

TEXT OF MODIFIED REGULATIONS

Current wording is indicated by regular type.
Proposed deletions are indicated by ~~strikeout~~.
Proposed additions are indicated by underline.
New proposed deletions are indicated by *italics and strikeout*.
New proposed additions are indicated by **bold double underline**.

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

Adopt Article 5 heading to read:

ARTICLE 5. PESTICIDE USE NEAR SCHOOLSITES

Adopt section 6690 to read:

6690. Pesticide Use Near Schoolsites.

The provisions of this article pertain to pesticide applications made for the production of an agricultural commodity within ¼ mile of a schoolsite ~~as defined in Education Code section 17609, subsection (f), excluding the family day care homes as defined in Health and Safety Code section 1596.78.~~ **“Schoolsite” as used in sections 6690-6692 means any property used as a child day care facility, as defined in Health and Safety Code section 1596.750, or for a kindergarten, elementary, or secondary school. This includes all areas of the property used on weekdays by children who attend such facilities or schools, or other similar areas identified by the commissioner, such as a park adjacent to a school that is used by the school for recess, sports, or other school activities. “Schoolsite” does not include: family day care homes as defined in Health and Safety Code section 1596.78; any postsecondary educational facility attended by secondary pupils; private kindergarten, elementary, or secondary school facilities; or vehicles or bus stops not on schoolsite property.**

NOTE: Authority cited: Sections 11456 and 12976, Food and Agricultural Code.
Reference: Section 11501, Food and Agricultural Code.

Adopt section 6691 to read:

6691. Pesticide Application Restrictions.

Effective October 1, 2017, pPesticide application restrictions will apply Monday through Friday, during the hours of 6:00 a.m. to 6:00 p.m., depending on the distance from the treated area to a schoolsite, the application equipment used, and type of pesticide applied. The type of pesticide is not the product formulation but the final form applied (e.g., if a powder is mixed with water and then applied, this is considered a liquid application). During these time periods, the operator of the property and the applicator shall assure that an application is not made within the distance of the schoolsite as specified below.

- (a) There must be a minimum ¼ mile distance restriction for applications using a:
- (1) Aircraft.
 - (2) Airblast sprayer **or other ground application equipment with a pump that delivers spray into an air stream created by a fan.**
 - (3) Sprinkler chemigation equipment.
 - (4) Dust or powder except as provided in subsection (c)(3).
 - (5) Fumigant.
- (b) There must be a minimum 25 foot distance restriction when using a:
- (1) Ground-rig sprayer. However, if this type of equipment is used to apply a dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.
 - (2) Field soil injection equipment. However, if this type of equipment is used to apply a fumigant, the ¼ mile distance restriction in subsection (a) applies; or if used to apply a dust or powder, there is no minimum distance restriction.
 - (3) Other application equipment not identified in this section, such as drip or flood chemigation equipment. However, if this type of equipment is used to apply dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.
- (c) Notwithstanding subsections (a) and (b), there is no distance restriction when:
- (1) the application is made within an enclosed space, such as a greenhouse. However, when applying a fumigant, the ¼ mile distance restriction in subsection (a) applies.
 - (2) the application is made using bait stations.
 - (3) a pesticide is applied as a dust or powder using field soil injection equipment.
 - (4) a pesticide is applied as a granule, flake, or pellet. However, when the pesticide product formulation is applied as a fumigant, or applied by aircraft, the ¼ mile distance restriction in subsection (a) applies.
 - (5) an application is made using a backpack sprayer. However, when this type of equipment **incorporates an airblast sprayer or** is used to apply a dust or powder, the ¼ mile distance restriction in subsection (a) applies.
 - (6) an application is made using a hand pump sprayer. However, when this type of equipment is used to apply a dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.
- (d) Notwithstanding subsections (a) and (b), there is no distance restriction when:
- (1) school classes are not scheduled for the day of application.
 - (2) the child day care facility is closed during the entire day of the application.
- (e) In addition to the time period and distance restriction specified in subsections (a)-(c), fumigants cannot be applied when school classes are scheduled or child day care facilities are open within 36 hours following fumigation.
- (f) Notwithstanding subsections (a) through (c), the application restrictions do not apply when there is a written agreement between the operator of the property, the principal or child day care facility administrator, and the commissioner that specifies alternative application restrictions that the parties agree provide the same or a greater level of protection as provided by subsections (a) through (c). Any party may rescind the agreement at any time by notifying the other parties in writing. If an agreement is rescinded, then subsections (a) through (c) control. The commissioner shall enforce a written agreement for restrictions as if they were requirements in regulation.

