



California Environmental Protection Agency
Department of Pesticide Regulation

Regulation to Address Pesticide Use Near Schools and Child Day Care Facilities

December 2018

Outline

- Background and summary
- Section 6690: scope of regulation and definitions
- Section 6691: application restrictions
- Section 6692: annual notification



Objectives of regulation

- Provide minimum standards for applications near schoolsites
- Provide extra margin of safety in case of unintended drift
- Increase communication between growers and schoolsites
- Provide information to schoolsites for emergency preparedness



Summary of regulation

Type of Requirement	<u>Requirement Based on Drift Class</u>		
	Higher	Lower	Negligible
Minimum Distance Between Application and Schoolsite, Mon-Fri, 6:00am-6:00pm	¼ mile	25 feet	None
Annual Notification of Pesticides Expected to be Used Within ¼ mi of Schoolsite	Yes	Yes	Yes

- Grower, schoolsite, and CAC can negotiate agreement that achieves the same or greater level of protection as the regulation
- For fumigations within ¼ mile of a schoolsite, 36 hours must elapse from end of fumigation until classes start, day care opens

Section 6690 – scope and definitions: pesticide applications included

- Regulation includes **pesticide applications for production of an agricultural commodity** within ¼ mile (1,320 feet) of a schoolsite
 - Includes applications of adjuvants and 25(b) pesticides
 - Includes applications to school farms that produce agricultural commodities
 - Excludes non-production agriculture applications
 - Excludes non-agricultural applications

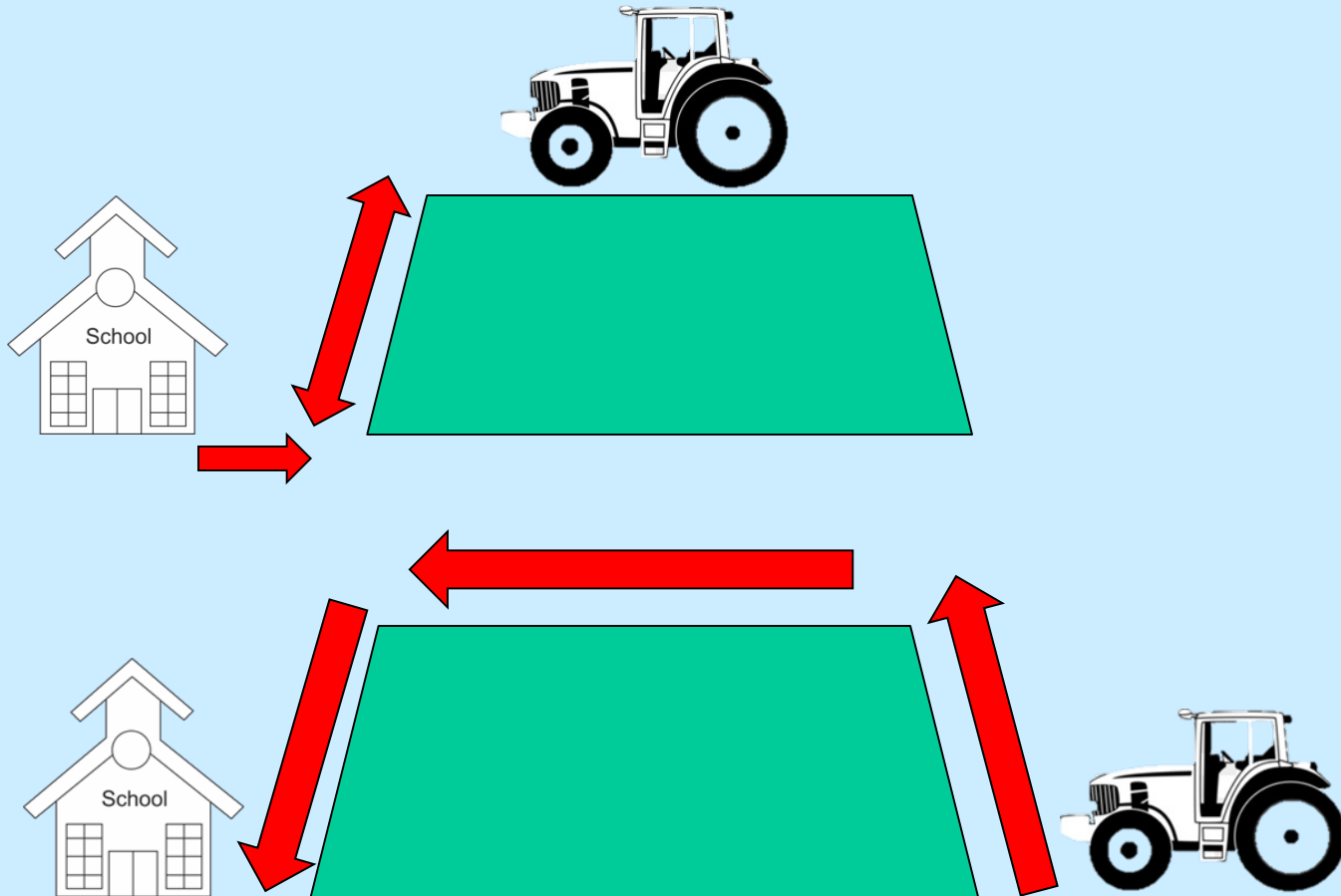
Section 6690 – scope and definitions: application site issues

