

15-DAY COMMENTS
ATTACHMENT B

	Comment/Response	Commenter
1	<p>Support/appreciate improved definition of "schoolsite"</p> <p><i>No response is needed.</i></p>	1, 6
2	<p>Regulations still do not adequately protect children and staff. Extend the buffer zone period to include times "when children are present" on school property.</p> <p><i>This comment is outside the scope of the modifications. However, as stated in the response to this comment during the 45-day comment period, objectives of the regulation include providing an extra level of protection to schoolsites and as well as emergency preparedness information to schoolsite administrators. While those incidents that could potentially result in harmful exposure to children are not numerous, it is reasonable to provide an extra level of protection during the time period when most of the school population is present during the Monday – Friday, 6:00 a.m. – 6:00 p.m. period. Activities that likely vary schoolsite by schoolsite that are supervised by schoolsite administrators outside the restriction period can be addressed on a case-by-case basis using the 3-party agreements specified in section 6991(f).</i></p> <p><i>DPR's evaluation of available data and current requirements indicates that the health risk to children and others is low, including dermal and inhalation exposure from expected and normal drift. Exposure from contact with contaminated surfaces following application is much lower than deposition during application. If substantial drift occurs, mitigation of exposure from contaminated surfaces, such as cleanup, is outside the scope of this regulation. Similarly, vapor or dust inhalation exposure from treated fields or contaminated surfaces following application is much lower than inhalation exposure during application.</i></p> <p><i>Inhalation exposure due to volatilization of fumigant pesticides is one exception to this analysis. Section 6991(e,) that requires 36 hours to elapse between the end of a fumigation and when a schoolsite session starts, addresses this exception. Additionally, mitigation of fumigant exposure is primarily addressed through separate federal, state, and county requirements, including application method restrictions and buffer zones.</i></p>	20, 26, 27, 62-365; 372-382

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3	<p>Annual notification of all pesticides to be used in the coming 12 months, with 48-hour notification required for applications involving materials not on the list. Growers will be forced to submit exhaustive annual lists of every material that conceivably might be applied during the year to avoid triggering the burdensome 48-hour notification requirement for unlisted materials.</p> <p><i>A realistic list could be developed using pesticide use reporting history, however the operator has the discretion on what is included on the list. Once the first list is developed, subsequent lists will be easier to prepare. The burden is less than requiring application-specific notifications before the start of every application as originally proposed.</i></p>	1, 11, 17, 21, 391-416A
4	<p>Opposes the development of “speculative lists” of products that may be used for annual notification. Revise text so growers provide a list of products used in the previous year if the cropping pattern is unchanged. Additions to that annual notification list should be added consistent to the 48 hour notification rule DPR is proposing for new operators of property to account for additional product use.</p> <p><i>A list of pesticides used in the previous year would comply with the regulation. The requirement to add a pesticide to the annual notification at least 48 hours prior to use is a requirement for all growers.</i></p>	6
5	<p>Annual notification still opens up school districts and principals to unknown liability.</p> <p><i>The notifications impose no liability on school districts or principals.</i></p>	8, 24, 54
6	<p>Remove the notification requirements on schools and recommend placing the notification requirement on CACs. Suggest CAC work with the farmers directly to notify the public as well as the schools with accurate, understandable, and appropriate information about the particular pesticide that is going to be applied. The CAC should be available to answer any questions that arise. Schools could provide a link on their webpages to the CAC’s information.</p> <p><i>CACs only have information about applications of restricted materials, a small fraction of the pesticides that growers might use. This would also place an undue burden on CACs.</i></p>	24
7	<p>Limiting the notification requirement to an annual occurrence is an improvement. Better alternative for pesticide applications within ¼ mile of schoolsites - agricultural representatives, together with the CAC, and school administrator collaborate to adopt an annual plan describing pesticide use for the upcoming year.</p>	21

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	<p><i>The suggested alternative is infeasible because: 1) DPR lacks legal authority to require school administrators to take any actions, including collaborating in developing annual plans; and 2) this would place undue burden on CACs.</i></p>	
8	<p>In the event of a change in property operator, the 30-day requirement to provide a new annual notification is unnecessary if the list of pesticides is unchanged or if the new operator uses the same applicator. The applicator should have familiarity with the list of materials included in an annual notification and assuming the list remains the same during the change there does not appear to be any reason to require a new notification.</p> <p><i>DPR does not agree with this comment. The new property operator’s contact information and any other changes must be provided in the notification to the schoolsites and CAC. However, if the new property operator intends to use the same pesticides as the previous property operator, the same list can be provided.</i></p>	21
9	<p>Appreciate application specific notification was removed as well as streamlining the implementation and notification dates for consistency.</p> <p><i>No response is needed.</i></p>	16
10	<p>Removing 48-hour notification requirement is taking away the fundamental right of students, parents and teachers to know when drift prone toxic pesticides are nearby in order to take appropriate steps to prevent exposure because information is hard to find. Require CACs to post 48-hour notice on their websites of planned applications of restricted materials with the school buffer zone, and bilingual format.</p> <p><i>DPR lacks legal authority to require any actions by schoolsites. Even if the 48-hour notification requirements had been retained, schoolsites would not be required to forward the notifications to parents or teachers.</i></p> <p><i>The application-specific notifications may have minimal value since the proposed regulation prohibits many of the applications with the highest drift potential. CACs are concerned about the redirection of resources that may be needed to enforce the requirements and respond to inquiries generated by the notifications. Notification for all restricted materials is unprecedented and DPR cannot accurately determine the impacts to all parties. Two separate pilot projects for application-specific notification to schools are being conducted, one in Kern County and one in Monterey County. DPR will reassess the need, impacts, and method for application-specific notification after the completion of these pilot projects.</i></p>	26, 27, 28, 29, 43, 55-132, 134-360; 370-382; 481

