



## Agricultural Pest Control Advisory Committee Meeting Summary

June 14, 2023

10:00 AM – 12:00 PM

**Members Present (3):** **Ronald Berg**–Pesticide Dealers, **Michael Huffman**–Agricultural Pest Control Advisers (Alternate), **Phil Mullins**–Agricultural Pest Control Businesses.

**Department of Pesticide Regulation (DPR) Staff (9):** **Joshua Ogawa**–Branch Chief, **Alicia Scott**–Environmental Program Manager, **Stephen Hibel**– Staff Services Manager II, **Jessica Teague**–Senior Environmental Scientist, **Kenneth King**–Associate Governmental Program Analyst, **Joan Orr**–Office Technician, **Sondra Gomez**– Associate Governmental Program Analyst, **Maziar Kandelous**–Environmental Program Manager, **Nathan Desjarlais**–Senior Environmental Scientist.

**Guests (2):** **Ruthann Anderson**–California Association of Pest Control Advisers, **Terry Gage**–California Agricultural Aircraft Association.

**Members Absent (11):** **Margaret Ellis**–Board of Trustees of the California State University System, **John Erisey**–Agricultural Pest Control Advisers, **Jeanette Heinrichs**–General Public, **Kenneth Oneto**–Producers, **Timothy Smith**–Board of Governors of The California Community College System, **Stephen Scheer**–California Agricultural Commissioners and Sealers Association, **Glen Foth**–Commercial Applicator Certificate Holders, **Dan Gudgel**–Pest Control Aircraft Pilots, **Matthew Scally**–Pest Control Maintenance Gardeners, **Wayne Steele**–Registrants, **Jhalendra Rijal**–University of California, Division of Agriculture and Natural Resources.

### I. Welcome – Alicia Scott, DPR Licensing and Certification

### II. Administrative Topics – Alicia Scott, DPR Licensing and Certification

- Member and audience introductions.
- There were no requested revisions to the December 2022 APCAC meeting notes. Meeting notes approved.

### **III. Administrative Topics – Joshua Ogawa, DPR Enforcement Headquarters**

- The Health Risk Mitigation and Volatile Organic Compound Emission Reduction for 1,3-Dichloropropene proposed regulations were posted for an additional 15-day comment period between May 9, 2023 - May 31, 2023. On May 31, 2023 these regulations were held for a public hearing.
- The Neonicotinoid Pesticide Exposure Protection regulations were filed with the Secretary of State on April 10, 2023. These regulations become effective January 1, 2024.

### **IV. DPR Licensing and Certification Update – Ken King, DPR Licensing and Certification**

- Since July 2022, 4,426 exams have been taken at computer-based testing centers throughout California. This includes:
  - 2,236 Qualified Applicator License exams
  - 1,264 Qualified Applicator Certificate exams
  - 782 Pest Control Adviser exams
  - 89 Pilot exams
  - 55 Dealer Designated Agent exams
- Renewal Challenges in 2022
  - Increase in the number of emails and phone calls: The Licensing Program received a large volume of emails and phone calls asking about the status of their renewal application. License holders can check if DPR has received an application by verifying their check was cashed, or credit card was charged. They can then check our website to see what payment dates are currently being processed.
  - Mail delivery time: Mail delivery takes longer than usual at the end of the year when volumes are high.
  - Volume of renewals received: Many license and certificate holders wait until November/December to submit renewal packets; some even wait until December 31 to mail.
  - The Licensing Program recommends submitting renewal applications in ample time for DPR to receive, process, and issue a renewed license or certification.
- Website Updates
  - The 2023 renewal page will be updated weekly with the date of renewals that staff are currently processing once renewal season starts. With the weekly updated and nightly updated valid license list, license holders can get an idea of when their license will be renewed. This page also hosts all

renewal recourses, including FAQs and forms.

