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Director

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August 10, 2005

WHS 05-05

TO: COUNTY AGRICULTURAL COMMISSIONERS

SUBJECT: NOTIFICATION, APPLICATION-SPECIFIC INFORMATION, FIELD AND EARLY ENTRY REGULATION CHANGES

I would like to update you on a regulation package that the Department of Pesticide Regulation (DPR) has been working on the last several years pertaining to notification, application-specific information, field and early entry requirements. In March 2004, we solicited and received comments from grower, worker advocate, county agricultural commissioner, and pesticide applicator representatives on draft text of regulations, sections 6618, 6619, 6761.1, 6770 and 6771. After considering their comments, we made changes to the draft regulations (enclosed). Due to changes in personnel and other priorities, this regulation package was delayed for several months. However, we have initiated work on the regulation package and will be consulting with governmental agencies before we notice this regulatory action for public comment. We anticipate noticing these regulations for public comment early next year.

DPR's changes to these draft regulations are summarized below.

Notice of Applications (Section 6618)

- Establishes a performance-based standard that applies to both the operator of the property and hired contractors
- Clarifies that notice must be given to fieldworkers who may be in or walk within ¼ mile of the area to be treated during the date of the application
- Requires a new notification if the date of scheduled application changes
- Re-establishes the notification requirement for other persons known by the operator who may enter a field during the scheduled application

Notice of Completion of Applications (Section 6619)

- Establishes a performance-based standard that applies to both the operator of the property and hired contractors
- Clarifies that notice must be given to fieldworkers who may be in or walk within ¼ mile of the area during the restricted entry interval
- Re-establishes the notification requirement for other persons known by the operator who may enter a field during the restricted entry interval

Application-Specific Information for Fieldworkers (Section 6761.1)

- Changes the time requirement when application-specific information must be displayed
 - Current requirement is within 24 hours of receiving the completion notice



- Proposed change would require the display when the operator of the property receives notice of the completion of an application, or before any fieldworkers are allowed to walk within ¼ mile of the treated field
- Adds a requirement for operator of the property and hired contractor to display a description of the central location where the application-specific information is displayed at the worksite whenever his or her fieldworker employees are working in a treated field
 - The description of the location shall be specific enough for fieldworker employees to find and have unimpeded access to the displayed application-specific information

Field Entry After Pesticide Application (6770)

- Adds a requirement to prohibit the operator of the property from allowing any fieldworker or pesticide handler to enter or remain in a field on the day it is scheduled to be treated until the operator receives the notice of completion
- Adds a requirement to prohibit any hired contractor from allowing any of his or her employees to enter a field until the contractor has received authorization from the operator of the property
- Makes editorial changes for clarity and non-duplication of other sections

Requirements for Early Entry Fieldworkers (6771)

- Expands and clarifies the information that must be covered with a fieldworker before they can enter a field under a restricted entry interval
- Clarifies the requirements for hand washing facilities during a restricted entry interval

Thank you for your input during the development of these draft regulations. If you have any questions, please contact me.

Sincerely,

(original signed by C. Andrews)

Charles M. Andrews, Chief
Worker Health and Safety Branch
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Enclosure

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TEXT OF PROPOSED REGULATION

Originally proposed deletions are indicated by ~~strikeout~~.
Originally proposed additions are indicated by underline.

TITLE 3. CALIFORNIA CODE OF REGULATIONS
DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS
CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 2. WORK REQUIREMENTS
ARTICLE 1. PEST CONTROL OPERATIONS GENERALLY

Amend section 6618 to read:

6618. Notice of Applications.

(a) Prior to any pesticide application made to property for the commercial or research production of agricultural plant commodity, the following requirements shall apply:

(a)(1) Each person performing pest control shall ~~give notice to assure that~~ the operator of the property to be treated ~~before any pesticide is applied~~ receives notice of the scheduled application.

(1) The notice shall be in a manner the person can understand and include:

(A) The date of the scheduled application;

~~(B) The identity of the pesticide to be applied by brand or common chemical name; and~~

~~(C) Precautions to be observed as printed on the pesticide product labeling or included in applicable laws or regulations;~~

(2) If the scheduled application is for the commercial or research production of an agricultural plant commodity the notice shall also include:

(A) The time of the scheduled application;

(B) The location and description of the area to be treated;

~~(C) The applicable restricted entry interval;~~

~~(D)(C) The product name, U.S. EPA registration number, and active ingredient; and~~

(D) Precautions to be observed as printed on the pesticide product labeling or included in applicable laws and regulations;

(E) The applicable restricted entry interval; and

~~(E)(F) If the pesticide product labeling requires the posting of treated fields.~~

(2) If there is a change in the date of the scheduled application specified in (a)(1)(A), each person performing pest control shall assure that the operator of the property receives notice of this change prior to the application.