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11	Support the changes; however regulations are overly restrictive, unnecessary and lack evidence. <i>No response is needed.</i>	417-448
12	Extend DPR's proposed ban on fumigant applications within the school buffer zone for 36 hours before school is in session to include organophosphate pesticide. <i>This comment is outside the scope of the modifications. No response necessary.</i>	20, 26, 27, 29, 40, 43, 45, 62-132, 134-360; 366-369;
13	DPR made no meaningful changes to weak, part-time buffer zones by removing 48-hour notification. At least post 48-hour advance notices of pesticide applications on DPR's web site. <i>DPR disagrees with the comment. The application-specific notifications may have minimal value since the proposed regulation prohibits many of the applications with the highest drift potential. Also, school administrators have several concerns about the notifications, including potential liability and workload. CACs are concerned about the redirection of resources that may be needed to enforce the requirements and respond to inquiries generated by the notifications.</i>	383-388
14	Notifications have played a vital role in protecting children's safety by assisting the CAC in rescheduling fumigations when they are found to be too close to school activities. Notification protects children from pesticide exposure. <i>As required by section 6434, CACs will continue to receive notices of intent for fumigants and other restricted materials.</i>	388-390
15	Reinstate 48-hour notification. This is valuable information. <i>See response to Comment 13.</i>	29, 40, 41, 44, 48-53; 479
16	Growers and school officials should exchange telephone numbers for all agricultural fields to be treated on all applications. Good communication between growers, school officials and CACs is important to address actual or perceived incidents reported by parents/staff/public. <i>The grower's contact information is included in the annual notification.</i>	32

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17	<p>Ground rig using an orchard gun will possibly spray drift especially with wind. An orchard gun can be used within 25 feet of school playground and be safe.</p> <p><i>This comment is outside the scope of the modifications. It is unclear what distance applies to the orchard gun applications described.</i></p>	32
18	<p>DPR should restore language in section 6692(b)(1) to indicate that those to be notified about pesticide applications should include the principal/administrator and additional two other staff members. The principal/administrator may be out of the area on a school-related business trip when a 48-hour notice is given.</p> <p><i>Other staff do not need to be notified because schoolsites are not expected to take any immediate actions based on amendments to the annual notification. Unlike the application-specific requirements that were removed, the only new information provided in the amended notification is the name of the pesticide(s). Voluntary agreement to provide additional staff members the amended annual notification would be acceptable. Further, the 48 hours before the application is the minimum time required to amend the annual notification.</i></p>	45
19	<p>This regulation has not only taken into account schoolsites, but also child care facilities. While by the DPR definition one would be required to be a licensed facility, we have questions regarding those that are undergoing their provisional period or one that has allowed their license to lapse and are in the process of renewing. Do these facilities still fall under the DPR's guidelines for reporting? Our organization strongly feels that they should be excluded as they are not licensed according to state standards.</p> <p><i>DPR modified the proposed text to specifically identify a child day care facility as defined in the Health and Safety Code section 1596.750 and that definition includes a current valid license.</i></p>	13
20	<p>Revise the definition of "airblast" and/or add language that will allow DPR to have discretion to allow proven drift reducing technology to be used to meet the regulations.</p> <p><i>The comment is unclear. However, DPR disagrees that drift reduction technology should be exempted from the regulation.</i></p>	5

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21	<p>If this regulation is to move forward, 2018 should be regarded as an educational and implementation period, but not an enforcement period. Despite DPR’s revised implementation date, there will still be many components of this regulation that will need to be customized for local conditions.</p> <p><i>DPR disagrees with the comment.</i></p>	6
21	<p>Adopt as proposed without the modifications.</p> <p><i>No response is needed.</i></p>	23
22	<p>Definition should include private schools.</p> <p><i>Private schools are excluded from the regulation. Public K-12 schools and child day care facilities must provide annual notification to parents of pesticides expected to be used on school grounds (institutional use), as specified by the Healthy Schools Act. Schoolsites, if they so choose, should be able to forward the agricultural pesticide notifications to parents and staff using the same procedure. Private schools are not included in the Healthy Schools Act requirements, so they do not have the experience, infrastructure, or procedures to forward the pesticide notifications. Furthermore, the locations of some private schools are uncertain or unknown.</i></p>	22, 36
23	<p>CAC should be required to keep track of all applications for a minimum of one year and stored in a centralized state database that the state can assess at any time for emergency and data collection purposes.</p> <p><i>CACs respond to pesticide emergencies and they have access to the notification information. For data collection purposes, pesticide use report data is available.</i></p>	20, 22
24	<p>Violation consequences and who are the responsible parties to such violations are missing.</p> <p><i>Enforcement of the regulation is specified in other laws and regulations.</i></p>	22
25	<p>Support removing 48-hour notification.</p>	1, 6

