California State Board of Food and Agriculture

Dear Ms. Otani:

The California State Board of Food and Agriculture appreciates the opportunity to provide public comment on DPR 23-003 Statewide Notification of Agricultural Use of Restricted Materials. The Board held a virtual meeting on July 25th for the purpose of receiving public comment on the statewide pesticide notification system and proposed regulatory modifications.

We received 20 comments and had approximately 92 attendees. Comments reflected viewpoints of agricultural associations, community organizations and individuals.

A number of comments reiterated public comment submitted by the Board to DPR on January 12, 2024 (attached). The Board offers further recommendations for the proposed regulatory modifications and the statewide pesticide notification system.

Availability of Data

The Board continues to encourage DPR to carefully consider the concern about non-regional individuals or organizations accessing notification information which should be available to address local questions or concerns. The "use" of system data is a consistent concern expressed by agricultural stakeholders for the legal, regulated and approved use of restricted materials.

The specific purpose of the proposed amended regulation was identified within the Initial Statement of Reasons and Public Report as, "increasing public interest in obtaining equitable and routine access to information on agricultural pesticide applications prior to the applications occurring."

Allowing individuals (with address verification) from a local area to sign-up for notifications in their area versus a publicly available statewide website accessed by an individual (California/non-California based) aligns, and does not conflict, with the intent of regulation.

The Board also heard, from a number of individuals, as part of comments received in the virtual meeting that the "exact location" of application in the statewide notification is needed for community protection within the statewide notification system. The Board appreciates and advocates for transparency, but recognizes a public safety need to protect privacy and safety as part of the notification system. By focusing on critical details of the application, the community can concentrate on essential information.

Further, the system as proposed expands beyond a health protection measure by providing the opportunity for those not within a local radius of application to receive notifications. Individuals with a general or global concern about the use of restricted materials can now receive notifications for purposes that are undefined and ambiguous. Farmers are operating under a legal and regulated system (local, state, federal) and have established protections (i.e. Public Records Act, et. al) to use restricted materials that should be recognized as part of the proposed system.

System Design

There was strong consensus by the Board that the proposed statewide pesticide notification system needs to be refined and updated prior to public release and use because of the potential distribution of inaccurate and incomplete data. It is important for California to provide a "first in the nation" system that is respected by the public and agricultural community.

We need to get the system "right" before implementation.

The current system iteration does not account or reconcile that not every notice of intent (NOIs) equates to an application. Notifications are provided to users in multiple non-use scenarios, including, but not limited to:

• NOIs that are not acted upon for various reasons (i.e. weather)

• Multiple subscriber notifications for the same NOIs when farmers are delayed in application and new NOIs are needed
• NOIs that are modified or rejected

Further, primary integration of the County Agricultural Commissioner's (CAC) system and SprayDays notification system is needed to provide a two-way feed of NOI information to further minimize inaccurate and incomplete information.

Guidance/Public Interest

Clear and established guidelines between DPR and CAC need to be established in regard to the permit process for restricted materials, specifically as it relates to appeals. With the implementation of a statewide notification system, the potential for increased appeals and holds of pesticide use associated with these appeals, can have significant impact on agricultural operations. Balancing local public interest on the reasons of review with the right of individuals to produce food for commercial sale is critical. The Board encourages

DPR to coordinate with the California Department of Food and Agriculture (CDFA) and CAC in developing enhanced guidance related to implementation of the statewide pesticide notification system.

Further, the economic impact associated to individual growers and CACs for increased public interest in pesticide applications (appeals, education, application times, holds) is not adequately quantified. Increased costs can negatively impact public services (CACs) and private entities (farm operations).

The Board appreciates the ongoing cooperation with DPR on this important issue. As emphasized, California needs to get the system "right" before implementation and have a system that is respected by the public and agricultural community. The consensus of the Board was to take the time needed to develop a notification system that is complete to avoid confusion with the public. DPR has made great strides in this process and continued engagement and collaboration with all stakeholders is encouraged as this process moves forward.

Thank you for the opportunity to comment.

Sincerely

Don Cameron

CA State Board of Food and Agriculture

DON CAMERON, PRESIDENT

August 1, 2024

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

RE: Public Comment (DPR 23-003 Statewide Notification of Agricultural Use of Restricted Materials)

Dear Ms. Otani:

The California State Board of Food and Agriculture appreciates the opportunity to provide public comment on DPR 23-003 Statewide Notification of Agricultural Use of Restricted Materials. The Board held a virtual meeting on July 25th for the purpose of receiving public comment on the statewide pesticide notification system and proposed regulatory modifications.