(b)(3) The operator of property for the commercial or research production of an agricultural plant commodity shall assure that notice is given to any fieldworker, pesticide handler, pest control business, and hired contractor working on the operator's property persons, as specified below, except for the persons who applied or supervised the application for which the notice is intended. For the purposes of this subsection, persons includes employees of the operator of the property and any contractor hired by the operator of the property who may enter or walk within ¼ mile of the area to be treated field during the date of the application. The operator of the

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property is not required to provide notice to persons who will apply the pesticide(s) or supervise the application for which the notice is intended.

(1) The notice shall be given:

(A) Prior to the application, to persons who are in the field or likely to enter the field during the application; and

(B) Before the scheduled entry, to persons who may enter the field during the restricted entry interval.

(2)(4) The notice shall be given to a Any licensed pest control business or licensed labor contractor hired and notified of any pesticide application by the operator of the property shall assure that notice is given to his or her pesticide handler or fieldworker employees working on the operator's property who may enter or walk that may have employees on or within ¼ mile of the area to be treated field during the date of the application. and The pest control business or hired contractor is not required to provide notice to employees who will apply the pesticide(s) or supervise the scheduled application. or the restricted entry interval. The pest control business or labor contractor receiving notice shall give notice to his or her employees. In lieu of giving notice to the licensed pest control business or the licensed labor contractor, the operator of the property may give notice directly to the employees of a labor contractor or pest control business to meet the requirements of this subsection (b).

(5) Notwithstanding subsection (a)(3) and (a)(4), a notice is not required when a field is posted pursuant to section 6776(b-f), unless the pesticide product labeling requires both oral notification and the posting of treated fields.

(6) The operator of the property shall assure that notice is given to persons, other than those specified in subsection (a)(3), whom the operator of the property would have reason to know may enter the field during the scheduled application. This notice is not required when a field is posted as specified in section 6776(b-f).

(3)(7) The notice specified in subsection (a)(3), (4), and (6) shall be in a manner the person can understand and include:

(A) The date of the scheduled application;

(A)(B) The location and description of the treated area; and

(B) The time during which entry is restricted; and

(C) Instructions not to enter the area to be treated field, except as provided in section 6770, until the restricted entry interval has expired. until authorized by the operator of the property.

(4) The notice specified in this subsection (b) is not required when a field is posted as specified in section 6776 unless the pesticide product labeling requires both oral notification to fieldworkers and the posting of treated fields.

(8) If there is a change in the date of the scheduled application specified in (a)(7)(A), then a new notice shall be provided to persons specified in (a)(3), (4), and (6) prior to the application.

(e)(b) Prior to any pesticide application made to The operator of property for purposes other than the commercial or research production of an agricultural plant commodity, the following requirements shall apply:

(1) Each person performing pest control shall assure that the operator of the property receives notice of the scheduled application. The notice shall be in a manner the person can understand and include:

(A) The date of the application;

(B) The identity of the pesticide by brand or common or chemical name; and

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(C) Precautions to be observed as printed on the pesticide product labeling or included in applicable laws or regulations.

(2) The operator of the property shall assure that notice is given to all persons who are on the treated property, or likely to enter during the application or the period of time that any restrictions on entry are in effect, except for the persons who made or supervised the application for which the notice is intended. (4) The notice shall be in a manner the person can understand and include:

- (A) The date of the application;
- (B) The identity of the pesticide by brand or common chemical name; and
- (C) Precautions to be observed as printed on the pesticide product labeling or included in applicable laws or regulations.

~~(2)~~(3) Compliance by licensed Structural Pest Control Operators with the notice requirements of section 8538 of the Business and Professions Code meets the requirements of this section.

~~(3)~~(4) Compliance by public agencies with the notice or barrier requirements of section 12978 of the Food and Agricultural Code meets the notice requirements of this section.

NOTE: Authority cited: Sections 12976 and 12981, Food and Agricultural Code.

Reference: Sections 11501, 12980, and 12981, Food and Agricultural Code; and Section 8538, Business and Professions Code.

