



January 12, 2024

Director Julie Henderson  
Department of Pesticide Regulation  
1001 I Street  
PO Box 4015  
Sacramento, CA 95812-4015

Via email: [Julie.Henderson@cdpr.ca.gov](mailto:Julie.Henderson@cdpr.ca.gov), [dpr23003@cdpr.ca.gov](mailto:dpr23003@cdpr.ca.gov)

Dear Director Henderson,

Thank you for the opportunity to offer public comment on DPR's November 2, 2023 proposed "Regulation to Provide Public Access to Pesticide Information Prior to Applications."

We agree with you that this will be a "first-of-its-kind system" – an historic step toward better public transparency regarding the application of highly hazardous pesticides.

We have two major concerns with the proposed regulation: a) that there is no community-based process for evaluating and improving the notification system, and b) the notification does not include the exact or field location of the application. We have detailed these concerns in past correspondence, including our attached August 10, 2023 letter, and will summarize these issues below.

While we understand the regulation is necessary to require new actions from growers and Agricultural Commissioners, it is your follow-up December 13, 2023 document, "Statement on Proposed Regulations to Provide Public Access to Information Prior to Pesticide Applications," that has been most helpful to our members and allies in providing a vision of what the notification system will look like. We have attached that document to this letter, and trust it is your promise to California residents about the basic components of the system. To make the proposed system even clearer to the public, it would be helpful to be able to view the beta-testing systems, which are currently available only to a small number of pilot participants – or at least see copies or mock-ups of the system online.

We appreciate that DPR has included a number of requests our members and allies have made over the past two years of the planning process, including making the web-based system available anonymously to anyone, while also offering individuals email or text notices; zoom-in

maps; multiple languages; notices of all restricted pesticides (not just fumigants); 48- not just 24-hour notice for fumigants; and that the pesticide information will include “the product name, chemical or active ingredient, application method, time and date of intended application.” None of these were part of the initial plans or pilot projects, so we recognize these improvements as significant, if in some cases short of what we’d most like to see (many languages, hazard and treatment information for exposure to the pesticides, commitments to phase in requirements to include 5-day notice for fumigants and notification before use of Prop 65 and BeeWhere listed pesticides, etc.).

### **Annual community review committee**

DPR spent a great deal of time and effort on providing spaces for farmworker community voices to be heard about the notification system during the previous two years of planning. We believe that work has improved the plans, as only input from those most in need and most likely to use the system could. It is concerning that the regulation shuts down that democratic review process in favor of a three-year staff paper.

Our hope and our understanding was that DPR was committed to a process for improving this first-of-its-kind system, as we would expect with any such unique government program. In your July 24, 2023 letter to CPR (attached), you wrote: “We are committed to evaluating and improving the system once it is launched and will include that commitment in the notification regulations.” *But DPR didn’t include such a commitment in the regulation.* Instead, the current proposed language reads: “The Department shall evaluate its system and process of providing the information ... to the public and three years after the effective date ... or as soon as practicable, shall issue a report.” A staff report after three years (if “practicable”) is a weak requirement— far from the commitment to “evaluating and improving the system” this new program will need to be successful. As we stated to you last summer,

we remain concerned about the proposed review and amendment process after implementation of the notification system ... [W]e want to be sure the voices of farmworker communities are central to [the] 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.

The review panel should be made up of community members and should include a public health professional with expertise in pesticide exposures. We would add that this community review committee should meet at least once a year.

### **Exact location of the application**

Finally, by far the biggest issue in the farmworker communities where we work is the lack of specificity about just where the pesticides will be applied. We know you have received more comments about “exact location” than any other topic during the planning process.

People know, backed by scientific research (please see the attached August 10, 2023 letter for references), that the closer one is to a pesticide application, the higher the risk of harm. There are exceptions, of course, but most of the time an application across the street is more of a

concern than one a mile away. The proposed notification system does not differentiate such distances, given its most granular level is the one-mile square Public Land Survey section.

Up to this point, the only explanation we've received from DPR as to why the system will not be set up for exact location is that location is not "standardized" in the State. Yet, DPR is standardizing, indeed, the electronic submission of Notices of Intent (NOI) through this regulation.

We ask you to take the next step and standardize the exact location in the digital NOI form. If that can't be done immediately, then we ask that you include the "unstandardized" language in the "location" box of the NOI form, which includes "the site ID number, the address of the site, or some other location description."

In addition, to ensure the public has the information it needs, we believe DPR must make available the pesticide permits, including maps, along with the NOIs.

Our position has not changed from last August: "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."

Our farmworker communities can't take appropriate precautions without the exact location of pesticide applications.

The pesticide notification system is unlikely to succeed without the evaluation and input from the farmworker communities who need, use, and most want to improve the system.

Sincerely,



Jane Sellen and Angel Garcia, Co-Directors, Californians for Pesticide Reform

Anne Katten, MPH, California Rural Legal Assistance Foundation

Elias Rodriguez, Staff Attorney, Community Equity Initiative, California Rural Legal Assistance Inc.

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Attachments:

1. Letter to DPR from CPR, August 10, 2023 available at [https://www.pesticidereform.org/wp-content/uploads/2023/08/CPR-DPR\\_Notification\\_location-August-2023.pdf](https://www.pesticidereform.org/wp-content/uploads/2023/08/CPR-DPR_Notification_location-August-2023.pdf)
2. Letter to CPR from DPR, July 24, 2023
3. DPR statement on proposed regulations to provide public access to information prior to pesticide applications, December 13, 2023, available at <https://www.cdpr.ca.gov/docs/pressrls/2023/121323.htm>



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](http://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.<sup>1</sup> 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-review<sup>2</sup> that assessed six studies<sup>3</sup> 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.”<sup>4</sup> 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.