- 2023 Renewals M-Z
  - Address change reminders: address change reminders were sent through our email subscription list to all individuals signed up for email notifications.
  - Email subscription list: A lot of information is sent out through our email subscription list. It is recommended for all license holders to sign up.
  - Articles in stakeholder magazines and newsletters: Information about the upcoming renewal season has been sent to professional associations to include in newsletters.
- 2023 Important Dates
  - May 2023: Address change reminders sent out.
  - End of July 2023: Renewal packets will be mailed to all individual license/certificate holders.
  - Early September 2023: Renewal packets will be mailed to all businesses.
  - October 1, 2023: DPR encourages submitting completed renewal applications to DPR by this date to best ensure you receive your new license/certificate before January 1, 2024.
  - November 1, 2023: Processing time is 60 days for applications with payments processed by this date. Applications received after November 1 may experience longer processing time and you may not receive your license/certificate by January 1.
  - January 1, 2024: Your license/certificate must be renewed by this date to continue working legally and without interruption.
- Top 5 Renewal Issues
  - Renewal form missing.
  - Renewal form not signed.
  - Missing continuing education records.
  - Proof of financial responsibility missing (for businesses).
  - Incorrect payment amount.
  - This year to expedite applications that have issues preventing DPR from processing, the Licensing Program will be emailing copies of problem letters to the email address on file. DPR encourages applicants who receive a problem letter to include the problem letter when mailing missing documents.

## V. Certification and Training Regulations – Jessica Teague, DPR Licensing and Certification

- 40 CFR History - Recap
  - The original Title 40, Code of Federal Regulations Part 171 (40 CFR Part 171) was published by U.S. EPA on October 9, 1974. This document outlines requirements for states that certify pesticide applicators.
  - In 2017, U.S. EPA revised 40 CFR Part 171 to set stronger standards for people who use and supervise the use of restricted use pesticides (RUPs). That is 43 years of time since the last update to Part 171.
  - California must meet the revised standards of 40 CFR Part 171 set by U.S. EPA. This impacts users of both Restricted Materials, which include restricted use pesticides, as well as general use pesticides.
  - DPR must implement these required changes in the California Code of Regulations (CCR), which is how the Certification and Training regulatory changes came to be.
  - DPR's Licensing and Certification program have been working on a regulation package to meet the new Part 171 requirements since 2018.
- Commercial Applicators
  - New commercial applicator fumigant categories in Soil Fumigation (Category L) and Non-Soil Fumigation (Category M).
    - Individuals who perform pest control using a pesticide labeled as a fumigant will need to obtain the appropriate fumigant use category(ies). These new categories will be available for examination beginning July 2023.
  - The existing QAL/QAC subcategories (excluding Subcategory Q – Maintenance Gardener) will be eliminated and ineligible for renewal. This includes Subcategory L – Wood Preservation, Subcategory M – Antifouling Tributyltin, Subcategory N – Sewer Line Root Control, Subcategory O – Field Fumigation, and Subcategory P – Microbial Pest Control.
    - The elimination of these subcategories will occur on the effective date of the regulations, which is January 1, 2024.
- Private Applicators
  - Expansion of private applicator competencies.
    - All existing PAC holders must take and pass a revised PAC (initial) examination, which includes the revised competencies, prior to the expiration of their certificate.
  - New private applicator burrowing vertebrate pest fumigation certificate.

- There will be a new certificate option in Burrowing Vertebrate Pest Fumigation that allows PAC holders to use fumigants labeled for the control of burrowing vertebrate pests.
    - This certificate option allows PAC holders to use fumigants labeled for the control of burrowing vertebrate pests.
    - All other fumigant activities will require a private applicator to obtain a commercial applicator certification in the appropriate category(ies) (i.e., non-soil or soil fumigation).
  - Revision to 3 CCR definition of 'householder'.
    - 'Householder' is being removed from the 3 CCR definition of private applicator.
    - Individuals who currently conduct 'householder' activities under a private applicator certificate will be required to obtain a commercial applicator license or certificate with the appropriate category(ies).
  - The revised PAC (initial) examination is available at all CAC offices since October 2022.
  - The Burrowing Vertebrate Pest Fumigation Certificate examination will be available July 2023.
- Continuing Education (CE)
  - There are two new CE application forms.
    - In-Person Continuing Education Approval Request Application (Rev. 07/23)
    - Interactive Online and Webinar Continuing Education Approval Request Application (Rev. 07/23)
  - There are updated CE requirements, some of these requirements include:
    - CE courses submitted for review and approval for 2024 will not be approved for more than 8 hours of CE per day.
    - Sponsors must verify an individual's successful completion of a course prior to issuing a course completion certificate.
    - Correspondence courses will no longer be an available course type.
    - Online/webinar courses must include features for monitoring and ensuring course attendance and participation.
    - CE sponsors must submit to CDPR record of all individuals who have successfully earned CE hours within 14 days after course completion.

