

TEXT OF PROPOSED REGULATIONS

Current wording is indicated by regular type.
Deletions are indicated by ~~strikeout~~.
Additions are indicated by underline.

DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS
CHAPTER 1. PESTICIDE REGULATORY PROGRAM
SUBCHAPTER 1. DEFINITION OF TERMS
ARTICLE 1. DEFINITIONS FOR DIVISION 6

Amend section 6000 to read:

6000. Definitions.

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"**Artificial recharge basin**" means a surface facility, such as an infiltration pond or basin, or spreading ground specifically designed and managed to increase the infiltration of introduced surface water supplies into a ~~ground water~~groundwater basin. "Artificial recharge basin" does not include ditches, canals, or reservoirs designed primarily to transport and store water, or stream channels, lakes, and other naturally occurring water bodies that are not principally managed to recharge ~~ground water~~groundwater.

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"**Engineered rights-of-way**" means areas within a ~~ground water~~groundwater protection area that are constructed in a way that results in increased runoff and collection of storm water, such as railroad ballasts and berms, public roadsides, and highway median strips or similar areas, but not canal or ditch banks or utility lines.

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"~~Ground water~~**Groundwater protection area**" means an area of land that has been determined by the Director to be vulnerable to the movement of pesticides to ~~ground water~~groundwater, as identified in the Department of Pesticide Regulation document, Ground Water Protection Areas 2018 (Rev. 10/18), hereby incorporated by reference. The determination of a ~~ground water~~groundwater protection area is based on factors, such as soil type, climate, and depth to the ~~ground water~~groundwater, that are characteristic of areas where legally applied pesticides or their breakdown products have been detected and verified in ~~ground water~~groundwater.

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"**Leaching ~~ground water~~groundwater protection areas**" are sections of land designated as "leaching" in the Department of Pesticide Regulation document, Ground Water Protection Areas 2018 (Rev. 10/18), hereby incorporated by reference, where pesticide residues move from the soil surface downward through the soil matrix with percolating water to ~~ground water~~groundwater.

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"Runoff ~~ground water~~ groundwater protection areas" are sections of land designated as "runoff" in the Department of Pesticide Regulation document, Ground Water Protection Areas 2018 (Rev. 10/18), hereby incorporated by reference, where pesticide residues are carried in runoff water to more direct routes to ~~ground water~~ groundwater such as dry or drainage wells, poorly sealed production wells, or soil cracks, or to areas where leaching can occur.

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NOTE: Authority cited: Sections 11456, 11502, 12111, 12781, 12976, 12981, 13145, 14001 and 14005, Food and Agricultural Code. Reference: Sections 11401.2, 11408, 11410, 11501, 11701, 11702(b), 11704, 11708(a), 12042(f), 12103, 12971, 12972, 12973, 12980, 12981, 13145, 13146 and 14006, Food and Agricultural Code.

CHAPTER 2. PESTICIDES
SUBCHAPTER 4. RESTRICTED MATERIALS
ARTICLE 2. POSSESSION AND USE LIMITATIONS

Amend to section 6416 to read:

6416. Groundwater Protection Restrictions.

(a) A permit is required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is:

(1) applied in an agricultural, outdoor institutional, or outdoor industrial use within a runoff ~~ground water~~ groundwater protection area or in a leaching ~~ground water~~ groundwater protection area, or

(2) restricted for purposes other than ~~ground water~~ groundwater protection.

(b) A permit is not required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is used in a pest eradication program approved by the Department of Food and Agriculture, unless the pesticide is also restricted for purposes other than ~~ground water~~ groundwater protection.

(c) Notwithstanding the provisions of this article and article 4, the chemicals listed in section 6800(a) may be applied for research or experimental purposes pursuant to a valid research authorization. The applicant must provide the location of the research or experimental site with the research authorization request. The exemptions found in section 6268 do not apply when a person wishes to use these chemicals for research or experimental purposes.

