



August 10, 2023

Director Julie Henderson
Department of Pesticide Regulation
1001 I Street
PO Box 4015
Sacramento, CA 95812-4015
Via email: Julie.Henderson@cdpr.ca.gov

Dear Director Henderson:

Thank you for your letter dated July 24, 2023, addressing the issue of location information in DPR's planned statewide pesticide notification system. Your letter is attached below for reference.

Upon discussing your letter with our statewide network and in farmworker communities where we organize, the overwhelming response has been frustration that despite \$10 million in California tax funding, DPR continues to claim it cannot provide the exact application location in its proposed regulation for a pesticide notification system. As one community member in Santa Cruz County put it: "I don't understand: How much can a little space for an address cost? More than \$10 million?"

As we stated in our April 26, 2023 letter co-signed by 67 organizations:

DPR can and must assert the authority it has recently claimed under the Food and Agriculture Code to direct county agricultural commissioners to amend the NOIs so that they include the field location information already provided in the permit. Some counties are already doing this, and all others must follow suit. To cite this deficit in the NOIs as the reason for developing a fatally flawed notification system, and to claim a total inability to cure it, strains credulity.

DPR's argument for continuing to hide the exact location of pesticide applications continues to be that such information is not standardized:

The proposed statewide notification system design will use data from NOIs to provide advance notice of restricted materials applications.

The only standardized form of location information included in NOIs across all counties is the Public Land Survey System data, which identifies location in a one square mile area.. Other location information included in NOIs appears in formats that vary from county to county or from grower to grower. DPR explored options ... and determined that the existing NOI system's standard 1 mile by 1 mile Township Section Range information is currently the only option for a consistent statewide rollout.

145 E Hermosa St, Lindsay, CA 93247
559-239-9411 • www.PesticideReform.org

So, standardize it. You inform us that DPR is planning “a regulation that will require electronic submission of all NOI information for use in the state’s notification system.” *If DPR will require standardized electronic submission, it should also standardize exact application location as part of that new requirement.*

You go on to state: “The regulation will require transfer of NOI information based on the current restricted materials permitting process.” Again, as we stated in our previous correspondence, *DPR could and should exercise its authority to direct county agricultural commissioners to amend the NOIs to include the exact location*, which is – or certainly should be – specific enough in the already-submitted restricted material permits to allow the counties to know where the applications are planned, in order to exercise their enforcement responsibilities.

If DPR continues to refuse to require NOIs to include standardized application location information, at the very least the non-standardized location must be included in the notification system. According to your letter, NOIs do currently include finer information about where the application is planned, including: “the site ID number, the address of the site, or some other location description.”

We are sure you are aware that farmworker communities, including those involved in the 2022 pilot notification programs, have repeatedly called for exact location information so that they can better protect their families from highly hazardous pesticide drift. The threat of harm is more severe if the application is in the field behind your home or across the street from your child’s school, than if it’s a mile away or at the distant corner of the Public Land Survey section.¹ Scientific research confirms that within a mile, the threat of exposure to many pesticides tends to increase the closer one lives to pesticide application sites. A recent meta-review² that assessed six studies³ noted: “All [six studies] found that the greater the distance [from the pesticide application], the lower the levels in pesticide concentrations in dust, outdoor and indoor air.”⁴ Exact pesticide application location is essential information in allowing for individuals and communities to respond appropriately to protect their health from drifting pesticides. DPR has access to that information and must provide it in the pesticide notification system.

¹ The threat of exposure to fumigants, of course, varies more widely at longer distances and times.

² [Dereumeaux, C., Fillol, C., Quenel, P., and Denys, S. \(2020\)](#). Pesticide exposures for residents living close to agricultural lands: A review. *Environment International*, 134, 105210

³ [Deziel et al., 2017](#), [Gibbs et al., 2017](#), [Gunier et al., 2011](#), [Hogenkamp et al., 2004](#), [Kawahara et al., 2005](#), [Ward et al., 2006](#)

