



Lauren Otani, Senior Environmental Scientist (Specialist)
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015
Via email

May 15, 2023

PCOC Comments and Statement of Issues on DPR 23-001 Pesticide Decontamination Sites

Dear Ms. Lauren Otani,

On behalf of the Pest Control Operators of California (PCOC), I would like to provide substantive comments on DPR's proposed regulatory changes to address Pesticide Decontamination Sites stated in proposed rulemaking package DPR 23-001. PCOC supports proactive management of known risks and continues to ensure the health and safety of our employees. However, for structural pesticide applicators, many of the proposed changes are seemingly not possible to implement and places both the company and the employee in an untenable position.

Background

The Structural Pest Control Board (SPCB) issues three different types of licenses to structural pesticide applicators based on the practice of pest control they perform. Branch 1 is for fumigations, Branch 2 is general household pests (excluding fumigations), and Branch 3 is to control wood-destroying pests, such as termites (excluding fumigations). SPCB issues licenses for three types of pesticide applicators. (1) The "Applicator" applies pesticides for Branch 2 or Branch 3 on behalf of a registered Pest Control Business (PCB). The applicator can only perform pesticide applications while working for a registered PCB. (2) The "Field Representative" applies pesticides for Branch 1, Branch 2, or Branch 3, inspects, and submits bids or contracts on behalf of a registered PCB. A pest control field representative cannot contract for or perform pest control work on their own. And finally, (3) the "Operator" performs the same duties of a Field Representative except that an Operator can own and operate their own company. For these comments, I am referring to Branch 1, Branch 2, and Branch 3 pesticide applicators, field representatives, and operators. Our comments refer to these licensees as "technicians" or "professionals."

Our pest management industry professionals constantly move daily from location to location for up to 15 or more sites, making any sort of temporary set up for an eye wash station and decontamination site very difficult. The number of mixing and loading events is dependent upon the volume of pesticide applied at each of the previous locations. At each location where concentrate is handled, the eye wash station and decontamination site will need to be set up before the solution is mixed and then broken down after the process is completed. As proposed, these regulatory changes would significantly decrease the number of homes that can be serviced in a single day. Please refer to Attachment 1 for photos of representative Branch 1, 2, and 3 service vehicles, which document the limited space to add eye wash stations.

PCOC has concerns about the following areas as stated in the proposed regulation:

1. Proposed regulation section 6734, Decontamination Sites for Employees Handling Pesticides, subsection (a)(3) states, "If the pesticide product labeling requires employees who are mixing or loading pesticides...**to wear protective eyewear**...the employer shall provide **at the mixing/loading site** ... immediate employee access to an eyewash station that meets ... American National Standards Institute (ANSI) Z358.1-2014 standard" (emphasis added). The proposed regulations reference the ANSI Z358.1-2014 standards for eyewash and shower requirements for personal decontamination for exposure to hazardous chemicals. However, in a blog from the ANSI website [ANSI Z358.1-2014: Learn About the ANSI Eyewash Standard - ANSI Blog](#), the standards in reference to the guidelines are located at facilities and not on a mobile site, such as service vehicles. In the same reference, there are specific guidelines for acceptable plumbing standards that are not possible nor practical to install in a mobile setting. The guidelines as stated in the referenced ANSI standard do not seem to be applicable to the occupational setting in our industry.

Our industry's current practice is each service vehicle has a "Spill Kit" that contains an extra uniform, sufficient soap, and single use towels. At each job site, there is sufficient water to wash the hands, face, and if needed, the entire body. Contained in the glove box of the service vehicle is a medium (8-16oz) bottle of eye wash.

Another aspect of this proposed regulation is the difficult and impractical set up of the eye wash station to the exterior of the pest control technician's service vehicle. A typical service vehicle used in our industry are pickup trucks with camper shells covering the bed. Significant modifications will have to be made to either the shell, the truck body, or both. Please refer to Attachment 1 for examples of technician service vehicles used today.

In the case where the eye wash station is mounted to the exterior of the service vehicle, it cannot be covered because it needs to always be easily accessible. In many of the neighborhood communities that we service, passersby and other individuals will either try to steal the units, vandalize, or use it for other than its intended use. These may then result in the units becoming unusable and ineffective. Additionally, the equipment will also be open to elements causing either degradation of the unit or damage due to accidents.

