

Appendix E

Understanding California's Definitions of Agricultural Use and Non-Agricultural Use Pest Control

Pest control defined

The application of many pesticide sales and use requirements is tied to specific terms used in the law and regulations. It is necessary to understand these terms to fully understand the pesticide regulatory program.

To understand the basic difference between the definitions of “agricultural use” and “non-agricultural use,” you must first understand the definition of “pest control.” Pest control (*FAC sections 11403 and 11408, and 3 CCR section 6000*) is the use of any pesticide (*FAC section 12753*), method, or device (*FAC section 15300*) to:

- Control (including prevent, repel, or attract) any pest
 - Control a plant (disorder) disease
 - Regulate growth by the direct application of a plant growth regulator (*FAC section 12756*) to plants (*FAC section 11403*)
 - Defoliate plants
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What pest control does not include

Pest control does not include the following:

- Monitoring for pest presence (U.S. EPA interpretation)
 - The use of a tool or implement (hoe, rake, disc, or harrow) to control weeds (DPR licensing policy)
 - The use of a fertilizing material to maximize potential plant growth (as opposed to stimulate, regulate, or alter through physiological action)
 - The use (in certain circumstances) of a substance to control external animal pests. (Some of these substances are classified as livestock drugs, rather than pesticides, by agreement between U.S. EPA and FDA¹.)
 - The control of microorganisms living in or on humans or animals. (These are not pests as defined in FAC section 12754.5.)
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Pesticide use types

The law identifies seven types of pesticide use. Six are non-agricultural exceptions and the seventh is agricultural use.

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¹ A 1971 Memorandum of Understanding (MOU) between U.S. EPA and the Food and Drug Administration (FDA) (FDA-225-73-8010; available for review at <http://www.fda.gov/oc/mous/domestic/225-73-8010.html>) outlines the basic jurisdictions of each Agency with respect to products that have been classified as a “*New Human or Animal Drug*.” The MOU states that FDA is the Agency responsible for regulation of products that are *classified as Human or Animal Drugs*, even if a product could be considered a pesticide by the other Agency.

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Non-agricultural use pest control

Non-agricultural use pest control includes:

- **Home:** Use within, or in the immediate environment of, a household. (3 CCR section 6000)
 - **Industrial:** Use within the confines of, or on property necessary for, the operation of factories, processing plants, packinghouses, or similar facilities, or use for or in a manufacturing, mining, or chemical process. In California, industrial use does not include use on rights-of-way. Post-harvest commodity fumigations at facilities or on trucks, vans, or rail cars are normally industrial use. (3 CCR section 6000)
 - **Institutional:** Use within the confines of, or on property necessary for the operation of, buildings such as schools (playgrounds are necessary for the operation of a school), hospitals, office buildings, libraries, or auditoriums. When a licensed Structural Pest Control Operator treats these buildings, it is structural use. Landscaping of walkways, parking lots, and other areas immediately adjacent to these buildings is institutional. Landscaping of larger, more independent areas is not considered institutional. (3 CCR section 6000)
 - **Structural:** Use by a licensed Structural Pest Control Operator within the scope of their license. (3 CCR section 6000)
 - **Vector control:** Use by certain vector control (mosquito abatement) districts. (FAC section 11408(e))
 - **Veterinarian:** Use by or pursuant to the written prescription of a licensed veterinarian within the scope of their practice. There is no requirement for veterinarians to write prescriptions to themselves, so although not specifically mentioned in the law, by policy, veterinarians are covered by this use pattern. (3 CCR section 6000)
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Agricultural use pest control

Agricultural use pest control includes:

- **Production Agricultural Use:** Any use to produce a plant or animal agricultural product (food, feed, fiber, ornamental, or forest) that will be distributed in the channels of trade.
NOTE: While production agricultural use includes a variety of agricultural products, some requirements (most notably in the worker safety and use records/reporting areas) apply only to plant product production.
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Agricultural use pest control (continued)

- **Non-Production Agricultural Use:** Use on any other area not specifically listed in any of the non-agricultural exceptions is agricultural use even though not related to production of an agricultural product. In California, agricultural use includes such areas as watersheds, rights-of-way, and landscaped areas (such as golf courses, parks, recreation areas, and cemeteries) not covered by the definitions of home and institutional.
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Examples of typical classification of various uses

The uses named in the law fall into basically two groups, either *user* (Structural, Vector control, and Veterinarian) or *situational/site* (Agricultural, Home, Industrial, and Institutional). Many items that are treated can be located in more than one situation or treated by different users; this can change the use designation of that item. For that reason, some items are not classifiable into only one of the use categories. For example:

- A tree can be residential landscape (home), institutional landscape (institutional), or watershed (non-production agriculture) depending upon where it is growing. However, if that same tree is growing in an orchard, it would be production agriculture.
- Milk handling equipment located on a dairy would be production agriculture, while that same kind of equipment located at a milk processing plant would be industrial.
- An agricultural product fumigated in storage on a farm could be production agriculture while that same product fumigated in storage at a processing plant would be industrial.
- A swimming pool located in proximity to a residence would be home use. A city, school, or other public pool would generally be institutional.