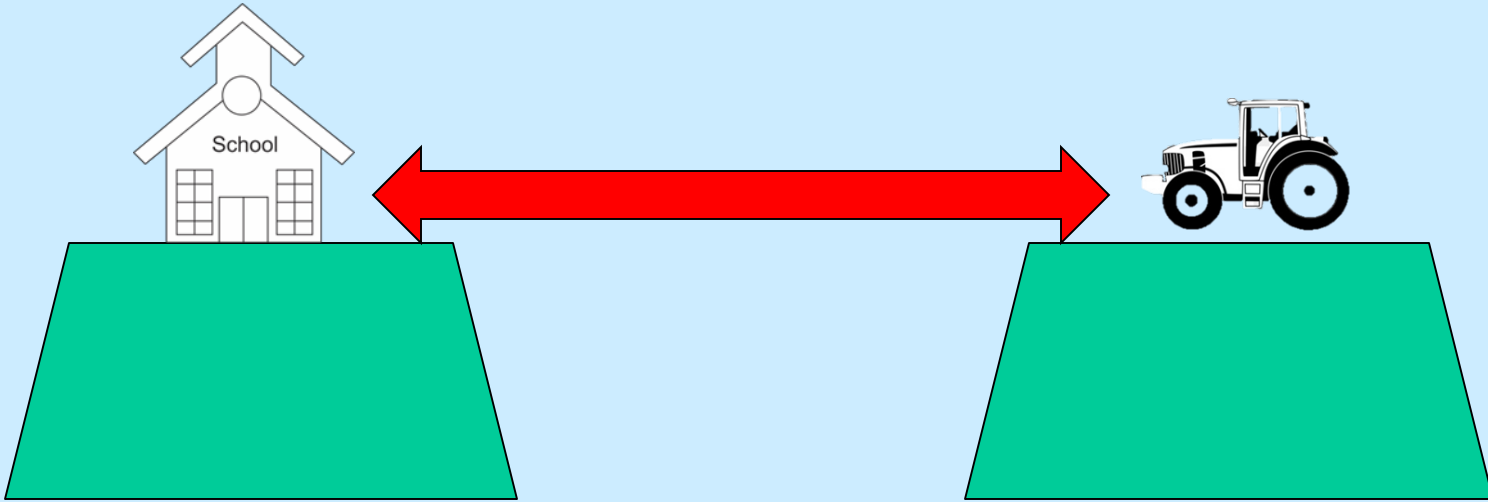
- Beehives are not an agricultural commodity
- A research application may or may not be for production agriculture, depending on if crop is harvested or destroyed as specified on the research authorization

Section 6690 – scope and definitions: ¼ mile

- Regulation includes pesticide applications for production of an agricultural commodity within ¼ mile (1,320 feet) of a schoolsite
 - Distance measured from treated area to areas of schoolsite property used by children on weekdays
 - Distance can be measured from part of a field
 - Normally use horizontal distance, but can account for unusual topography

Unusual Topography





Section 6690 – scope and definitions: definition of schoolsites

- Regulation includes pesticide applications for production of an agricultural commodity within $\frac{1}{4}$ mile (1,320 feet) of a **schoolsite**
 - Public K-12 schools, including publicly-funded charter schools
 - Excludes private schools
 - Excludes colleges/universities, even if K-12 students attend
 - Includes defined K-12 school located on a college campus
 - Licensed child day care facilities, except family day care homes, as defined by Health and Safety Code

Section 6690 – scope and definitions: child day care facilities included

Facility Type	Facilities Included Based on Status				
	Licensed	On Probation	Pending	Inactive	Closed
Day Care Center	Yes	Yes	Will be*	Will be*	No
Day Care Center – III Center	Yes	Yes	Will be*	Will be*	No
Infant Center	Yes	Yes	Will be*	Will be*	No
School Age Day Care Center	Yes	Yes	Will be*	Will be*	No
Family Day Care Home	No	No	No	No	No

*Annual notification must be provided and application restrictions effective when licensed.