- Worker Safety
  - There are additional important changes to note.
  - Minimum age requirement: Applicants for a commercial or private license or certificate must be a minimum age of 18 years old. Anyone under 18 years old is prohibited from handling a pesticide identified as a restricted material.
  - Improved standards for direct supervision of noncertified applicators: There are improved standards for direct supervision of noncertified applicators, this includes increased responsibility of commercial applicators supervising noncertified applicators including that the certified applicator must have practical knowledge of requirements on pesticide labeling and in CA law/regulation regarding the use of a restricted material by a noncertified applicator, verify and maintain noncertified applicator training records, and provide site specific instructions to noncertified applicators.
  - Handler training: There are also some additional new handler training requirements including expanded training topics, providing training record accessibility to the employee, as well as to supervising certified applicator, and must be present throughout training and respond to employee questions.
- Timeline
  - May 2022: C&T regulatory changes were published for public comment.
  - July 2023: C&T regulatory changes are scheduled to be approved and finalized by the Office of Administrative Law (OAL), the soil and non-soil fumigation category examinations will be available, the burrowing vertebrate pest fumigation certificate examination will be available, and the new license and certificate (commercial and private) and CE approval request forms will be available.
  - July 2023 – December 31, 2023: DPR will work to get commercial and private applicators in compliance with new regulatory requirements.
  - January 1, 2024: C&T regulatory changes are effective.
- Timeline – Compliance
  - January 1, 2024: All commercial applicators and private applicators with last names 'R-Z' must be in compliance with the revised regulations by January 1, 2024.
  - January 1, 2025: Private applicators with last names 'A-H' must be in compliance.
  - January 1, 2026: Private applicators with last names 'I-Q' must be in compliance.

- Private applicators must obtain compliance by taking the revised initial PAC examination upon the expiration of their certificate. Note, this revised examination was released October 2022. Individuals who have taken and passed the revised initial PAC examination have met the revised standards.
- Individuals who require the new private applicator Burrowing Vertebrate Pest Fumigation (BVF) Certificate option must take and pass the revised initial PAC examination prior to being issued a BVF certification. This requirement applies regardless of when and individual's existing PAC expires.
- Stay Informed
  - Additional information on the Certification and Training regulatory changes that are effective January 1, 2024 can be found on DPR's Certification and Training webpage.
  - To be notified of information pertaining to the upcoming regulatory changes, sign-up for CDPR's "Licensing & Certification (Individuals & Businesses)" and "Continuing Education" electronic mailing lists.
  - Examinations and Study Materials for the new Soil Fumigation (Category L), Non-Soil Fumigation (Category M), and Burrowing Vertebrate Pest Fumigation Certificate will be available July 2023.

## **VI. Neonicotinoid Pesticide Exposure Protection Regulations – Nathan Desjarlais, DPR Enforcement Headquarters**

- Overview
  - Neonicotinoids
  - Brief history
  - Summary of the new regulations
    - Definitions/Scope/Exemptions
    - Three classes of crops
    - Restrictions on each class
  - Timeline and next steps
- Neonicotinoids
  - Neonicotinoids were developed as alternatives to organophosphate and carbamate insecticides, which are generally more toxic to humans.
  - Neonicotinoids affect an insect's central nervous system, resulting in paralysis and death.
  - Neonicotinoids are systemic pesticides. They are absorbed into plants

and distributed throughout plant tissues to stems, leaves, roots, fruits, and flowers. Residues can be found in the pollen and nectar consumed by bees and other pollinators.

