

TITLE 3. DEPARTMENT OF PESTICIDE REGULATION  
Notification and Application-Specific Information  
DPR Regulation No. 08-002

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend sections 6618, 6619, 6761.1, 6770, and 6771 of Title 3, California Code of Regulations (3 CCR). The proposed action would clarify the notification requirements prior to, and after, a pesticide application, including who is to be notified and the persons responsible for providing such notification; revise the requirements for application-specific information for fieldworkers; and clarify the specific activities allowed during the restricted entry interval (REI) and the requirements employers must meet in order to send fieldworkers into the field during the REI.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on August 18, 2008. Comments regarding this proposed action may also be submitted via e-mail <dpr08002@cdpr.ca.gov>, or by facsimile (FAX) transmission at (916) 324-1452.

A public hearing is not scheduled; however, a public hearing will be scheduled if any interested person submits a written request for a public hearing to DPR no later than 15 days prior to the close of the written comment period.<sup>1</sup>

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

DPR's mission is to protect public health and the environment from adverse effects of pesticide use. The Food and Agricultural Code (FAC) requires that DPR adopt regulations that provide for safe working conditions for persons handling pesticides and working in and about pesticide-treated areas, including regulations on the subjects of notification, hazard communication, and early-entry activities.

DPR's current notification, hazard communication, and early-entry regulations were last amended in 1997 to incorporate the Federal Worker Protection Standard (WPS) into California regulations. DPR consulted with the U.S. Environmental Protection Agency (U.S. EPA) to ensure California maintains equivalency for the regulations.

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<sup>1</sup> If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TTD speech-to-speech users may dial 7-1-1 for the California Relay Service.

Based on the review of DPR's Pesticide Illness Surveillance Program data, and issues raised in both DPR's Compliance Assessment Report and the U.S. EPA Region 9 Worker Protection Standard Assessment California Program Report, DPR has determined that amendments should be made to improve clarity and enforceability to regulatory sections dealing with notification, hazard communication, and early entry.

Proposed sections 6618 and 6619 would clarify the notification requirements required prior to, and after, a pesticide application. Specifically, this proposal would:

- Separate agricultural and nonagricultural use notification requirements into two subsections to improve clarity and ambiguity.
- Clarify who is ultimately responsible for notifying employees.
- Require the pesticide applicator to re-notice the operator of the property if the application does not take place on the date scheduled.
- Introduce a dual responsibility to both the operator of the property and any contractor hired to comply with these notification requirements to employees.
- Require notification to people (e.g. irrigation district employees, Pacific Gas and Electric crews, etc.), other than their employees, when there is reason to believe they may enter a field during the REI.

Proposed section 6761.1 would:

- Require application-specific information be displayed before any fieldworkers are allowed to walk within ¼ mile of the treated field.
- Require the operator of the property and any contractor hired by the operator to display a description of the location of the application-specific information at the worksite whenever their fieldworkers are working in a treated field.

Proposed section 6770 would:

- Clarify who is ultimately responsible for assuring that employees will not enter a field on the date of a scheduled application or after a field is treated (during the REI).

Proposed section 6771 would:

- Require an employer to inform the employee of the specific restrictions and conditions pursuant to section 6770 prior to allowing or directing any employee to enter a field during an REI to perform an early entry task.

### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. DPR has

also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any agency will result from the proposed regulatory actions.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the state will result from the proposed regulatory actions.

#### EFFECT ON HOUSING COSTS

DPR has made an initial determination that the proposed actions will have no effect on housing costs.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DPR has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. DPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS

DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

#### CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the regulatory action.

## AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456, 12976, and 12981.

## REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 11501, 12973, 12980, and 12981; and Business and Professions Code section 8538.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

## AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator  
Department of Pesticide Regulation  
1001 I Street, P.O. Box 4015  
Sacramento, California 95812-4015  
(916) 445-3991

Questions on the substance of the proposed regulatory action, particularly technical or historical questions concerning these regulations, may be directed to:

Kevin Solari, Program Specialist  
Worker Health and Safety Branch  
Department of Pesticide Regulation  
(916) 323-7614

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page at <<http://www.cdpr.ca.gov>>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

DEPARTMENT OF PESTICIDE REGULATION

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Director

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Date