



California Agricultural Commissioners and Sealers Association

August 1, 2024

Department of Pesticide Regulation
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95812

Submitted via email: dpr23003@cdpr.ca.gov

Re: Statewide Notification of Agricultural Use of California Restricted Materials

To Whom It May Concern,

We appreciate this opportunity to comment on the proposed regulations for the Statewide Notification of California Restricted Materials applied in a production agricultural setting. The California Agricultural Commissioners and Sealers Association appreciates the dialogue and consideration of local practices, including the potential impact to county office workload, throughout the drafting of these regulations. In a continuation of the existing open dialog, we respectfully submit the following additional comments regarding the proposed regulations.

Per Title 3, California Code of Regulation (CCR) section 6434, Notice of Intent (NOI): We acknowledge and value the continued inclusion of a 24-hour notice period for non-soil fumigant pesticides and understand the requirement of a 48-hour notification for soil fumigants. We believe it is imperative to continue these same timeframes. A 24-hour NOI and a 48-hour NOI provide critical flexibility in order to maintain time sensitive pesticide applications. Applications can be unexpectedly impacted by weather, employee availability, equipment issues, or other local conditions.

Additionally, it is imperative to emphasize that these proposed regulations apply only to California restricted material use as defined in 3 CCR section 6400 and only for the production of an agricultural commodity. We are concerned that these regulations could cause confusion in communities and will increase unnecessary calls to the local Agricultural Commissioner's offices due to a lack of understanding between not only federally restricted versus state restricted materials, but more crucially, restricted materials versus non-restricted materials and restricted materials that require a permit. We ask that every effort be made to clarify and emphasize to communities that DPR strictly controls the use of restricted materials (RM) in California. DPR should clarify, through outreach and education, the controls that they have in place to regulate Restricted Materials. These controls include, but are not limited to: A RM can only be sold to end users by pest control dealers licensed by DPR; Everyone who supervises the use of a RM is required to be a certified private or commercial applicator; A RM permit shall be obtained prior to the possession or use of a RM (with few exceptions); and a NOI is required to be submitted to the local CAC prior to making an agricultural application of a RM requiring a permit.

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Previously, we shared our concerns regarding the possibility of a notification leading to an unintended identification of the site-specific location of an application. Such site-specific information may lead to the potential harm of an operator and/or their employees, violation of their privacy, or trespass upon their private property or businesses. Therefore, we are continuing to request that reconsideration be made on including acreage to be treated, as this may be a means of identifying site specific areas. We suggest that acreage ranges be utilized instead to provide information on the size and scope of the application, without giving exact acreage. The proposed regulations provide for the privacy of the public accessing the information, and similar consideration should be considered for protecting the privacy of property operators and their employees that work and reside at these locations.

In further relation to the proposed notification regulations, we have already seen an increase in RM permit challenges and community concerns on other pesticide use enforcement program activities, which we believe is not the intent of this new program. We anticipate the public inquiring about pesticide safety and risk analysis, which is the responsibility of DPR, not the local CAC. Such inquiries, although important, are concerning. They have the potential to increase staff workload and diminish the time spent in pesticide use enforcement program activities. These activities include time performing notice of intent reviews and field inspections to ensure pesticide use compliance for the safety, health and welfare of the environment and communities we serve. We strongly recommended that DPR is proactive about its outreach and education efforts to inform communities that RMs like non-restricted materials are legally registered for use and have undergone risk assessment evaluation by U.S. EPA and DPR for potential harm to human health and the environment to ensure safe and effective use. As previously mentioned, the use of a RM requires a permit and submittal of a NOI before the material can be applied increasing its oversight to ensure compliance with additional label or regulatory restrictions.

As a reminder, California's Pesticide Use Enforcement program is the most active, comprehensive, and state-of-the-art system in the United States, if not the entire world. The local CAC offices have approximately 493 licensed Inspectors/Biologists. These dedicated individuals reflect a strong, statewide presence in the field. They conduct enforcement inspections for: pre-application site conditions; pesticide applications; worker safety; employee training; and recordkeeping. They also prioritize potential pesticide issues by investigating all pesticide related complaints and responding to pesticide related injury and illness notifications. As a direct result, licensed county staff perform over 30,000 field enforcement inspections per year on average, with our nearly 500 inspectors statewide.

In conclusion, we appreciate the opportunity to provide comments on these proposed regulations and look forward to collaborating with your office and continuing our discussion regarding this program. Thank you for your consideration.

Sincerely,

DocuSigned by:
Juan Hidalgo
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Juan Hidalgo
President