Section 6690 – scope and definitions: family day care homes

- Family day care homes are excluded, whether licensed or not
- Health and Safety Code section 1596.78 defines family day care home as “a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away,…”

Section 6690 – scope and definitions: schoolsite areas included

- Includes areas of schoolsite property used by children on weekdays
- Includes parks adjacent to schools that are used by schools for recess, sports, etc., particularly if there is a MOU
- Excludes vehicles or bus stops outside property



Section 6690 – scope and definitions: school farms

- If pesticides are used on a school farm and the fruits, vegetables are sold, the school farm is producing an agricultural commodity, and:
 - Minimum distance and other restrictions apply
 - Annual notification is required to other schoolsites within ¼ mile of school farm (e.g. day care center at school)
- If the school farm is not producing an agricultural commodity, the school farm is a schoolsite, and
 - Production ag sites within ¼ mile of the school farm must comply with the regulation, including minimum distance and notification

Section 6690 – scope and definitions: cannabis

- Cannabis that is cultivated for commercial purposes is an agricultural commodity
- FIFRA 25(b) pesticides are not exempted from the regulation
- The regulation applies to cannabis cultivation within $\frac{1}{4}$ mile of a schoolsite
 - Annual notification is required
 - Application restrictions for outdoor cultivation

Outline

- Background and summary
- Section 6690: scope of regulation and definitions
- **Section 6691: application restrictions**
- Section 6692: annual notification
- Implementation issues

Section 6691 – application restrictions: time period of restrictions and responsible parties

- Application restrictions are in effect Mon – Fri, 6am – 6pm
- Property operator and applicator are responsible for ensuring compliance

Section 6691(a-c) – application restrictions: minimum distance

- Minimum distance between application and schoolsite depends on drift potential of application
 - ¼ mi for potentially higher drift applications
 - 25 ft for lower drift applications
 - No minimum distance for negligible drift applications
- Drift potential based on 4 types of pesticides and 9 types of application equipment