Most often, issues arise when making a determination between production agriculture and one of the non-agriculture categories because of differing regulatory requirements. Generally, treatments done by and on an agricultural production establishment tend to be production agriculture if the physical form of the product has not been changed (simply drying a product is not normally considered a change in its form). This rule may not apply if the agricultural production establishment also does treatments as a service or handles product from other producers. In that case, they are considered to have established an industrial facility adjacent to their agricultural production enterprise.

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Examples of typical classification of various uses
(continued)

This general rule also applies to packing facilities. Packing produce in the field as part of the harvesting operation is normally considered production agriculture. However, if the agricultural production establishment has a separate packing facility, it would usually be considered an industrial facility and use in that situation would be considered industrial.

Differences between California and federal labeling

The California definition of agricultural use and non-agricultural use is directed towards licensing requirements and interpretation of state laws and regulations, such as restricted material permitting, worker protection, pesticide use reporting, etc.

The federal definition of agriculture is more closely related to what we would call production agriculture. Since U.S. EPA has preemption in the area of pesticide labeling, references to agricultural and non-agricultural use are based on the federal definition and not California's definition. Therefore, when interpreting pesticide labeling statements such as "for use in agricultural areas" or "for use in non-agricultural areas" they must be interpreted relative to farms/ranches, forests, nurseries, greenhouses, and similar production sites.

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Production Agricultural Use*:

- Apiaries
- Aquaculture
- Christmas tree production
- Crop production (orchards, groves, fields)
- Crops grown for seed
- Drying product in the field
- Feed and forage
- Field packing
- Fish production
- Flowers (cut and sold)
- Forests/timber production
- Greenhouse/nursery production
- Livestock production (meat/milk)
- Post harvest commodity treatment on the farm
- Poultry production (meat/eggs)
- Preplant soil treatments
- Rangeland and pasture
- Research (production)
- Tree hole fumigation
- Turf (grown for sod)
- Washing product in the field

Non-Production Agricultural Use*:

- Cemeteries
- Ditches and ditch banks
- Farm roads
- Field borders and headlands
- Golf courses
- Greenbelts
- Greenhouse/nursery/mushroom operations (outside general weeds and pests, as well as pest control within alley ways and other interior areas)
- Ground water recharge ponds
- Highway medians
- Irrigation canals
- Irrigation systems (drip lines)
- Lakes, rivers, and streams
- Mushroom crop post harvest kill
- Parks
- Railroad shoulders
- Recreation areas
- Research (commodity destroyed)
- Reservoirs
- Roadsides
- Rights-of-way
- Uncultivated (fallow) agricultural ground

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Non-Agricultural Use*:

- Airports-*Industrial*
- Amusement parks-*Institutional*
- Apartments/townhouses-*Home*
- Auditoriums-*Institutional*
- Clubhouse landscape-*Institutional*
- Condominiums-*Home*
- Construction sites-*Industrial*
- Food manufacturing plants-*Industrial*
- Grain elevators-*Industrial* (production agriculture if on farm)
- Home gardens (no distribution)-*Home*
- Homes and residences-*Home*
- Hospitals-*Institutional*
- Libraries-*Institutional*
- Lumber yards-*Industrial*
- Mobile home parks-*Home*
- Mosquito abatement districts-*Vector control*
- Nurseries (retail non-production)-*Industrial*
- Office complex (around outside)-*Institutional*
- Office parking lots-*Institutional*
- Oil wells-*Industrial*
- Packing houses-*Industrial*
- Paper mills-*Industrial*
- Pet animals-*Home*
- Ports-*Industrial*
- Post harvest commodity treatments-*Industrial*
- Prescription from veterinarian-*Veterinarian*
- Ranchette pasture (no distribution of product)-*Home*
- Restaurants-*Industrial*
- Schools (buildings and grounds)-*Institutional*
- Seed treatment-*Industrial*
- Sewage treatment plants-*Industrial*
- Sewer lines-*Industrial*
- Shipyards-*Industrial*
- Shopping malls (inside or outside)-*Institutional*
- Swimming pools-*Various*
- Uncultivated non-agricultural ground-*Various*
- Water treatment plants-*Industrial*
- Wood treatment plants-*Industrial*
- Zoos-*Institutional*

*The most common designation is indicated in italics. However, as previously discussed in this document, some of these use designations may change depending upon the setting or the status of the user.