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	<i>No response is needed.</i>	
26	Support limiting individual who will receive annual notification – CAC, principal, and administrator. <i>No response is needed.</i>	6
27	Oppose to the inclusion of licensed daycare facilities. The regulation on its face states that this is a regulation regarding pesticide use near school sites and the inclusion of daycare facilities is an unwarranted expansion of the regulation. With daycare facilities, administrative organization can vary from site to site making the notification requirements overly burdensome. <i>The inclusion of child day care facilities is consistent with the Healthy Schools Act and these children may be the most vulnerable to pesticide exposure. The comment about administrative organization is unclear. Each school will also receive a separate notification.</i>	16
28	Support the deletion of the proposed section 6693. It appears that DPR is applying a cost to benefit formula to their analysis for deleting the section. The notice states that the deletion is supported due to economic reasons, e.g. “potential” liability and work load of school administrators and re-direction of resources for enforcement and response to inquiries by county agricultural commissioners. We request that DPR provide information in regards to the economic cost/benefit threshold for “potential” liability, workload and re-direction of resources that supported deletion of the proposed section. It is confusing when a health study that states it cannot be used to predict health impact is used to support the regulation but on the other hand sections are deleted due to “potential” liability and work load costs. <i>DPR did not apply a formula to the costs versus benefits. DPR decided that the current tasks carried out by schoolsites and CACs are more valuable than shifting resources to handle application-specific notifications.</i>	19
28	Making the schools the primary contact in regards to notification will lead to misunderstanding, miscommunication and unnecessary fear since they lack experience, knowledge. <i>The objectives of the notification are to provide a means of communication between growers and schoolsites, and</i>	1

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	<i>to provide emergency preparedness information to schoolsites. Schools do not need to have expertise about pesticides. However, the notification includes sources of additional information if the principal desires more information, including contact information for the CAC.</i>	
29	Annual notification should be deleted until further information warrants such action from two pilot projects in Kent and Monterey counties. <i>See response to Comment 28.</i>	7
30	The regulation allows for applications of materials not listed on the annual notification only if 48 hours' notice is provided to the schoolsite and CAC. Notifying schools of an application 48 hours before opens the door for unjustified ridicule and pressure to growers and must not be encouraged the way it is in this regulation. <i>The comment is unclear as to why the amendment of the annual notification will cause ridicule or pressure. This requirement is less stringent than the originally proposed requirement for application-specific notification.</i>	12
31	DPR fails to address commodity fumigation and the proposed exemption must be addressed. <i>This comment is outside the scope of the modifications. However, section 6690 states that “The provisions of this article pertain to pesticide applications made for the production of an agricultural commodity...” As defined in section 6000, agricultural commodity “means an unprocessed product of farms, ranches, nurseries, and forests...” Commodity fumigations are not included in the regulation because they are not pesticide applications for unprocessed products of farms, ranches, nurseries, or forests.</i>	12
32	Contest the way that initial outreach has been executed. Homes have received an envelope with only the Text of Modified Regulations and the Notice of Modifications to the Text of Proposed Changes. This will create misguided concerns among those that are not involved in agriculture. On the final page of the Notice of Modifications to Text, DPR states, “Notification for all pesticides is unprecedented and DPR cannot accurately determine the impacts to all parties.” We find it discouraging that this is the path that DPR has decided to inform parents and homeowners of these regulations. <i>Pursuant to the Administrative Procedure Act, Title 1 of the California Administrative Code section 44(a), DPR is required to mail a notice stating the period within which comments will be received together with a copy of the full text of the regulation as originally proposed, with the proposed change clearly indicated to all persons who testified</i>	13

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	<i>at the public hearings, submitted written comment, or requested notification from DPR of the availability of such change. These documents were also posted on DPR's Web site.</i>	
33	<p>The proposal to add subsection 6692(a)(1) proves to be concerning. An owner of a new property, in which they have not farmed, could have problems with providing notification of the type of pesticides to be used from time of purchase to June 30 of the following year. As they are new to the property, they will not be familiar with said property until farming for at least one year. We understand that the updated format of the 48 hour notice would not come into use until this time; however we find this to be inadequate. When a pest is found in a field, a grower needs to react immediately, especially if treating a new parcel.</p> <p><i>The operator of a new farm can provide a list of pesticides applied by other growers of the same crop. DPR annually publishes a statewide report and individual county reports of all the pesticides used on each crop.</i></p>	13
34	No comments relevant to modified text.	2, 3, 4, 9, 10, 14, 15, 18, 25, 30, 31,33, 34, 35-39, 42, 54, 46, 47, 449-478, 480
35	<p>The term chemigation should be defined.</p> <p><i>This comment is outside the scope of the modifications.</i></p>	416B