Amend section 6619 to read:

6619. Pesticide Application Completion Notice Notice of Completed Applications.

(a) ~~In addition to the notice required pursuant to Section 6618, an agricultural pest control business~~ Any person applying pesticides to commercial or research property for the production of an agricultural commodity shall ~~give notice to assure that~~ the operator of the property treated ~~(or the operator's designated employee), receives notice~~ within 24 hours of completion of the pesticide application. ~~The operator's designated employee must, at minimum, have the authority and ability to reschedule or stop activities involving field workers performing cultural practices (e.g., irrigating, thinning, tree limb propping, weeding, harvesting).~~ This notice shall include the following information:

- (1) The location of the property, including the site identification number, and acreage treated;
- (2) The pesticide(s) applied;
- (3) The date and hour the application was completed; and
- (4) The applicable reentry and pre-harvest intervals, unless a copy of a written recommendation made by a licensed agricultural pest control adviser, properly completed, was given to the operator of the property treated.

(b) ~~If the operator of the property (or the operator's designated employee) will not be available to receive the notice within the 24-hour period, the operator shall identify in writing, the method by which the agricultural pest control business may provide notification. The method may be, but is not limited to, any of the following:~~

- ~~(1) Post or leave the notice in a designated location on the operator's property;~~
- ~~(2) Record the notification on a phone recorder; or~~
- ~~(3) Send the notice over a facsimile machine.~~

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(eb) The operator of the property treated shall maintain a record of the application completion notice(s) he or she receives by site, and a copy of the written notification method provided to each agricultural pest control business, if one is required.

(c) The operator of the property shall assure that notice is given to any fieldworker, pesticide handler, pest control business, and hired contractor working on his or her property who are likely to enter or walk within ¼ mile of the treated area during the restricted entry interval.

(d) Any pest control business or contractor hired and notified of any pesticide application by the operator of the property shall assure that notice is given to his or her pesticide handler or fieldworker employees who may be in, or are likely to enter or walk within ¼ mile of the field during the restricted entry interval.

(e) The notice specified in subsections (c) and (d) shall be in a manner the person can understand and include:

(1) The location and description of the treated area;

(2) The time during which entry is restricted; and

(3) Instructions not to enter the treated area until the restricted entry interval has expired, except as provided in section 6770.

(f) Notwithstanding subsections (c) and (d), a notice is not required when a field is posted as specified in section 6776(b-f), unless the pesticide product labeling requires both oral notification and the posting of treated fields.

(g) Except when a treated field is posted as specified in section 6776(b-f), the operator of the property shall assure that notice is given to persons, other than specified in subsection (c), whom the operator of the property would have reason to know would be in or likely to enter the field during the restricted entry interval. The notice shall be in a manner the person can understand and include:

(1) The location and description of the treated area;

(2) The time during which entry is restricted; and

(3) Instructions not to enter the treated area until the reentry interval expires.

~~(d)(h)~~ (h) The An agricultural pest control business shall ~~retain a copy of the written notification method received from the operator of the property, if the business received one.~~

~~The business shall also maintain a written record which documents the following:~~

~~(1) The name of the operator of the property treated;~~

~~(2) The location of the property, including the site identification number;~~

~~(3) The date and time the notice of completed application was given; and~~

~~(4) The method of notification, including the name of the person notified, if a person was notified.~~

~~(e)(i)~~ (i) The records ~~and written notification method~~ required pursuant to this section shall be retained for two years and made promptly available to the director or commissioner upon request.

NOTE: Authority cited: Sections 11456, 12976₂ and 12981, Food and Agricultural Code.
Reference: Sections 11501 and 12981, Food and Agricultural Code.

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SUBCHAPTER 3. PESTICIDE WORKER SAFETY
ARTICLE 3. FIELD WORKER SAFETY

Amend section 6761.1 to read:

6761.1. Application-Specific Information for Fieldworkers.

(a) The operator of property used for the commercial or research production of an agricultural plant commodity shall display at a central location the following application-specific information, while ~~employees~~ fieldworkers are employed to work in fields:

- (1) Identification of the treated area;
- (2) Time and date of the application;
- (3) Restricted entry interval; and
- (4) Product name, U.S. EPA registration number, and active ingredients.

(b) The information shall be displayed ~~within 24 hours~~ when the operator of the property receives notice of the completion of an application, or before any fieldworkers are allowed to walk within ¼ mile of the treated field. The information shall ~~and~~ include all applications that have been made to any treated field on the agricultural establishment within ¼ mile of where ~~employees~~ fieldworkers will be working. The information shall remain displayed until the area no longer meets the definition of a treated field or fieldworkers ~~employees~~ will no longer be on the establishment, whichever occurs earlier.

(c) The original or copies of documents otherwise required to be maintained by this chapter may be used to meet the requirements of this section, provided they contain the information required by this section.

