



July 30, 2024

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

Subject: Comments on the Department of Pesticide Regulation's modifications to the proposed restricted material use notification regulations.

Dear Ms. Otani:

On behalf of the Almond Alliance with the support of the Almond Board of California, we are providing the following comments and questions regarding the proposed prior notification draft regulation. The Alliance is a voluntary association representing almond growers, huller/shellers and handlers (processors). The Almond Board is a Federal Marketing order representing all almond growers and processors in California.

Almonds are grown on some 1.6 million acres in California representing \$3 billion farm gate value. In addition to the over 7,000 almond growers there are some 400 huller/shellers who hull and shell almonds, and 100 handlers who process the nuts for entrance into the marketplace. Over 70% of the almond growers grow 100 A or less. Thus, the almond growers represent a diversity of size of operations as well as ethnicities in ownership, as well as abilities to manage the increasing regulatory compliance workload.

We appreciate CDPR asking for comments on the modifications to the new regulation. We are pleased to see that some of our previous comments have been incorporated.

We are adding some additional comments or observations for CDPR's consideration as it moves forward with implementing the prior notification. These comments are in addition to the broader commodity provided comment letter.

1. DPR needs to make it clearer that the prior notification regulation addresses an effort to improve transparency to the public but that it is not about addressing safety. Safety is addressed through the risk assessment and enforcement processes. And given that a notice of intent covers an up to 4-day window for the

possible application of a restricted use pesticide (RUP), it cannot be used to manage safety. Many, including ourselves, assumed this regulation was about improving safety.

- a. The corollary to this regulation being about transparency is that it therefore does not make sense to know the specific location of the application and that a 1-mile section is adequate for transparency purposes.
2. In terms of communication about the pesticide regulatory process and safety, we highly recommend that DPR look to what the Pest Management Regulatory Authority (PMRA) of Canada has done in terms of communicating to the public about the pesticide regulatory processes. They provide plain language explanations of the risk assessment and enforcement processes. <https://www.canada.ca/en/health-canada/services/consumer-product-safety/pesticides-pest-management/public/protecting-your-health-environment.html>
 3. We do have a concern particular to almonds and that is the definition of “production agriculture” when it comes to stockpiles. While the regulation is planned to only apply to RUPs used in production agriculture, that line is gray in the case of fumigation of stockpiles. Freshly harvested almonds are stockpiled awaiting hulling/shelling, that is placed in a pile and covered with a tarp. To stop insect damage coming in from the field, particularly critical with the new pest, *Carpophilus truncatus*, but also to arrest Navel Orangeworm damage, the stockpiles are typically fumigated under a tarp. Where those stockpiles are located varies: in some cases the nuts are stockpiled on a growers land; in some cases the nuts are transported for stockpiling to the huller/sheller who does not grow any almonds themselves; and in many cases a huller/sheller is stockpiling nuts grown on their own land will also stockpiling nuts from other growers. For these post-harvest uses of fumigations, since they can occur daily or every several days during the harvesting period, the NOI from the County Ag Commissioners is often for a month.

It sounds like if the nuts are stockpiled on the grower’s own land, then it would be considered a part of production agriculture and fall under the prior notification rule, but if purely a huller sheller then it is industrial and outside of the rule. But as noted above in many cases it is mixed and even if a grower is stockpiling on their own land, then the NOI may be for a period longer than 4 days.

Our recommendation is that any fumigation of stockpiles be considered a post-harvest activity, beyond the scope of production agriculture regardless of where the stockpiles occur.

We appreciate the opportunity to comment on the modifications to the proposed regulations. Should you have any questions or would like additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Blake Vann", with a long horizontal flourish extending to the right.

Blake Vann,
Chairman of the Board

cc: Gabriele Ludwig, Almond Board of California