Section 6691(a-c) – application restrictions: 36 types of applications

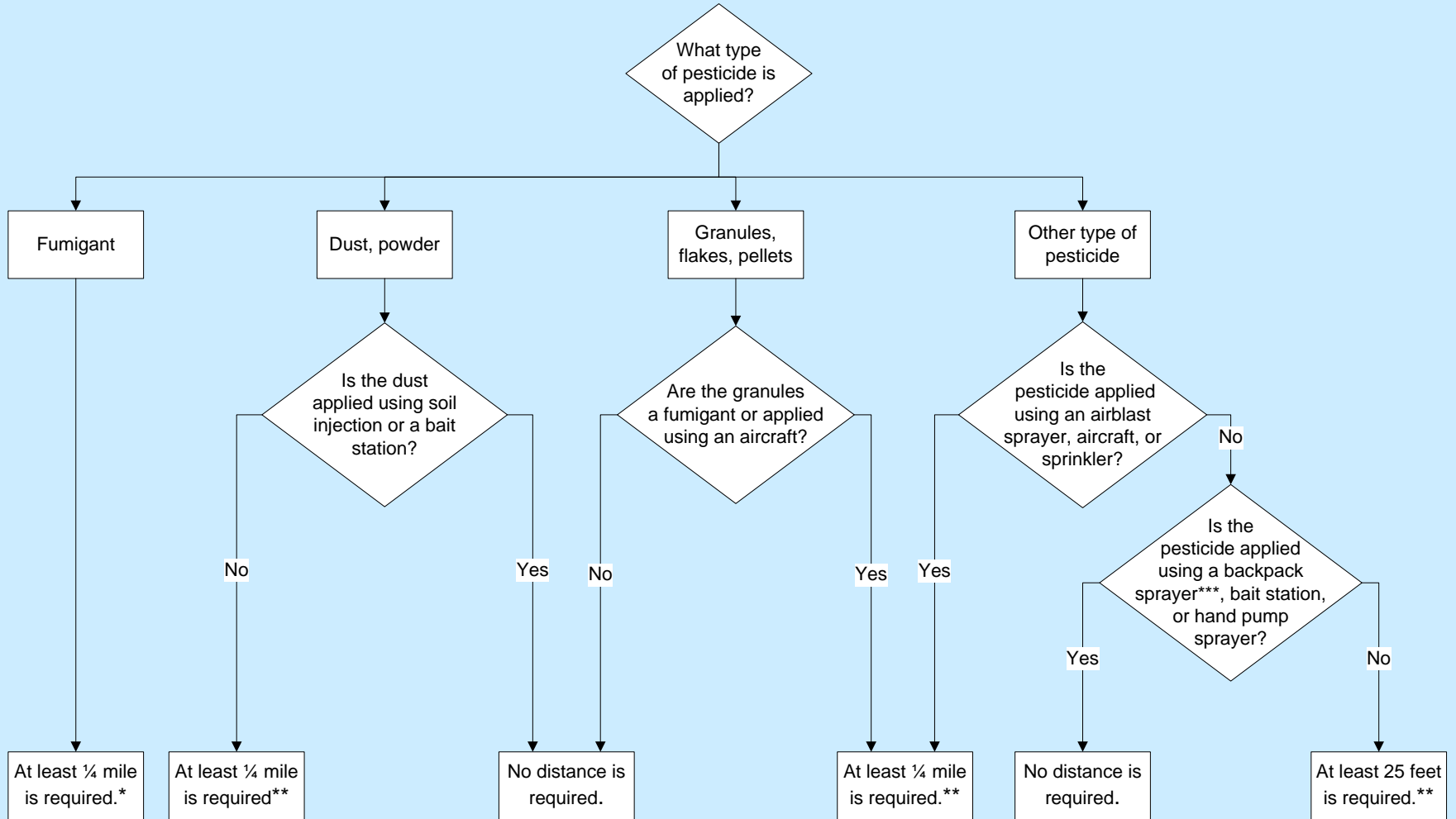
- 4 types of pesticides
 - Dust/powder
 - Fumigant
 - Granule/flake/pellet
 - All other pesticides
- 9 types of equipment
 - Airblast sprayer
 - Aircraft
 - Backpack sprayer
 - Bait station
 - Ground-rig sprayer
 - Hand pump sprayer
 - Soil injection
 - Sprinkler chemigation
 - All other equipment

Minimum distance from application to schoolsite, Mon – Fri, 6am – 6pm

Application Equipment Type	<u>Minimum Distance</u>			All Other Pesticides
	Dust	Fumigant	Granule	
Airblast Sprayer	¼ mile	Labels prohibit	No apps	¼ mile
Aircraft	¼ mile	Labels prohibit	¼ mile	¼ mile
Backpack Sprayer	¼ mile	Labels prohibit	None	None
Bait Station	None	Labels prohibit	None	None
Ground-Rig Sprayer	¼ mile	¼ mile	None	25 feet
Hand Pump Sprayer	¼ mile	¼ mile	None	None
Soil Injection	None	¼ mile	None	25 feet
Sprinkler Chemigation	No apps	¼ mile	No apps	¼ mile
All Other Equipment	¼ mile	¼ mile	None	25 feet

- No minimum distance if application in enclosed space (unless fumigant), or no classes scheduled, day care closed

Minimum distance from application to schoolsite, Mon–Fri, 6am–6pm



*No minimum distance is required if classes are not scheduled, child day care facility is closed. However, at least 36 hours must elapse from the end of fumigation until classes start, or child day care facility opens.

**No minimum distance is required if classes are not scheduled, child day care facility is closed, or application occurs within an enclosed space.

***If a backpack sprayer incorporates an airblast sprayer a ¼ mile distance is required.

Section 6691(e) – application restrictions: additional fumigant requirement

- For field fumigations within $\frac{1}{4}$ mi of a schoolsite, 36 hours must elapse between the end of fumigation and start of classes or day care facility opens
 - Requires Saturday fumigation for normal school schedule
 - Fumigations can occur on other days if classes are not scheduled due to holidays or school breaks
- Requirement does not apply to non-production ag or non-ag fumigations, including
 - Aluminum phosphide applications to roadways
 - Commodity fumigations, unless on farm

Section 6691 – application restrictions: exceptions

- 6691(c)(1) – No minimum distance for non-fumigant applications in enclosed spaces (defined in section 6000)
- 6691(d) – No minimum distance when classes are not scheduled for entire day or day care facility is closed for entire day (unless a fumigation)
- 6691(f) – Exception for 3-party agreements that achieve same or greater level of protection as application restrictions