⁴ “Outdoor air concentrations of trichlorfon within 50 m of paddy fields were five times higher than those measured further away (Kawahara et al., 2005), and high levels of chlorpyrifos in outdoor air were identified at households located within 100 m of crops (Gibbs et al., 2017). Chlorpyrifos, chlorthal-dimethyl, iprodione, phosmet, and simazine dust concentrations were higher in residences located between 500 m and 1250 m from treated lands (Gunier et al., 2011). Similarly, the decrease in concentrations of chlorpropham in house dust was borderline statistically significant with increased distance from agricultural fields (Hogenkamp et al., 2004). The meta-analysis performed in 2017 confirmed the sharp decrease in house dust pesticide concentrations with increased distance from treated fields (between 3 m and 1125 m) (Deziel et al., 2017)”

Finally, we remain concerned about the proposed review and amendment process after implementation of the notification system. While we are pleased that DPR is “committed to evaluating and improving the system once it is launched and will include that commitment in the notification regulations,” we want to be sure the voices of farmworker communities are central to that review-and-improve process, and that enforceable deadlines are included both for review and for resulting remedial actions as necessary. A stakeholder review committee, like the former Chlorpyrifos Alternatives Work Group, would be a possible model. However, it must be a permanent review committee, if on a smaller scale, and its recommendations must be more than advisory. We look forward to hearing DPR’s specific proposal for this critical process of review and revision.

Sincerely,



Angel Garcia and Jane Sellen
Co-Directors

Cc:

Martha Guzman, US EPA Region 9, guzman.martha@epa.gov

Yana Garcia, CalEPA, yana.garcia@calepa.ca.gov

Gustavo Aguirre, Center on Race, Poverty and the Environment, gaguirre@crpe-ej.org

Anne Katten, California Rural Legal Assistance Foundation, akatten@crlaf.org

Bianca Lopez, Valley Improvement Projects, valleyimprovementprojects@gmail.com

Nayamin Martinez, Central California Environmental Justice Network,
nayamin.martinez@ccejn.org

Asha Sharma, Pesticide Action Network, asha@panna.org



July 24, 2023

VIA EMAIL ONLY

Gustavo Aguirre, Center on Race, Poverty and the Environment

gaguirre@crpe-ej.org

Angel Garcia, Californians for Pesticide Reform

angel@pesticidereform.org

Anne Katten, California Rural Legal Assistance Foundation

akatten@crlaf.org

Bianca Lopez, Valley Improvement Projects

valleyimprovementprojects@gmail.com

Nayamin Martinez, Central California Environmental Justice Network

nayamin.martinez@ccejn.org

Jane Sellen, Californians for Pesticide Reform

jane@pesticidereform.org

Asha Sharma, Pesticide Action Network

asha@panna.org

Dear interested community and coalition members:

Thank you for the coalition's letter dated April 26, 2023 on the proposed statewide pesticide notification system. We appreciate your feedback. The Department of Pesticide Regulation (DPR) operates a robust pesticide regulatory system to protect human health and the environment, including evaluating pesticide risks before pesticides can be sold or used in California, restricting use to mitigate risks, and continuously evaluating pesticides after registration to mitigate adverse impacts to people and the environment.

The department is using information collected through the state's pesticide restricted materials permitting process to develop the statewide pesticide notification system. The system will distribute transparent, real-time information to the public on restricted materials pesticide applications before the pesticide applications are made. The state's existing restricted materials permitting process is a critical regulatory tool for DPR and County Agricultural Commissioners to control the use of restricted materials pesticides across the state to protect people and the environment.

DPR's development of the statewide notification system has been informed by extensive public [input](#) over the last two years. The notification system will significantly increase transparency, as information about restricted materials pesticide applications has previously only been generally publicly available as an aggregate, post-application summary in [Pesticide Use Reports](#).

An Overview of Restricted Materials Permitting

Restricted materials are a highly regulated category of pesticides in California. These pesticides have additional restrictions on how and where they can be used and can only be applied by certified applicators. Restricted materials are more highly regulated because they have a higher potential risk of causing harm to people and the environment compared to other pesticides. The additional restrictions on their use reduces those potential risks.