- Brief History
  - 1994: Imidacloprid first registered for use in California.
  - 2008: DPR received adverse effects disclosure that showed potentially harmful effects of imidacloprid to pollinators.
  - 2009: The four neonicotinoids entered DPR reevaluation.
    - Limited to uses to product agricultural food or feed commodities.
    - Did not include trees grown for lumber and wood products, Christmas trees, ornamentals and cut flowers, and turf grown commercially for sod.
  - 2014: Assembly Bill 1789 adopted FAC section 12838.
  - July 2018: Risk determination submitted to Legislature.
  - February 2022: Regulation noticed for public comment.
  - April 2023: Regulation filed with Secretary of State, effective 1/1/2024.
- Summary of Regulations: Three Definitions in Section 6990(a)
  - Bloom: the period from the onset of flowering until petal fall is complete. This definition is intended to be a common-sense definition that users and enforcement personnel alike can consistently apply across the many food and feed crops grown in California, while still providing sufficient protection to pollinators.
    - For citrus subject to section 6984, the bloom period is instead defined in section 6984(b).
  - Growing season: the time period from planting until harvest is completed for a particular annual crop or biennial crop and is not more than one year (365 days) for perennial crops.
  - Managed pollinators: bees introduced in a field to provide pollination services to the crops in the field.
- Scope
  - 6990(b) limits the regulations to foliar and soil applications of neonicotinoids when used to produce certain agricultural commodities.
    - Arranged by Crop Groupings found in 40 CFR section 180.41(c) – used for pesticide residue tolerances and referenced on many pesticide labels.
    - Regulations do not apply to neonicotinoid use in non-agricultural (e.g., structural or home use) or non-crop (e.g., parks or



cemeteries) settings, or to applications to nursery stock.

- Exemptions
  - Examples of some exempted applications in section 6990(c):
    - In enclosed spaces or insect exclusionary structures/netting
    - To control a quarantine pest
    - Under a FIFRA Section 18 emergency exemption
  - A crop group section may list crops that are exempt from the article (ex: mulberries in Berries and Small Fruit).
- Crop Group Restrictions
  - Sections 6990.1 – 6990.16
  - When developing the regulation, DPR staff put individual crops and crop groups into three categories based on how attractive they are to bees. For the scope of this presentation however, this arrangement can be simplified further into three broad crop group categories:
    - Crops normally harvested before bloom.
    - Crops normally harvested after bloom.
    - Certain other crops where DPR was not able to determine the combinations of application rates and timings that are safe to low risk to pollinators.
- Crops Which are Normally Harvested Before Bloom
  - Bulb vegetables (e.g., garlic)
  - Herbs and spices (e.g., basil, thyme)
  - Leafy vegetables including Brassica (e.g., asparagus, celery, broccoli, kale, lettuce, spinach)
  - Certain miscellaneous crops (e.g., artichokes)
  - Certain root and tuber vegetables normally harvested before bloom (e.g., carrots, beets, parsnips, radishes)
- Restrictions on Crops Which are Normally Harvested Before Bloom
  - When the crop is harvested before bloom, the crop is not subject to the article. Follow neonicotinoid product label instructions.
  - However, if the crop will bloom (e.g., for seed production), neonicotinoid use is prohibited on the crop.
    - For root and tuber vegetables harvested after bloom or grown for seed, follow next section instead.
- Crops Which are Normally Harvested After Bloom

