

**NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED CHANGES
IN THE REGULATIONS PERTAINING TO
STATEWIDE NOTIFICATION OF AGRICULTURAL USE OF RESTRICTED
MATERIALS**

AND

NOTICE OF PUBLIC HEARINGS

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations (CCR), the Department of Pesticide Regulation (DPR) is providing notice of changes made to the proposed text of section 6434 of Title 3, CCR. These changes are in response to comments received during the initial comment period that opened in November 2023 and made for the reasons stated below. The public comment period on the originally proposed regulatory action closed on January 12, 2024. The Director finds that the modifications are sufficiently related to the original text of the proposed action.

The modified text is being made available to the public for 30 days, during which written comments on the modifications will be received. DPR will accept written comments relevant to the modifications between July 2, 2024, and August 1, 2024. Written comments relevant to the modifications may be sent via e-mail to <dpr23003@cdpr.ca.gov>; via SmartComment online public comment portal at <https://cdpr.commentinput.com?id=PtrAVpk8b>; via U.S. mail directed to Ms. Lauren Otani, Senior Environmental Scientist (Specialist), Department of Pesticide Regulation, 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015; or via FAX at (916) 324-1491. Comments that are submitted via U.S. mail must be postmarked no later than August 1, 2024. Comments that are transmitted via [e-mail](#), [SmartComment](#), or fax must be received no later than August 1, 2024.

PUBLIC HEARINGS

Two in-person public hearings and one virtual public hearing have been scheduled for the dates and times stated below to receive oral or written comments regarding the proposed modifications.¹ A pre-hearing presentation on the electronic system and the proposed regulations, including a demonstration of the electronic system, will be given prior to each hearing at 6:00 p.m. The hearings will commence at 6:30 p.m.

The two in-person public hearings will be held as follows:

DATE: July 12, 2024
TIME: 6:00 p.m.: Pre-hearing presentation
6:30-8:30 p.m.: Public hearing
PLACE: Carnegie Arts Center

¹ If you have questions, comments, or require additional information, please contact Lauren Otani at 916-445-5781. If you require reasonable accommodation or language assistance to participate, please provide notice at least 10 business days before the public meeting by contacting DPR's Reasonable Accommodation Coordinator at 916-322-4553. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

250 N Broadway
Turlock, California 95380

DATE: July 23, 2024
TIME: 6:00 p.m.: Pre-hearing presentation
6:30-8:30 p.m.: Public hearing
PLACE: Shafter Youth Center
455 E Euclid Ave
Shafter, California 93263

A DPR representative will preside at the in-person hearings. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be conducted at the location of the hearing from 5:30 p.m. to 6:30 p.m. Generally, registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow all registered persons wishing to speak the opportunity to be heard. As stated above, in addition to accepting oral comments at the public hearing, DPR will accept written comments during the public hearing as well as via e-mail, SmartComment, U.S. mail, and FAX. The format of submitting a public comment – orally or in writing – does not impact DPR’s consideration of, or weight given to, the comment.

The virtual public hearing will be held as follows:

DATE: July 15, 2024
TIME: 6:00 p.m.: Pre-hearing presentation
6:30-8:30 p.m.: Public hearing
PLACE: Zoom (Virtual)²
Webinar ID: 814 3154 0587
Direct link to join the meeting from a web browser or Zoom client:
<<https://us02web.zoom.us/j/81431540587>>
One tap to join from a mobile phone: +16699009128,,81431540587#
Or call from a landline: +1 669 900 9128 – and enter the Webinar ID (above) when prompted

A DPR representative will preside at the virtual hearing. Persons joining the hearing through the web browser or Zoom client who wish to make comments orally during the hearing may raise their hand using the Zoom functions and make oral comments when called upon. Persons calling into the Zoom meeting who wish to make a comment orally during the hearing may raise their hand by dialing *9 on their phone's dial pad. This will indicate to DPR representatives that the person on the phone has raised their hand. Generally, persons will be heard in the order in which they raised their hand. Participants will also be given instructions on how to provide oral comment once they have accessed the hearing. If persons experience technical difficulties during the hearing, persons

² If you are interested in hosting a hearing group with multiple people using one Zoom login, please email randi.jimenez@cdpr.ca.gov so we know that the login will represent multiple speakers and DPR can better capture feedback from all individuals in the group.

may e-mail written comments to <dpr23003@cdpr.ca.gov> or electronically submit written comments through SmartComment online comment portal at <https://cdpr.commentinput.com?id=PtrAVpk8b>. DPR will also accept written comments that are submitted via U.S. mail and postmarked on the day of the hearing. If the number of persons in attendance warrants, the hearing officer may limit the time for each oral comment in order to allow everyone wishing to speak the opportunity to be heard. The format of submitting a public comment – orally or in writing – does not impact DPR’s consideration of, or weight given to, the comment.