(d) The operator of the property and any contractor hired by the operator of the property shall display a description of the central location of the application-specific information at the worksite whenever his or her fieldworker employees are working in a treated field. The description of the location shall be specific enough for fieldworker employees to find and have unimpeded access to the displayed application-specific information.

NOTE: Authority cited: Section 12981, Food and Agricultural Code. Reference: Sections 11501, 12973, 12980, and 12981, Food and Agricultural Code.

Amend section 6770 to read:

6770. Field Entry After Pesticide Application.

(a) The operator of the property shall not allow or direct any fieldworker or pesticide handler (except for those persons who were scheduled to apply the pesticide(s) or supervise the application) to enter or remain in a field on the day it is scheduled to be treated until the operator has received the notice of completion as specified in section 6619.

(b) Any pest control business or contractor hired by the operator of the property shall not allow or direct any of his or her employees (except for those employees who were scheduled to apply the pesticide(s) or supervise the application) to enter a field until the contractor has received confirmation from the operator of the property.

~~(a)(c)~~ (c) The employer shall not allow or direct any employee to enter or remain in a treated field before the restricted entry interval stated on pesticide product labeling or listed in section 6772

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has expired except as provided ~~in this section~~ below or otherwise expressly authorized by the director pursuant to Title 40 Code of Federal Regulations, Part 170.112 (d) or (e).

~~(b)(1) Pesticide handling activities.~~ Employees may enter a treated field during a restricted entry interval to conduct pesticide handling activities, including soil incorporation (mechanical or watered-in), provided the employer assures that they are wearing the personal protective equipment specified on the pesticide product labeling for handling activities.

~~(c)(2) No contact activities.~~ ~~An e~~Employees may enter a treated field during a restricted entry interval ~~when~~ provided the employer assures that:

~~(A) ¶~~There will be no contact with anything that has been treated, including soil, water, air, equipment, or plant surfaces, ~~provided that inhalation exposure does not exceed any pesticide product labeling standard or, for greenhouses, the ventilation criteria in section 6769 have been met.~~ Operating tractors or other equipment from inside an enclosed cab or when shields or other control methods, such as operator placement, physically prevent contact of the employee with anything that has been treated is considered to be a "no contact" activity for the purposes of this section.

~~(B) Inhalation exposure does not exceed any pesticide product labeling standard or, for greenhouses, the ventilation criteria in section 6769 have been met.~~

~~(d)(3) Short-term, limited-contact activities.~~ ~~An e~~Employees may enter a treated field during a restricted entry interval specified on pesticide product labeling to conduct limited contact activities (including limited contact irrigation) that are necessary and unforeseen, provided the employer assures that:

~~(1)(A)~~ The restricted entry interval is not for a pesticide product with the requirement on the labeling for both oral notification ~~of workers~~ and the posting of treated fields (double notification);

~~(2)(B)~~ At least four hours have elapsed since the end of the application;

~~(3)(C)~~ Inhalation exposure does not exceed the applicable pesticide product labeling standard or, for greenhouses, the ventilation criteria in section 6769 have been met;

~~(4)(D)~~ Exposure is minimal and limited to the feet, legs (below the knees), hands, and forearms (below the elbows);

~~(5)(E)~~ The personal protective equipment ~~specified on pesticide product labeling required for early entry or the optional personal protective equipment of~~ is used by the employees. The personal protective equipment shall either conform with the label requirements for early entry PPE; or consist of coveralls, socks, chemical resistant footwear, chemical resistant gloves, and protective eyewear (if eyewear is required by the pesticide product labeling for early entry workers) is utilized;

~~(6)(F)~~ The time in treated fields under a restricted entry interval does not exceed 8 hours in any 24-hour period for each employee entering under this exception; and

~~(7) The employees are informed that this exception is being used and about the provisions of (2), (3), and (6) orally or by posting notice.~~

~~(8)(G) This~~ The exception may not be used if the supporting exception granted by the U.S. Environmental Protection Agency for short-term, limited-contact activities is not in effect.

~~(e)(4) Short-term, high-contact activities.~~ ~~An e~~Employees may enter a treated field during a restricted entry interval specified on pesticide product labeling to conduct other activities, not included in ~~(b), (c), and (d)~~ (c)(1), (2), and (3) that do not involve hand labor provided the employer assures that:

~~(1)(A)~~ At least four hours have elapsed since the end of the application;

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~~(2)(B)~~ Inhalation exposure does not exceed any pesticide product labeling standard or, for greenhouses, the ventilation criteria in section 6769 have been met;

~~(3)(C)~~ The personal protective equipment specified on pesticide product labeling for early entry is used by the employees. The personal protective equipment shall either conform with the label requirements for early entry PPE; or consist of coveralls, socks, chemical resistant footwear, chemical resistant gloves, and protective eyewear (if eyewear is required by the pesticide product labeling for early entry workers); and

~~(4)(D)~~ Entry does not exceed one hour in any 24-hour period for any employee.