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

<sup>2</sup> [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

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

<sup>4</sup> “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](mailto:guzman.martha@epa.gov)

Yana Garcia, CalEPA, [yana.garcia@calepa.ca.gov](mailto:yana.garcia@calepa.ca.gov)

Gustavo Aguirre, Center on Race, Poverty and the Environment, [gaguirre@crpe-ej.org](mailto:gaguirre@crpe-ej.org)

Anne Katten, California Rural Legal Assistance Foundation, [akatten@crlaf.org](mailto:akatten@crlaf.org)

Bianca Lopez, Valley Improvement Projects, [valleyimprovementprojects@gmail.com](mailto:valleyimprovementprojects@gmail.com)

Nayamin Martinez, Central California Environmental Justice Network,  
[nayamin.martinez@ccejn.org](mailto:nayamin.martinez@ccejn.org)

Asha Sharma, Pesticide Action Network, [asha@panna.org](mailto:asha@panna.org)



July 24, 2023

**VIA EMAIL ONLY**

Gustavo Aguirre, Center on Race, Poverty and the Environment

[gaguirre@crpe-ej.org](mailto:gaguirre@crpe-ej.org)

Angel Garcia, Californians for Pesticide Reform

[angel@pesticidereform.org](mailto:angel@pesticidereform.org)

Anne Katten, California Rural Legal Assistance Foundation

[akatten@crlaf.org](mailto:akatten@crlaf.org)

Bianca Lopez, Valley Improvement Projects

[valleyimprovementprojects@gmail.com](mailto:valleyimprovementprojects@gmail.com)

Nayamin Martinez, Central California Environmental Justice Network

[nayamin.martinez@ccejn.org](mailto:nayamin.martinez@ccejn.org)

Jane Sellen, Californians for Pesticide Reform

[jane@pesticidereform.org](mailto:jane@pesticidereform.org)

Asha Sharma, Pesticide Action Network

[asha@panna.org](mailto: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, flowing style with a long horizontal line extending to the right.

Julie Henderson, Director  
California Department of Pesticide Regulation

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# Department of Pesticide Regulation Statement on Proposed Regulations to Provide Public Access to Information Prior to Pesticide Applications



Julie Henderson  
Director



Gavin Newsom  
Governor

Yana Garcia  
Secretary for Environmental Protection

## Contact:

Leia Bailey, Communications Director  
(916) 445-3974 | [Leia.Bailey@cdpr.ca.gov](mailto:Leia.Bailey@cdpr.ca.gov)

December 13, 2023

## En Español

“This first-of-its-kind system will increase timely, equitable access to information on pesticide use, complementing the department’s stringent regulatory programs to protect people and the environment,” said DPR Director Julie Henderson. “We appreciate and value the time and engagement from all stakeholders interested in this system and who engaged with the department over the last two years and continue to provide feedback to inform the design of the system and its associated regulation.”

## About the Proposed Regulations

The California Department of Pesticide Regulation (DPR) regulates all pesticides to protect people and the environment. The state’s robust regulatory system includes scientific evaluations of all pesticides before they can be used or sold in California, continuous evaluation of pesticides to mitigate risks and impacts, and enforcement of pesticide-use laws and regulations in coordination with County Agricultural Commissioners.

DPR [proposed regulations on Nov. 3, 2023](#), to develop a statewide system that would provide information to the public prior to the application of

restricted material pesticides. Restricted materials are a classification of pesticides that pose a higher potential risk to human health or the environment. Restricted materials can only be applied by licensed applicators and through a restricted material permitting process, which counties conduct.

DPR's proposed statewide information system builds on counties' restricted material permitting processes to provide the public with more transparent and equitable access to information. The system that DPR is developing will provide information about a permitted pesticide before it is applied, including the product name, chemical or active ingredient, application method, time and date of intended application and the location of the application in a one-square mile section. The location information included in DPR's proposed system is based on the Public Land Survey System's Township Section Range coordinates, which is used consistently across all California counties.

To inform the proposed regulation and system development, DPR [conducted extensive public engagement](#) between 2021 and 2022, hosting four focus groups and eight public meetings at various locations across the state and virtually. County Agricultural Commissioners in four California counties conducted pilot projects in 2022 to test proposed design elements, and UC Davis Center for Regional Change conducted an independent evaluation to review the effectiveness of the pilot projects design and further inform the development of the statewide system.

The proposed system, currently being beta tested, will give the public access to information in Spanish or English in two ways: through an anonymous search function on a web-based map, or by signing-up to receive emails or text messages when a pesticide application is planned near a specified California address.

DPR is hosting three public hearings in December 2023, and a written public comment period through Jan. 12, 2023, to collect public feedback on the proposed regulation to implement this system. Following the end of the public comment period, DPR will share public comments received and responses to public comments on its website.

The system is anticipated to launch following finalization of the [proposed regulation](#).

## ADDITIONAL INFORMATION:

- [Press release issued on Nov. 3, 2023](#)
- [Proposed regulations](#)
- [Project updates and public feedback collected 2021-2023](#)

## ABOUT THE DEPARTMENT OF PESTICIDE REGULATION

The California Department of Pesticide Regulation protects human health and the environment by fostering sustainable pest management and carrying out a robust regulatory program.

DPR's work includes conducting scientific evaluations of pesticides to assess and mitigate potential harm to human health or the environment prior to and following registration, registering all pesticides prior to sale or use in California, monitoring for pesticides in the air and water, and enforcing pesticide laws and regulations in coordination with 55 County Agricultural Commissioners and their combined 500 field inspectors across the state's 58 counties. DPR invests in innovative research, outreach, and education to encourage the development and adoption of integrated pest management tools and practices and conducts outreach to ensure pesticide workers, farmworkers and local communities have access to pesticide safety information. [More information about DPR](#).

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