (40 CFR), Part 170.
- Revise subsections 6618(a)(3) and (a)(4) to clarify the scope of who needs to be notified of scheduled applications by referring to the group of employees specified in section 6700, as well as their employers. This replaces his or her employees of the operator of the property, any pest control business and its employees, and any hired contractor and their employees, including his or her fieldworker or pesticide handler employees who may walk within ¼ mile of the field to be treated. Referring to section 6700 better defines the scope of who should be receiving the required notices in these sections while remaining equivalent with the WPS and its use of the terms “handler” and “worker.” The significance of the ¼ mile distance has been moved to proposed subsection 6618(a)(5) as an exemption to giving notice. Special emphasis is placed on exemptions to giving notice in proposed subsections 6618(a)(5)(A) and (B) and is consistent with the WPS under 40 CFR, Part 170. Subsections 6619(c), (d), and (e) have been revised as well to be consistent with this revision after an application has been completed.
- For enforceability purposes, in subsections 6618(a)(6) and 6619(g), clarify the requirement for the operator of the property to notify persons (i.e., irrigation district employees, Pacific Gas and Electric crews, etc.), other than their own or any hired employer's employees, who the operator of the property has prior knowledge that these persons would likely enter a field to be treated or a treated field while a restricted entry interval is in effect.
- Information required in the notice of completion has been moved from subsection 6619(e) to 6619(f).

Modify section 6761.1 to:

- Replace references made to “agricultural establishment” with “operator’s property” to remain consistent within the regulations.
- Remove the originally proposed requirement for application-specific information (ASI) to be displayed before any fieldworkers are allowed to walk within ¼ mile of the treated field. DPR has determined that current and proposed regulations in sections 6618 and 6619, as well as in the WPS, do not require fieldworkers to stay ¼ mile from the field to be treated or a treated field. As revised in the modified text, the ASI must be displayed before fieldworkers are allowed to enter the treated field.
- Require that any spray adjuvants be included in the ASI if their use is applicable to clarify that spray adjuvants are pesticides and are commonly included in pesticide applications indicating the need to include them in ASI.

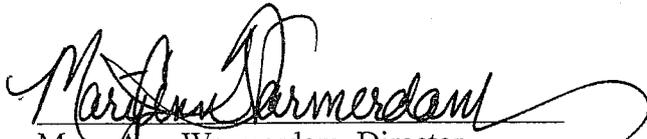
Modify section 6770 to:

- Replace references made to employees of the operator of the property, any pest control business, and any hired contractor with “employees” and “employers” to remain consistent with the modifications made to subsections 6618(a)(3) and (4) and 6619(c), (d), and (e).
- Replace the term “air” in subsection (d)(2)(A) as this term was inadvertently deleted from the proposed regulatory text.
- Provide further clarification on requirements for early entry employees operating tractors or other equipment while performing “no contact activities” based on the recommendation of U.S. Environmental Protection Agency Region 9 from requirements set forth in the WPS under 40 CFR, Part 170.

Current wording of the regulation is shown in normal type. Originally proposed additions are shown by underline. Originally proposed deletions are shown by ~~strikeout~~. New proposed deletions are indicated by *italics and strikeout*. New wording to be added by the modifications is shown in **bold double underline**.

All written comments received by 5:00 p.m. on May 22, 2009, which pertain to the indicated changes, will be reviewed and considered in this rulemaking. Please limit your comments to the modifications of the text.

This Notice of Modifications to Text of Proposed Changes and the text of modified regulations are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.


Mary-Ann Warmerdam, Director
Department of Pesticide Regulation


Date