Section 6691(f) – application restrictions: 3-party agreements

- Responsible parties:
 - Operator of property to be treated
 - School principal or day care administrator
 - CAC
- Level of protection: same or greater level of protection as provided by the regulation, as determined by 3 parties
- Duration: until rescinded by any of 3 parties
- Enforcement: CAC enforces as if regulation

Section 6691(f) – application restrictions: recommended sections of 3-party agreements

- Name, address, identification of schoolsite, property operator, field/site, and CAC
- Description of requirements
- Statement that property operator requirements are binding
- Statement about rescinding agreement
- Effective date
- Signatures

Section 6691(f) – application restrictions: possible requirements for 3-party agreements

- Requirements in 3-party agreements are flexible as long as restrictions are more stringent than regulation
 - Outside Mon-Fri, 6am-6pm
 - Beyond specified distance
- 3 parties should consider the activities or criteria that trigger additional restrictions, such as certain days, certain times, certain school activities
- 3 parties need to agree on restrictions, such as distance prohibition, types of applications affected, drift reduction measures, acreage or rate limits, monitoring

Section 6691(f) – application restrictions: possible situations for 3-party agreements

- Extracurricular/weekend activities
- Non-production ag or non-ag applications
- Non-adjacent schoolsite areas
- Alternate time restrictions
- Unusual application methods
- Enclosed space clarification
- Unusual topography
- Application-specific notification

Section 6691(f) – application restrictions: example 3-party agreement

- Agreement for:
 - Outdoor athletic practices
 - Outdoor athletic games
- Time periods that additional restrictions are in effect:
 - Mon-Fri, 6pm-7pm due to practices
 - 6pm-10pm on game days according to schedule provided by principal
- Additional restrictions are: no aerial or airblast applications within $\frac{1}{4}$ mile of athletic fields or parking lot

Section 6691(f) – application restrictions: 3-party agreements that likely don't comply

- Alternative restrictions that decrease the distance and/or decrease the time periods may not comply with the regulation, even if other restrictions are more stringent, such as
 - Less toxic pesticides
 - Exposure mitigation measures
 - Restricting children outdoor activities

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- **Section 6692: annual notification**
- Implementation issues

Section 6692 – annual notification: overview

- CACs must
 - Verify affected property operators, fields/sites, schoolsites
 - Enforce notification requirements
- Property operators must
 - Identify affected fields/sites
 - Prepare and submit notifications
- Schoolsites should
 - Check schoolsite contact info
 - Verify schoolsite location and boundaries
- All tasks can be accomplished with CalAgPermits

Section 6692(a) – annual notification: responsible party and timeline

- Responsible party: operator of property to be treated
 - CACs may allow pest control business or other person to provide notification on behalf of property operator
- Timeline
 - Notification provided by April 30 each year
 - Notification includes pesticides expected to be used during upcoming July 1 – June 30 period
 - Different dates for new property operators

Section 6692(a)(1) – annual notification: new property operator

- New property operators (through land purchase or lease) must provide first notification within 30 days of assuming control of property
 - Notification must be provided at least 48 hours prior to use
- Notification includes list of pesticides expected to be used between the time notification is provided and June 30 of following year (6 – 18 month period)
 - Example 1: notify on 12/30/18, list covers 1/1/19 – 6/30/**19**
 - Example 2: notify on 1/2/19, list covers 1/4/19 – 6/30/**20**

Section 6692(a)(1) – annual notification: possible modified timeline

- People who assume annual leases near the end of the year provide two notifications
- Two notifications can be avoided by providing a list of pesticides through June of the second year, for example
 - Assume control on 11/15/18
 - Notification provided on 12/15/18
 - Pesticide list start date is 12/17/18
 - Pesticide list end date is 6/30/20, instead of 6/30/19
- Property operator may want indicate when lease will end

Section 6692(b) – annual notification: people notified

- Principal of public K-12 school
- Administrator of child care facility
- CAC

Section 6692(d) – annual notification: amending pesticide list

- A complete list of pesticides must eventually be provided
 - Must include pesticides that are exempted from application restrictions (e.g., applied weekends; or enclosed space)
- Initial list may be amended
- Active ingredient must be included on list at least 48 hours prior to use – no exceptions

Section 6692(e) – annual notification: recordkeeping

- Property operator must retain notifications for 2 years

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Questions?