~~(f)(d)~~ ~~An e~~Employees may enter a treated field after the expiration of the restricted entry interval specified on pesticide product labeling and while a restricted entry interval specified in section 6772 is in effect as provided below:

(1) To conduct activities, other than hand labor, provided that employees are wearing work clothing with long sleeves and legs, shoes with socks, and gloves.

NOTE: Authority cited: Section 12981, Food and Agricultural Code. Reference: Sections 12980 and 12981, Food and Agricultural Code.

Amend section 6771 to read:

6771. Requirements for Early Entry Fieldworkers.

(a) Before any fieldworker may enter a field under restricted entry as permitted by section 6770, the ~~The~~ employer shall assure that ~~early entry~~ the fieldworkers ~~are~~ has been informed of ~~pesticide product labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, use and care of personal protective equipment required for early entry into treated fields, the prevention, recognition, and first aid for heat-related illness, and the importance of washing thoroughly at the end of the exposure period.~~ the following and be in a manner that he or she can understand:

(1) Specific restrictions and conditions pursuant to section 6770 about the work activity to be performed;

(2) Pesticide product labeling requirements related to human hazards or precautions;

(3) Symptoms of poisoning;

(4) Emergency first aid and decontamination procedures for pesticide injuries or poisonings, including emergency eye flushing techniques;

(5) How to obtain emergency medical care;

(6) The prevention, recognition, and first aid for heat-related illness if personal protective equipment is used;

(7) The need for, use, and care of personal protective equipment required for early entry into treated fields;

(8) That clothing and personal protective equipment may be contaminated with pesticide residues;

(9) Instructions for removing and storing such clothing and equipment, and laundering such equipment; and

(10) The importance of washing thoroughly at the end of the exposure period.

(b) The employer shall provide all required personal protective equipment and provide for its cleaning (according to pesticide labeling instructions or, absent any instructions, washed in

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detergent and hot water), repair and replacement when it cannot be adequately cleaned or properly repaired. The employer shall assure that ~~All~~ personal protective equipment ~~shall be~~ is inspected before each day of use. The employer shall assure that all personal protective equipment is kept separate from personal clothing, in a pesticide free, specifically designated place, when not in use. All required personal protective equipment required for fieldworker employees shall meet the applicable standards in section 6738.

(c) The employer shall assure that personal protective equipment is used correctly for its intended purpose.

(d) The employer shall assure that cleaned personal protective equipment is dried or stored in a well-ventilated place to dry. The employer shall assure that contaminated personal protective equipment is kept and washed separately from other clothing or laundry.

(e) Personal protective equipment shall remain the property of the employer. Early entry fieldworkers shall not be allowed or directed to take home pesticide contaminated personal protective equipment. The employer shall inform any person who cleans or launders personal protective equipment that the equipment may be contaminated, about the hazards presented, and how to properly handle and clean it.

(f) The employer shall assure that at least one pint of eyeflush water is immediately accessible (carried by the fieldworker or on the vehicle being operated by the fieldworker ~~is using~~) to each fieldworker who is performing, during any restricted entry interval specified on pesticide product labeling, early entry activities in a treated field for which the pesticide product labeling requires protective eyewear.

(g) The employer shall assure that early entry fieldworkers engaged in tasks pursuant to section 6770~~(d) and (e)~~ (c)(3) and (4) are provided, at the place where they remove personal protective equipment, sufficient water (of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed), soap, and clean or single use towels so that they may wash thoroughly at the end of the exposure period. Handwashing facilities provided in conjunction with toilet facilities pursuant to Title 8 California Code of Regulations, section 3457 (Field Sanitation), shall be considered adequate for the purposes of this section.

(h) The employer shall assure that a clean, pesticide-free place for storing personal clothing and putting on personal protective equipment at the start of work and taking off personal protective equipment at the end of the exposure period is provided for early entry fieldworkers.

(i) The employer shall take appropriate measures to prevent heat related illness, when necessary.

NOTE: Authority cited: Section 12981, Food and Agricultural Code. Reference: Sections 12980 and 12981, Food and Agricultural Code.