The restricted materials permitting process has two steps:

- 1) **Annual Permit:** On an annual basis, a grower or pesticide applicator submits a restricted materials permit application to the County Agricultural Commissioner. The permit application includes a list of the restricted materials pesticides a grower/pesticide applicator is requesting to use throughout the year, crops the restricted materials may be used on, the location of the area(s) where the restricted materials pesticides may be used, and the identification of sensitive sites near the application site(s). Growers identify each field/area where they plan to use a restricted materials pesticide on the annual permit map and in the "Site ID" section of the permit application. There is no standard Site ID convention, so the format varies across the state (e.g., Field 1, French Road 1a Spinach). Growers determine how to identify the location of the pesticide application, which may be the Site ID or other shorthand, since many fields do not have an address or may be a portion of a field within an existing field boundary. Additionally, growers often change the area of fields on an annual basis.

The County Agricultural Commissioner reviews a grower's/pesticide applicator's annual restricted materials permit application to evaluate location-specific conditions related to the application of a restricted materials pesticide such as proximity to sensitive sites (e.g., schools, waterbodies). Based on this information, the County Agricultural Commissioner may approve the annual permit, approve the permit with conditions such as buffer zones or setback requirements, or deny the permit.

- 2) **Notice of Intent (NOI):** Prior to the application of a restricted materials pesticide, and based on an approved annual permit, the grower or pesticide applicator must submit a "Notice of Intent" to their County Agricultural Commissioner. The County Agricultural Commissioner reviews the NOI for date and time specific variables in wind or weather patterns that might introduce risk to people or the environment during the pesticide application. The location information on the NOI includes:
 - "Site ID" which may include grower or county specific references (e.g., Field 1, French Road 1a Spinach),
 - Location, which may be identified by referencing the site ID number, the address of the site, or some other location description. There is no

- standard convention for identifying the location, so the location information format varies amongst NOIs.
- Standard Township Section Range location drawn from the Public Land Survey System, a national mapping system that identifies areas in a one square mile resolution.

The NOI is submitted at least 48 hours in advance of planned fumigant restricted materials applications and 24 hours in advance of planned non-fumigant restricted materials applications. The County Agricultural Commissioner may approve the NOI, approve it with conditions, or deny it.

Proposed Notification System Design Using Location Information in the NOI

The proposed statewide notification system design will use data from NOIs to provide advance notice of restricted materials applications.

The only standardized form of location information included in NOIs across all counties is the Public Land Survey System data, which identifies location in a one square mile area.. Other location information included in NOIs appears in formats that vary from county to county or from grower to grower. DPR explored options for providing pesticide application information within ½ mile and ¼ mile resolution, and the feasibility of using different mapping systems, and determined that the existing NOI system's standard 1 mile by 1 mile Township Section Range information is currently the only option for a consistent statewide rollout.

Most NOIs are submitted electronically. In order to implement this system, DPR is developing a regulation that will require electronic submission of all NOI information for use in the state's notification system. The regulation will require transfer of NOI information based on the current restricted materials permitting process.

As mentioned in the coalition's letter, DPR has shared the proposed system design with multiple community leaders. As noted above, the system design was informed by extensive public input and includes a more user-friendly format, anonymous search functionality, an option to sign-up for emails or text messages with just a phone number or email, and a web-based view of statewide restricted materials pesticide applications using a mapping tool. The system will initially be available in Spanish and English and DPR will explore incorporating additional languages in the future. DPR has committed to evaluating the effectiveness of the proposed system once it is implemented and will consider future improvements.

DPR is exploring options to conduct beta-testing on the proposed notification system. As part of these beta tests, DPR would provide access to the proposed notification system to participants in a number of counties to test and provide feedback on the system. The goals of the beta tests are to gather feedback on the system including its

user experience, website design, ease of use, messaging, and value of provided information.

Thank you again for sharing your interest in the system and in having access to the exact location of restricted materials pesticide applications. We share the objectives of increasing transparency and providing equitable access to pesticide application information and are working to design a system that provides real-time, advance notice of restricted materials pesticide applications. We are committed to evaluating and improving the system once it is launched and will include that commitment in the notification regulations. We look forward to continued conversations during the system's development and following its launch. To that end, we would like to offer a demonstration of the proposed design to additional members of your coalition or interested community members. Please let us know if additional coalition or community members would be interested, and we will schedule a demo and discussion.

Sincerely,

A handwritten signature in black ink that reads "Julie Henderson". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Julie Henderson, Director
California Department of Pesticide Regulation