NOTE: Authority cited: Sections 11456 and 12976, Food and Agricultural Code.
Reference: Section 11501, Food and Agricultural Code.

Adopt section 6692 to read:

6692. Annual Notification.

(a) For all applications of pesticides expected to be made for the production of an agricultural commodity within ¼ mile of a schoolsite ~~from January 1, 2018 through June 30, 2018~~, the operator of the property to be treated shall provide annual notification to ~~that schoolsite~~ **those specified in (b)** no later than ~~October 1, 2017. Beginning in 2018, the operator of the property to be treated shall provide annual notification to that schoolsite~~ no later than April 30 of pesticide(s) ~~applications~~ expected to be ~~made~~ **used** from July 1 of the current year through June 30 of the next year.

(1) Effective April 1, 2018, if the operator of the property to be treated changes, the new property operator shall provide the notification as specified in (b) and (c) within 30 days of assuming control of that property for expected pesticide(s) to be used from the time the notification is provided through June 30 of the following year. If the notification made 30 days after assuming control includes information about the pesticide(s) expected to be used July 1 of the current year through June 30 of the following year, then (a) does not apply. Subsequent notifications must be provided as specified in (a).

~~(b)~~ **(b)** The annual notification must be provided to:

~~(1) The principal of the public K-12 school and up to two employees designated by the principal;~~

~~(2) The administrator of the child day care facility and up to two employees designated by the administrator; and~~

~~(3) The county agricultural commissioner.~~

~~(bc)~~ **(b)** The annual notification must be in writing and include the following information:

~~(1) A summary of the operator of the property's requirements to provide annual notification to a schoolsite as described in subsection (a).~~

~~(2) A summary of the operator of the property's requirement to provide application-specific notification to a schoolsite as described in section 6693, subsection (a), and the option for the principal and the administrator to waive their right to receive such notification as described in section 6693, subsection (e).~~

~~(32)~~ **(3)** A summary of the applicable pesticide application restrictions specified in section 6691.

~~(43)~~ **(4)** Operator of the property's name and contact information;

~~(54)~~ **(5)** Map showing location of the field(s) involved and the school or child day care facilities;

~~(65)~~ **(6)** County agricultural commissioner's contact information;

~~(76)~~ **(7)** National Pesticide Information Center Web site address;

~~(87)~~ **(8)** Information on the pesticide(s) expected to be used ~~in the upcoming July 1 through June 30 period~~ including: name of each active ingredient, or principal functioning agent for a spray adjuvant; example pesticide product name(s); and the U.S. Environmental Protection Agency or California registration number.

~~(9) A description on how the principal or administrator may designate up to two employees to also receive the annual notifications and application specific notifications pursuant to subsection (e).~~

~~(108)~~ **(10)** The following statements: "This notification is informational only, **and includes a list of pesticides expected to be used. Beginning July 1, 2018, schoolsites will be informed of pesticides not on the list at least 48 hours prior to their use.** The county agricultural commissioner may be contacted for questions or additional information; if violations of these requirements are suspected; or other non-emergency situations.

~~(19)~~ A description of the option to negotiate an alternate to the required application restrictions and/or application-specific notification as provided in sections 6691, subsection (f), and 6693, subsection (f).