NOTE: Authority cited: Sections 11456, 12976, 13145, 14004.5, 14005, 14006 and 14102, Food and Agricultural Code. Reference: Sections 11501, 13145, 13150, 14004.5, 14005 and 14006, Food and Agricultural Code.

ARTICLE 5. USE REQUIREMENTS

Amend section 6457 to read:

6457. Bentazon (Basagran).

In addition to the restrictions specified in sections 6487.1, 6487.2, 6487.3, and 6487.4, the following restrictions apply for agricultural, outdoor institutional, and outdoor industrial uses of bentazon for the purpose of ~~ground water~~groundwater protection:

- (a) Bentazon shall not be applied in Del Norte or Humboldt Counties.
- (b) Bentazon shall not be used in the production of rice.

NOTE: Authority cited: Sections 11456, 12976, 13145, 14005 and 14006, Food and Agricultural Code. Reference: Sections 13145, 13150 and 14006, Food and Agricultural Code.

Amend section 6487.1 to read:

6487.1. Artificial Recharge Basins.

Use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited below the high water line inside artificial recharge basins, unless the pesticide is applied six months or more before the basin is used to recharge ~~ground water~~groundwater.

NOTE: Authority cited: Sections 11456, 12976, 13145 and 14102, Food and Agricultural Code. Reference: Sections 13145, 13150 and 14102, Food and Agricultural Code.

Amend section 6487.3 to read:

6487.3. Engineered Rights-of-Way Within ~~Ground Water~~Groundwater Protection Areas.

Use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited on engineered rights-of-way in leaching or runoff ~~ground water~~groundwater protection areas unless one of the following management options can be met and is designated by the commissioner on the permit:

- (a) The property operator complies with section 6487.4; or
- (b) Any runoff from the treated right-of-way shall pass through a noncrop fully vegetated area adjacent, and equal in area, to the treated area, or spread out onto an adjacent unenclosed fallow field that is at least 300 feet long and that will not be irrigated for six months following application, with full consideration of any plantback restrictions; or
- (c) The property operator complies with any permit issued pursuant to the storm water provisions of the federal Clean Water Act pertaining to the treated area; or
- (d) An alternative management practice or pesticide approved by the Director as follows:
 - (1) Upon written request, the Director may evaluate and approve use of management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ~~ground water~~groundwater; or
 - (2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) on an engineered right-of-way within a ~~ground water~~groundwater protection area, for a period not to exceed three years. The Director's

determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate management practices. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requestor shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ~~ground-water~~groundwater protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145 and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150 and 14102, Food and Agricultural Code.

Amend section 6487.4 to read:

6487.4. Runoff ~~Ground Water~~Groundwater Protection Areas.

Except as provided in sections 6487.1, 6487.2, and 6487.3, use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited in runoff ~~ground-water~~groundwater protection areas unless one of the following management practices can be met and is designated by the commissioner on the permit. The management practice identified in (b), "Incorporation of the pesticide," does not apply to bentazon.

(a) Soil disturbance. Within seven days before the pesticide is applied, the soil to be treated shall be disturbed by using a disc, harrow, rotary tiller, or other mechanical method. This subsection does not apply to bentazon, and does not apply to the area to be treated that is immediately adjacent to the crop row and that does not exceed 33 percent of the distance between crop rows; or

(b) Incorporation of the pesticide. Within 48 hours after the day the pesticide is applied, the pesticide shall be incorporated on at least 90 percent of the area treated; using a disc, harrow, rotary tiller, or other mechanical method, or by sprinkler or low flow irrigation, including chemigation if allowed by the label, using a minimum of ¼ inch of irrigation water and a maximum of either one inch or the maximum amount of irrigation water specified on the label, at application rates that do not cause surface water runoff from the treated property or to wells on the treated property. This subsection does not apply to bentazon, and does not apply to the area treated with other pesticides listed in section 6800(a) that is immediately adjacent to the crop row and that does not exceed 33 percent of the distance between crop rows; or

(c) Band treatment. The pesticide shall be applied as a band treatment immediately adjacent to the crop row so that not more than 33 percent of the distance between rows is treated; or