If the eye wash station is not mounted to the exterior of the service vehicle, then it will need to be stored inside. This would leave the unit either inside the cab of the vehicle or inside the truck bed under the camper shell. In either case, it would need to be removed and set up in the area close to where the pesticide concentrate is handled. The required temperature regulated eye stations hold 16 gal (the Fendall Porta Stream®) weighing 35 pounds empty and 170 pounds full. Moving a large unit filled with liquid (making it unstable to move and handle) has extreme potential to result in back (due to lifting and potentially twisting under strain) or pinch point injuries to the person responsible for

setting up the eye wash station as they are alone most of the time. At the time of hire, the doctor evaluations are for a maximum lifting ability of 50 pounds and the eye wash station would exceed this. Our current doctor evaluations and job descriptions are not adequate, and this has the potential to impact the technicians that PCBs can hire for the job.

If the eye wash station is mounted to either the exterior or interior of the service vehicle, managing the required temperature of the solution will be a challenge. For the units mounted on the exterior, they will be in direct sunlight for most of the daylight hours. Regardless of the storage/mounting location, they will be exposed to temperatures that are outside of the range (between 60- and 100-degrees Fahrenheit) listed in the proposed regulations. To address this, the liquid will need to be placed on ice, wrapped in an insulating cover or blanket thus significantly adding to the cost.

Current state law requires pesticides to be inaccessible to anyone not licensed. This is usually enforced by the service vehicle and pesticide storage being locked when it is not being directly accessed by the technician. In cases where the eye wash station is being stored in the camper shell or other storage area (usually pesticides or application equipment is stored there as well), the eye wash station will need to be removed completely and that area locked and secured. This factor prevents many configurations of using the truck bed or the camper shell from having the eye wash station being mounted to it.

2. Proposed regulation section 6734, Decontamination Sites for Employees Handling Pesticides, subsection (c) states, "The decontamination site for employees handling pesticides...shall be at the mixing/loading site." The references to DANGER or WARNING signal word on pesticide labels is removed and replaced with "any products that require eye protection". Products have these signal words due to their potential for injury to anyone handling the concentrate or exposed to the diluted spray. There is no further explanation or justification for replacing the signal word with a label requirement for eye protection to implement the regulation. Many products that carry the CAUTION signal word, including products that are exempted from registration under FIFRA 25(b), list eye protection on the label when handling the concentrate due to potential eye irritation. In the EPA Health Effects Test Guidelines OPPTS 870.2400 Acute Eye Irritation ([EPA Health Effects Test Guidelines: Acute Eye Irritation \(nih.gov\)](https://www.epa.gov/health-effects-test-guidelines/acute-eye-irritation)) the definition of corrosion is, the production of *irreversible* tissue damage in the eye following application of a test substance to the anterior surface of the eye while irritation is defined as the production of *reversible* changes in the eye following the application of a test substance to the anterior surface of the eye. Those are very distinct differences, which further defines the signal words on various pesticide labels. The language proposed in these regulations uses them interchangeably, which could possibly result in a less effective regulation since the definition of the resulting public health impact is not differentiated. Additionally, in DPR's December 23, 2021, memorandum we obtained

through public record, identifies 6734 subsection (a), "... to expand the scope by requiring all employees that handle pesticides whose properties are such that ocular exposure would have a high potential for eye injury..." PCOC respectfully requests DPR define "high" as many products that require eye protection may cause minor irritation.

Based on PCOC's understanding of the proposed regulation text, the eye wash station meeting ANSI standard will need to be available for use whenever a technician is handling the concentrate. We understand the intent of this requirement, but the implementation may not be feasible for our industry. Following current DPR regulations with respect to Pesticide Decontamination Facilities, our service vehicles already have a "Spill Kit", and each job site has sufficient water. Our industry receives regular trainings on decontamination sites and first aid where County Agricultural Commissioners are present. Therefore, PCOC respectfully requests DPR consider an additional exemption to section 6720, Safety of Employed Persons to account for Branch 1, Branch 2, and Branch 3 technicians.