The virtual hearing will also be accessible via public webcast for persons who would like to watch this hearing without participating. The public webcast can be accessed by visiting the following web address: <<https://video.calepa.ca.gov/#/>>

LANGUAGE ACCESS

Spanish language interpretation will be provided at the in-person public hearings on July 12, 2024, and July 23, 2024, and at the virtual hearing on July 15, 2024. To request interpretation in another language or sign language services, please email your request to languageaccess@cdpr.ca.gov or call 916-322-4553 by July 5, 2024. DPR will make a best effort to accommodate the request.

MODIFICATIONS TO TEXT

DPR proposes the following changes to the originally proposed text of section 6434:

- Amend originally proposed subsection (c)(2). The originally proposed subsection (c)(2) required that a notice of intent for “all non-soil fumigant pesticides requiring a permit” be submitted to the local County Agricultural Commissioner at least 24 hours prior to the date and time the application is intended to commence. DPR received inquiries as to whether the 24-hour time submission requirement applies to all pesticides requiring a permit that are not soil fumigants or to a subset of fumigant pesticides that are not applied to soil. DPR intended this requirement to apply to the former to be consistent with the intent of the regulation – to provide information to the public in advance of intended restricted material agricultural commodity applications requiring a permit. Therefore, DPR is proposing to amend subsection (c)(2) to clarify that a notice of intent is required to be submitted to the local County Agricultural Commissioner at least 24 hours prior to the date and time the application is intended to commence for all other pesticides that require a permit – pesticides that are not soil-fumigants that require a permit.
- Amend, restructure and reword originally proposed subsection (d).
 - The originally proposed subsection (d) required that select information from a notice of intent be submitted to DPR at least 24 hours prior to the date and time the application is intended to commence for all non-soil fumigant pesticides that require a permit. DPR is proposing to amend subsection (d) to clarify that this requirement applies to all pesticides requiring a permit that are not soil fumigants, as opposed to a subset of fumigant pesticides that are not applied to soil. This proposed amendment is consistent with the proposed amendments to subsection (c)(2).
 - DPR is also proposing to amend subsection (d) to clarify that the select notice of intent information must be submitted to DPR “either” 48 hours or 24 hours prior to the intended

- time and date of the application. This proposed amendment clarifies that there are two distinct time requirements for when select notice of intent information must be submitted to DPR – 48 hours for intended soil fumigant applications that require a permit and 24 hours for all other intended applications that require a permit.
- DPR also proposes to restructure and reword subsection (d) for clarity.
- Amend originally proposed subsection (e)(1). DPR is proposing to amend originally proposed subsection (e)(1) to clarify that select notice of intent information must be submitted to DPR for an intended application of a restricted material requiring a permit “either” 24 hours or 48 hours prior to the date and time the application is intended to commence depending on the type of pesticide being applied. Additionally, DPR is proposing to amend subsection (e)(1) to clarify that the 24-hour time submission requirement applies to all other pesticides requiring a permit – pesticides that are not soil fumigants, as opposed to a subset of fumigant pesticides that are not applied to soil. Both of these amendments are consistent with proposed amendments to subsections (c)(2) and (d) discussed above.
 - Amend originally proposed subsection (g).
 - DPR is proposing to amend subsection (g) to specify that the requirement in this subsection, which requires DPR to provide specified information about intended restricted material applications that require a permit to the public, will become effective 30 days after the effective date of this action. Postponing the effective date of this subsection by 30 days is necessary so that DPR has sufficient time to address any unanticipated technological issues with its electronic system for making notice of intent information publicly available.
 - Additionally, DPR proposes to amend the cross-reference to subsection (d) to specifically reference the information listed in subsections (d)(1)-(d)(6) to clarify the information that DPR is required to make publicly available.
 - DPR proposes to amend subsection (g) to require DPR to make the pesticide product name(s) and active ingredient(s) publicly available, in addition to the information listed in subsections (d)(1)-(d)(6). This information is currently submitted on notices of intent (NOIs). This amendment is in response to public comments requesting to receive the pesticide product name(s) and active ingredient(s) for intended applications. DPR intended, prior to receiving the public comments and proposing this amendment, to make this information publicly available for intended applications. DPR can determine this information from the pesticide product registration number(s) (subsection (d)(4)). This amendment will clarify DPR’s intent that it will provide the public with the pesticide product name(s) and active ingredient(s) to be applied. Providing this additional information will inform the public about what pesticides will be applied near areas of interest, using the pesticide’s label and chemical names, and allow the public to obtain additional information about the pesticide or chemical.
 - DPR proposes to amend the second cross-reference to subsection (d) to subsections (d) and (e)(1) to clarify the requirement that DPR make publicly available information about intended restricted material applications requiring a permit that are reported to DPR by both (1) property operators, property operator representatives, or the pest control business under subsection (d) and, (2) County Agricultural Commissioners under subsection (e)(1). This will clarify DPR’s intent that it will also provide information reported under subsection (e)(1).