- Crop Groups (example crops):
  - Berries and small fruits (e.g., grape, raspberry)
  - Cereal grains (e.g., corn)
  - Citrus fruits (e.g., lemon, orange)
  - Cucurbit vegetables (e.g., cucumber, pumpkin)
  - Fruiting vegetables (e.g., tomato)
  - Legume vegetables (e.g., bean, pea)
  - Oilseed crops (e.g., canola, sunflower)
  - Pome fruits (e.g., apple, pear)
  - Other root and tuber vegetables (e.g., potatoes)
  - Stone fruits (e.g., cherry, peach)
  - Tree nuts (e.g., almond, walnut)
- Restrictions on Crops Which are Normally Harvested After Bloom
  - Use is prohibited during bloom.
  - Additional use restrictions if multiple AIs or both soil and foliar application methods are used on the crop during the growing season.
  - Additional use restrictions if managed pollinators will be used with the crop during the growing season.
  - Additional restrictions for certain crops.
- Other Crops
  - Crop Groups (example crops):
  - Reminder: These are the crops where DPR was not able to determine the combinations of application rates and timings that are safe or low risk to pollinators.
    - Tropical and subtropical fruit, edible peel (e.g., date, fig, olive)
    - Tropical and subtropical fruit, inedible peel (e.g., avocado, pomegranate, prickly pear fruit)
    - Certain miscellaneous crops (coffee and peanuts)
- Restrictions on Other Crops
  - Use is prohibited during bloom.
  - Only one neonicotinoid AI is permitted per growing season.
  - Only one application method (soil or foliar) is permitted per growing season.
  - If managed pollinators will be used with the crop, neonicotinoid use is

prohibited.

- Timeline & Next Steps in California
  - Regulations filed with Secretary of State on 4/10/2023.
    - Regulations become effective 1/1/2024.
    - DPR is in the process of planning outreach activities.
- A Last Note
  - The neonicotinoid AIs are currently undergoing registration review at EPA.
  - February 2020: released proposed interim decision (PIDs).
  - Fall 2023: Anticipate releasing amended PIDs that will include additional mitigation measures to reduce neonicotinoid exposures for non-target organisms, including some listed species.
  - 2024: Anticipate releasing Interim Decision and final listed species biological evaluation.
  - Any needed label changes to follow.

## **VII. Health Risk Mitigation and Volatile Organic Compound Emission Reduction for 1,3-Dichloropropene (1,3-D) Regulation – Maziar Kandelous–DPR Environmental Monitoring**

- Opening Remarks
  - This regulation will continue and improve DPR's management of the health risks from 1,3-D.
  - This regulation will mitigate cancer and acute risks to non-occupational bystanders (infants and children).
  - DPR is also working on another regulation to mitigate cancer risks to occupational bystanders.
- Background
  - The proposed regulation package was submitted to the Office of Administrative Law on November 7, 2022.
  - DPR held a public hearing on January 18<sup>th</sup>, at the end of the public comment period.
  - DPR made a few changes to the proposed regulation based on the comments and feedback received during the public comment period.
- Proposed Regulation Changes Based on Public Comments
  - Expansion of setback distance and application rate options.

- Added 300ft and 400ft options for setback.
  - Increased the application rate resolution from 25 lbs/ac increment to 10 lbs/ac.
- Changes to distinguish between inland and coastal counties.
- Change the 50% TIF to 40%.
- 1,3-D annual report to be published “as soon as reasonably practicable”.
- 1,3-D PURs to be submitted electronically.
- Summary of 1,3-D use published on DPR’s website quarterly.
- Second Court Order
  - The court on the Lawsuit (Vasquez v. DPR) issued a second order requiring DPR to:
    - Propose regulation to mitigate cancer risk to occupational bystanders by 9/15/23.
    - Maintain the current township cap of 136,000 ATP and December prohibition until the occupational bystander’s regulation is in effect.

## **VIII. APCAC Committee Members and Alternates**

- Discussion of current committee members and alternates.
- Discussion of nominating new committee members and alternates if current members unable to attend.

## **IX. Next Meeting**

Date of next meeting: December 13, 2023 (Location: DPR Enforcement Headquarters)

Time: 10:00 am -12:00 pm

Please direct questions to Alicia Scott at 916-603-7795 or via email at [Alicia.Scott@cdpr.ca.gov](mailto:Alicia.Scott@cdpr.ca.gov).