(d) Timing of application. The pesticide shall be applied between April 1 and July 31; or

(e) Retention of runoff on field. For six months following the application, the field shall be designed, by berms, levees, or nondraining circulation systems, to retain all irrigation runoff and all precipitation on, and drainage through, the field. The retention area on the field shall not have a percolation rate of more than 0.2 inches per hour (5 inches per 24 hours); or

(f) Retention of runoff in a holding area off the field. For six months following the application, all runoff shall be channeled to a holding area off the application site, under the control of the property operator, that is designed to retain all irrigation runoff and all precipitation on, and drainage through, the treated field and all other areas draining into that holding area. The holding area shall not have a percolation rate of more than 0.2 inches per hour (5 inches per 24 hours); or

(g) Runoff onto a fallow field. For six months following application, runoff shall be managed so that it runs off onto an adjacent unenclosed fallow field at least 300 feet long that is not irrigated for six months after application, with full consideration of any plant back restrictions; or

(h) An alternative management practice or pesticide approved by the Director as follows:

(1) Upon written request, the Director may evaluate and approve use of alternative management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ~~ground water~~groundwater; or

(2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) within a runoff ~~ground water~~groundwater protection area, for a period not to exceed three years. The Director's determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate mitigation measures. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requester shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ~~ground water~~groundwater protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145 and 14102, Food and Agricultural Code. Reference: Sections 13145, 13150 and 14102, Food and Agricultural Code.

Amend section 6487.5 to read:

6487.5. Leaching ~~Ground Water~~Groundwater Protection Areas.

Except as provided in sections 6487.1, 6487.2, and 6487.3, use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited in leaching ~~ground water~~groundwater protection areas unless any one of the following management practices can be met and is designated by the commissioner on the permit:

(a) The permittee shall not apply any irrigation water for six months following application of the pesticide; or

(b) The permittee shall apply the pesticide to the planting bed or the berm above the level of irrigation water in the furrow or basin and the water level shall remain at or below that level for six months following application of the pesticide; or

(c) Irrigation shall be managed so that the ratio of the amount of irrigation water applied divided by the net irrigation requirement is 1.33 or less for six months following application of the pesticide; or

(d) An alternative management practice or pesticide approved by the Director as follows:

(1) Upon written request, the Director may evaluate and approve use of alternative management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ~~ground-water~~groundwater; or

(2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) within a leaching ~~ground water~~groundwater protection area, for a period not to exceed three years. The Director's determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate management practices. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requester shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ~~ground-water~~groundwater protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145 and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150 and 14102, Food and Agricultural Code.

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 1. LICENSING
ARTICLE 1. GENERAL LICENSE REQUIREMENTS

Amend section 6512 to read:

6512. Approval of Continuing Education Courses or Programs.

A continuing education sponsor shall be responsible for the following, including but not limited to, administering the continuing education course or program, the agenda and course or program content, attendance verification, and administrative recordkeeping found in section 6513.

(a) Requests for evaluation and approval of continuing education courses or programs must be made on the Continuing Education Approval Request Application form (DPR-PML-131, Rev. 2/15), hereby incorporated by reference, and shall be submitted to the Director at least 30 days before the date of the course or program.

(1) Each continuing education approval request must include a \$45 fee and a comprehensive agenda that provides:

- (A) a description of the course or program,
- (B) the title of each session,

- (C) the main points of each session,
 - (D) the start and end time, or for online and correspondence courses or programs the duration of each session,
 - (E) the continuing education category requested for each session ("Pesticide Laws and Regulations," "Aerial Pest Control Equipment and Application Techniques," or "Other,") and
 - (F) the name and affiliation of each speaker, if applicable.
- (b) Continuing education courses or programs that occur over two or more days require a Continuing Education Approval Request Application form (DPR-PML-131, Rev. 2/15), comprehensive agenda, and \$45 fee for each day if license and certificate holders have the option to attend different days and/or sessions of the course or program.
- (c) Requests for approval of additional dates for continuing education courses or programs previously approved within the calendar year must be made on the Continuing Education Additional Course Date Request form (DPR-PML-132 Rev. 2/15), hereby incorporated by reference, and shall be submitted to the Director at least 15 business days before the presentation of the course or program.
- (d) Requests for approval of changes to continuing education courses or programs previously approved within the calendar year shall be submitted in writing to the Director before the course or program occurs, and must include:
- (1) the name of the course or program,
 - (2) the date of the course or program,
 - (3) the course identification code assigned by the Director, and
 - (4) the changes to be made to the course or program.
- (e) The Director may approve any course or program submitted for evaluation, which meets the following criteria:
- (1) The instruction must focus on pest management and pesticides including topics as specified in the Food and Agricultural Code section 11502.5 (plant health, organic and sustainable practices, water and air monitoring and residue mitigation, maximum residue levels, quarantine practices, and the on-farm storage of fumigants, all in the context of pesticides and pest management) and including but not limited to: California and federal pesticide laws and/or regulations, chemical formulations, labeling and label interpretation, application equipment, pests, identification of environmentally sensitive areas, endangered species, drift prevention, pesticide registration, integrated pest management, cultural practices, pesticide worker safety, surface and ~~ground water~~groundwater protection, and biological control methods.
 - (2) Courses or programs that are not focused on California or federal pesticide laws and/or regulations, such as courses or programs about maximum residue levels, or the Business and Professions Code Division 3, Chapter 14 or Chapter 14.5, or the California Code of Regulations Title 16, Division 19, shall not qualify for pesticide laws and regulations hours, as specified in section 6511.
 - (3) The approved portion of a continuing education course or program must be at least one hour.
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NOTE: Authority cited: Sections 11456 and 11502.5, Food and Agricultural Code.
Reference: Section 11502.5, Food and Agricultural Code.

ARTICLE 6. PEST CONTROL DEALER LICENSES

Amend section 6568 to read:

6568. Dealer Responsibilities.

(a) Each licensed pest control dealer that sells a restricted material which requires a permit for its use or possession shall, before sale or delivery, obtain a copy of the permit.

(b) A restricted material specified in Section 6400(a) (federally restricted use) or in Section 6400(d) (potential to pollute ~~ground water~~groundwater) that does not require a permit for possession or use shall be sold or delivered only to a certified applicator. The dealer shall, before sale or delivery, obtain from the purchaser a copy of his or her qualified applicator license or certificate, private applicator certificate, or a signed statement in substantially the following form:

I am a certified applicator authorized by the scope of my _____
(license/certificate type)

license/certification No. _____ to use the restricted material(s) I am purchasing.

My license/certificate is valid until _____
(Date)

Name of operator of the property that I am employed by (if applicable): _____

(Certified Applicator)

(Date)

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NOTE: Authority cited: Section 11456 and 14005, Food and Agricultural Code. Reference: Sections 11501, 14006, 14010 and 14035, Food and Agricultural Code.

CHAPTER 4. ENVIRONMENTAL PROTECTION

Amend Subchapter 1 heading to read:

SUBCHAPTER 1. ~~GROUND WATER~~GROUNDWATER

ARTICLE 1. PESTICIDE CONTAMINATION PREVENTION

Amend section 6800 to read:

6800. Groundwater Protection List.

Pesticides labeled for agricultural, outdoor institutional or outdoor industrial use that contain any of the following chemicals are designated as having the potential to pollute ~~ground water~~groundwater:

(a) The following chemicals detected in ~~ground water~~groundwater or soil pursuant to section 13149 of the Food and Agricultural Code:

- (1) Atrazine
- (2) Simazine
- (3) Bromacil
- (4) Diuron, except for products with less than 7% diuron that are applied to foliage
- (5) Prometon
- (6) Bentazon (Basagran®)
- (7) Norflurazon

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NOTE: Authority cited: Sections 11456 and 13145, Food and Agricultural Code.
Reference: Sections 13144, 13145 and 13149, Food and Agricultural Code