- Lastly, DPR proposes to amend, reword, and restructure subsection (g) to clarify that the requirement that DPR make information about intended applications that require a permit publicly available at least 24 hours prior to the intended date and time of the application is to commence, or as soon as practicable, applies to all applications of pesticides that require a permit that are not a soil fumigant, as opposed to a subset of fumigants that are not applied to soil. This amendment is consistent with proposed amendments to subsections (c)(2), (d), and (e)(1) discussed above.
- Amend and restructure originally proposed subsection (h). The originally proposed subsection (h) required DPR to evaluate its system and process for making information about intended restricted material applications that require a permit publicly available after three years.
 - DPR is proposing to amend subsection (h) to create subsection (h)(1). Proposed subsection (h)(1) will require DPR to annually publicly issue a status update on its system and process for making information about intended applications requiring a permit publicly available, feedback received, and changes to its system and process. Proposed subsection (h)(1)(A) requires DPR to receive feedback from and present the annual status updates to the Department of Pesticide Regulation Environmental Justice Advisory Committee and the State Board of Food and Agriculture. Proposed subsection (h)(1)(B) requires DPR to accept public comments on its annual status update for a minimum of 30 days. DPR will be required to issue an annual status update and receive feedback from the Committee, the Board and the public via a public comment period until DPR issues a draft report on its system three years after the regulation goes into effect or as soon thereafter as reasonably practicable. The requirement to annually receive feedback from the Committee, the Board and the public addresses public comments requesting that the community members from the communities most affected by pesticide use, agriculture interests, public health and medical interests, beekeepers, environmental interests, and other stakeholders have an opportunity to provide feedback on the system and participate in the system review. DPR is proposing to require that DPR specifically receive feedback from and present the status update to DPR's Environmental Justice Advisory Committee and the State Board of Food and Agriculture to provide different public forums for multiple stakeholder groups to provide feedback and participate in the system review. The proposed 30-day public comment period in subsection (h)(1)(B) will provide the public sufficient time to review the annual status update and provide suggestions and feedback to DPR for DPR's consideration during the remaining part of the year. This proposed amendment also addresses public comments DPR received requesting DPR review its system and process for making information publicly available earlier than DPR's originally proposed three years. The annual status update ensures DPR will annually (1) report out on feedback received and/or changes made and (2) keep the public informed about the operation of the system over the past year until DPR issues a comprehensive draft report under subsection (h)(2).
 - DPR is also proposing to move the requirement that DPR issue a final report to new subsection (h)(2) and to amend it to require that DPR issue a draft report, followed by a final report, on its system and process of providing information to the public pursuant to subsection (g) and any changes made three years after the effective date of the regulation or as soon thereafter as reasonably practicable. The report will serve as a comprehensive review of the whole system and process, including improvements made to the system, over

time. Proposed subsection (h)(2)(A) requires DPR to receive feedback on its draft report from, and present its draft report to, DPR's Environmental Justice Advisory Committee and the State Board of Food and Agriculture. This is to be consistent with newly proposed subsection (h)(1)(A) and to provide different public forums for multiple stakeholder groups to provide feedback and participate in the system review. DPR is also proposing subsection (h)(2)(B) to require DPR to make the draft report available for public comment for a minimum of 45 days. By requiring DPR's draft report to be available for public comment, this proposed amendment addresses public comments that the community members from the communities most affected by pesticide use, public health and medical interests, beekeepers, agriculture interests, environmental interests, and other stakeholders all be included in the review of the system. DPR is proposing to make the draft report available for a minimum 45-day comment period. This time period is consistent with the regular rulemaking process, specifically Government Code section 11346.4(a). It will provide the public a meaningful amount of time to review the draft report, which will comprehensively cover the past three years of the system, and provide public comment to DPR.

- DPR is adding Food and Agricultural Code (FAC) sections 901 and 11519 to the references for section 6434. These references are added as FAC section 901 establishes the State Board of Food and Agriculture and FAC section 11519 establishes the Department of Pesticide Regulation Environmental Justice Advisory Committee, which are both listed in proposed subsection (h). This is a non-substantive amendment.

Current wording of the regulations is indicated by regular type. Originally proposed deletions are indicated by ~~strikeout~~. Originally proposed additions are indicated by underline. New proposed deletions are indicated by ~~*italics and strikeout*~~. New proposed additions to the text of the originally proposed regulations are indicated by **bold double underline**.

All written comments received by August 1, 2024, which pertain to the indicated changes, will be reviewed and considered in this rulemaking. Please limit your comments to the modifications of the text.

This Notice of Modifications to Text of Proposed Changes and the text of modified regulations are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.