Title 3, CCR section 8616.5 – 8617 Enforcement by County Agricultural Commissioners and Implementation

It is unclear how the proposed regulations will be enforced, once adopted. Has DPR considered what a Branch 2 or Branch 3 inspection could look like? When and how will we need to demonstrate the weekly inspections/testing and document when the solution was changed? Will inspectors open the liquid reservoir of the eye wash unit and record temperatures? Will this be added to the field inspection sheet the county inspectors use for technician inspections? Should DPR proceed with adopting the final rulemaking package and submit to Office of Administrative Law (OAL), PCOC requests special consideration be given to the implementation date. Consideration should be given to the volume of eye wash stations that will need to be purchased and service vehicles retrofitted to maintain the temperature-controlled eye wash solution.

PCOC disagrees with DPR's Initial Statement of Reasons (ISOR)

When we asked DPR about the identified injuries caused by pesticides described in the ISOR, more details could not be provided. Specifically on page 5, the ISOR states, 'Between 2008 and 2017, 57 cases resulting in injury or illness from exposure to a pesticide product with the signal word "CAUTION" were reported to DPR's Pesticide Illness Surveillance Program.' It is not clear if all those injuries were the result of pesticide exposure to the skin or eyes. It is also not clear if those injuries had a Personal Protective Equipment (PPE) non-compliance violation or if the PPE was being used properly and it failed to protect the employee. It is not clear if the injuries were associated with a pesticide technician or a bystander.

The ISOR also relies upon DPR's Pesticide Use Reporting (PUR) database as a reference for the number of technicians. It is important to identify that the PUR database only captures the number of registered companies, not the number of licensees (e.g., structural pest management industry, licensed landscapers, vector control technicians) and unlicensed individuals [those working for the licensed Qualified Applicator Licensees (QALs)] applying the pesticides. For

example, SPCB currently licenses approximately 25,000 individuals to apply pesticides. That number does not include licensed landscapers (plus their employees applying pesticides under those licenses), vector control technicians, any municipal employees who apply pesticides, and other groups not mentioned. PCOC feels that these regulation changes are unjustified based on the number of technicians that have been harmed over the years by exposure to these pesticides.

[PCOC disagrees with DPR's Notice of Proposed Regulatory Actions \(NOPA\)](#)

The difference between DPR's estimate of the number of technicians (DPR listed companies versus individuals licensed) can result in a significantly different financial impact. On page 5 of DPR's NOPA section SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, states, "DPR made an initial determination that adoption of these regulations will not have a significant statewide adverse economic impact directly affecting businesses ..." On page 1 of DPR's Economic and Fiscal Impact Statement (EFIS) identifies a December 23, 2021, memorandum listed as a document relied upon in the ISOR. PCOC feels this document should be made publicly available on DPR's rulemaking Web site so our constituents can review the estimates that went into this rulemaking package. We obtained this document as a public record and found flaws in the analysis that should be considered by DPR. Additionally, the cost estimates were conducted in December 2021. PCOC feels the costs have increased due to inflation and should be reconsidered. Attachment 2 Cost Estimates has considered the costs today to purchase the required items related to this rulemaking.

[PCOC disagrees with DPR's Economic and Fiscal Impact Statement \(EFIS\)](#)

On page 1 of the EFIS item 2 identifies DPR's estimate of the economic impact of this regulation to be \$10MM to \$25MM impact with 90-96% being small businesses. Attachment 2 Cost Estimates documents PCOC's calculations identifying a low of \$74.4MM to a high of \$109.5MM financial impact. This is broken down into \$39.4MM to \$63.1MM for the structural pest management industry and \$35.0MM to \$46.4MM for the private landscaping industry (excluding the vector control industry and municipal employees) for equipment, installation, and compliance within the first year alone. On DPR's STD. 399 Economic Impact Statement, DPR only considered the lifetime cost for the eyewash stations and decontamination sites for 14,848 businesses and excluded the number of employees and their service vehicles. With our calculations coming in well above the \$50MM mark, we feel this is a major rulemaking and DPR should conduct a Standardized Regulatory Impact Assessment (SRIA) as mandated by Government Code Section 11346.3(c). DPR should research and document alternatives or consider an exemption for the highly regulated and frequently inspected Branch 1, Branch 2 and Branch 3 Pest Control Businesses (PCBs).