~~(e) The school principal or child day care facility administrator has the discretion to designate up to two employees to receive annual notifications, and application specific notifications specified in section 6693. The principal or the administrator shall notify the operator of the property and commissioner in writing with the employee(s) name and contact information.~~

(d) Effective July 1, 2018, if a pesticide to be used was not included in the annual notification as specified in subsection (c)(7), the operator of the property shall provide this information to the schoolsite and commissioner at least 48 hours prior to the application.

~~(e)~~ The property operator shall retain a copy of each annual notification for two years and make them available to the Director or commissioner upon request. **The commissioner shall retain a copy of each annual notification for one year.**

NOTE: Authority cited: Sections 11456 and 12976, Food and Agricultural Code.
Reference: Section 11501, Food and Agricultural Code.

Adopt section 6693 to read:

6693. Application-Specific Notification.

~~(a) Beginning January 1, 2018, the operator of the property to be treated and the pesticide applicator shall assure that application-specific notification is provided to the schoolsites specified in section 6690 for applications within a ¼ mile of a schoolsite made pursuant to section 6691, subsection (b), Monday through Friday, during the hours of 6:00 a.m. to 6:00 p.m., except when no minimum distance is required pursuant to section 6691, subsections (c) and (d).~~

~~(b) The application-specific notification must be in writing, and be provided at least 48 hours prior to the start of the application to the people specified in section 6692 subsection (a)(1) and (2). The application must commence within four days of the date specified in subsection (c)(10) or a new notification is required.~~

~~(1) The new notification does not need to be provided 48 hours prior to the application if it is submitted within four days of the date specified in subsection (c)(10).~~

~~(2) The new notification must be provided at least 48 hours prior to the application if it is not submitted within four days of the date specified in subsection (c)(10).~~

~~(c) The notification must include the following:~~

~~(1) A summary of the operator of the property's requirement to provide application-specific notification pursuant to subsections (a) and (b);~~

~~(2) the information specified in section 6692, subsections (b)(4)-(7);~~

~~(3) product name(s);~~

~~(4) active ingredient(s), or principal functioning agent(s) for a spray adjuvant;~~

~~(5) U.S. Environmental Protection Agency or California registration number;~~

~~(6) an indication if the active ingredient was not included in the annual notification;~~

~~(7) location of areas to be treated;~~

~~(8) approximate acres or other units;~~

~~(9) method of application;~~

~~(10) the earliest date and start time of the application; and~~

~~(11) The following statement: "This notification is informational only. The county agricultural commissioner may be contacted for questions or additional information about the requirements;~~

if violations of these requirements are suspected; or other non-emergency situations. If someone is seriously ill, call 911 for help. In less serious cases, call a doctor or the Poison Control Center, 1-800-222-1222."

(d) When application specific notification is provided pursuant to subsection (a), the operator of the property shall provide the application specific notification to the commissioner at least 48 hours prior to starting the application. Alternatively, a written notice of intent for the application of a restricted material required by section 6434 may be submitted at least 48 hours prior to starting the application. The notice of intent must indicate that the application is within ¼ mile of a schoolsite.

(e) The principal or administrator may waive their right to receive application specific notification by notifying the operator of the property in writing, and providing a copy to the commissioner.

(f) Notwithstanding subsections (a) (d), the application specific notification requirements do not apply when there is a written agreement between the operator of the property, the principal or child day care facility administrator, and the commissioner that specifies alternative application specific notification. Any party may rescind the agreement at any time by notifying the other parties in writing. If an agreement is rescinded, then subsections (a) (d) control. The commissioner shall enforce a written agreement for notification as if they were requirements in regulation.

(g) The operator of the property shall retain a copy of each application specific notification for two years and make them available to the Director or commissioner upon request.

NOTE: Authority cited: Sections 11456 and 12976, Food and Agricultural Code.
Reference: Section 11501, Food and Agricultural Code.