The environmental impact is another factor not included in the EFIS. The increased load in a service vehicle will reduce the mileage resulting in more fuel consumed and increased emissions contributing to the degradation of air quality in our state. According to [U.S. Department of Energy](#), an extra 100 pounds can reduce fuel economy by up to two (2) percent, resulting in an extra \$72 a year (low value) per service vehicle on California roads.

For 20,748 service vehicles results in another \$1.5MM not accounted for in DPR's calculations.

PCOC disagrees with DPR's December 23, 2021, Economic Analysis Memorandum identifying the number of affected Pest Control Businesses (PCBs)

On page 10 of DPR's December 23, 2021, Economic Analysis Memorandum section titled "Economic Impact of Decontamination Sites Regulation Change" subsection "Number of Affected Businesses," incorrectly identifies the current number of affected PCBs to be 3,000 based on DPR's 2017 Pesticide Use Reporting (PUR) data. While we applaud DPR's ability to query unique licensees reporting non-agricultural use based on signal word, this data is well over six (6) years old and highly problematic. In a PCOC acquired Public Record document dated March 24, 2020, Kimberly Steinmann identifies significant flaws in the reported PUR data and an underestimation of this very important value. PCOC feels the SPCB number of registered licensees provided in Attachment 2 is the most accurate and should be the value for affected businesses used in DPR's rulemaking.

Additional assumptions were made in this memorandum that PCOC disagrees with. On page 11 of the memorandum, "DPR estimates each of the 950 DPR-licensed PCBs will need a total of five decontamination sites based on the average size of these businesses, for a total of 4,750 sites." For the fiscal year 2021/2022, SPCB reported in their 2022 Sunset Review Report that there were 6,639 active licensed applicators and 14,109 licensed field representatives. Additionally, this document reported 4,065 licensed operators. Applicators and field representatives are licensed to work for operators in the field. This means that there could be as many as 20,748 to 24,813 vehicles that will need the required eye wash equipment. We believe there is a significant difference between DPR's 4,750 identification of sites requiring eye wash stations and SPCB's 20,748 low number of active licensees and respectfully request DPR recalculate the number of affected businesses.

Another assumption made by DPR was that "...employees mix, load, and apply only Category III or IV pesticides at each principal office...[t]hose SPCB-registered PCBs will require one decontamination site at the office (1,650 sites)." As described above, technicians mix and load in the field based on the volume of applications made in one day and rarely mix/load at their primary office. Another somewhat correct assumption DPR made was that "...applicators...usually work independently" and "...each applicator mixes and loads pesticides in the field." PCOC agrees with this statement but disagrees with the number of individuals captured from a 2021 meeting between DPR and SPCB. PCOC feels this is the number of businesses, not the individual licensees who have the capability to handle concentrate or liquid fumigants on site. Many fumigators have more than one service vehicle that carry fumigants so they will need to outfit each service vehicle with an eye wash station. Each PCB that has the potential to carry a pesticide product that requires eye protection will need to outfit their service vehicle with eye wash stations. Since many of the PCBs use pesticide products that require eye protection, PCOC feels the true number, when calculating the impact to businesses, is each individual active licensee.

Ms. Lauren Otani, Senior Environmental Scientist (Specialist)
Comments on Rulemaking DPR 23-001 Pesticide Decontamination Sites
May 16, 2023
Page 7 of 7

PCOC's Recommendation

PCOC feels that concentrating on the enforcement of label required goggles and pesticide label required PPE prevents exposure and provides the safety of employed persons. This is the preferred action that DPR should take instead of mandating the installation of eye wash stations. Additionally, PCOC respectfully requests an additional exemption from the requirement to install eye wash stations on Branch 1, Branch 2, and Branch 3 pesticide professional service vehicles as was afforded Pool and Spa pesticide applicators. DPR's current worker protection requirements adequately protect Branch 1, Branch 2, and Branch 3 structural pest control technicians.

Sincerely,



Michael E. Wilson
Executive Director
Pest Control Operators of California
michael@pcoc.org

Attachments

CC: Darren Van Steenwyk, M.S., BCE, Sprague Pest Solutions (w/ Attachments)
dvansteenwyk@spraguepest.com

Jim Steed, Neighborly Pest Management Inc. (w/ Attachments)
jim@neighborlypest.com