We received 20 comments and had approximately 92 attendees. Comments reflected viewpoints of agricultural associations, community organizations and individuals.

A number of comments reiterated public comment submitted by the Board to DPR on January 12, 2024 (attached). The Board offers further recommendations for the proposed regulatory modifications and the statewide pesticide notification system.

Availability of Data

The Board continues to encourage DPR to carefully consider the concern about non-regional individuals or organizations accessing notification information which should be available to address local questions or concerns. The "use" of system data is a consistent concern expressed by agricultural stakeholders for the legal, regulated and approved use of restricted materials.

The specific purpose of the proposed amended regulation was identified within the Initial Statement of Reasons and Public Report as, "increasing public interest in obtaining equitable and routine access to information on agricultural pesticide applications prior to the applications occurring."

Allowing individuals (with address verification) from a local area to sign-up for notifications in their area versus a publicly available statewide website accessed by an individual (California/non-California based) aligns, and does not conflict, with the intent of regulation.

The Board also heard, from a number of individuals, as part of comments received in the virtual meeting that the "exact location" of application in the statewide notification is needed for community protection within the statewide notification system. The Board appreciates and advocates for transparency, but recognizes a public safety need to protect privacy and safety as part of the notification system. By focusing on critical details of the application, the community can concentrate on essential information.

Further, the system as proposed expands beyond a health protection measure by providing the opportunity for those not within a local radius of application to receive notifications. Individuals with a general or global concern about the use of restricted materials can now receive notifications for purposes that are undefined and ambiguous. Farmers are operating under a legal and regulated system (local, state, federal) and have established protections (i.e. Public Records Act, et. al) to use restricted materials that should be recognized as part of the proposed system.

<u>System Design</u>
There was strong consensus by the Board that the proposed statewide pesticide notification system needs to be refined and updated prior to public release and use because of the potential distribution of inaccurate and incomplete data. It is important for California to provide a "first in the nation" system that is respected by the public and agricultural community.

We need to get the system "right" before implementation.

The current system iteration does not account or reconcile that not every notice of intent (NOIs) equates to an application. Notifications are provided to users in multiple non-use scenarios, including, but not limited to:

- NOIs that are not acted upon for various reasons (i.e. weather)
- Multiple subscriber notifications for the same NOIs when farmers are delayed in application and new NOIs are needed
- NOIs that are modified or rejected

Further, primary integration of the County Agricultural Commissioner's (CAC) system and SprayDays notification system is needed to provide a two-way feed of NOI information to further minimize inaccurate and incomplete information.

<u>Guidance/Public Interest</u>
Clear and established guidelines between DPR and CAC need to be established in regard to the permit process for restricted materials, specifically as it relates to appeals. With the implementation of a statewide notification system, the potential for increased appeals and holds of pesticide use associated with these appeals, can have significant impact on agricultural operations. Balancing local public interest on the reasons of review with the right of individuals to produce food for commercial sale is critical. The Board encourages

DPR to coordinate with the California Department of Food and Agriculture (CDFA) and CAC in developing enhanced guidance related to implementation of the statewide pesticide notification system.

Further, the economic impact associated to individual growers and CACs for increased public interest in pesticide applications (appeals, education, application times, holds) is not adequately quantified. Increased costs can negatively impact public services (CACs) and private entities (farm operations).

The Board appreciates the ongoing cooperation with DPR on this important issue. As emphasized, California needs to get the system "right" before implementation and have a system that is respected by the public and agricultural community. The consensus of the Board was to take the time needed to develop a notification system that is complete to avoid confusion with the public. DPR has made great strides in this process and continued engagement and collaboration with all stakeholders is encouraged as this process moves forward.

Thank you for the opportunity to comment.

Sincerely

Don Cameron

Enclosure

cc: Secretary Karen Ross, California Department of Food and Agriculture
Director Julie Henderson, California Department of Pesticide Regulation

Enclosure

CA State Board of Food and Agriculture
DON CAMERON, PRESIDENT

January 12, 2024

DPR – Notification
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015

RE: Public Comment (DPR Regulation No. 23-003 Statewide Pesticide Notification)

Dear Director Henderson:

On behalf of the California State Board of Food and Agriculture, I would like to thank you for participating in our January 3rd meeting related to the proposed regulatory action for the Statewide Notification of Agricultural Use of Restricted Materials. Your presentation about the pilot pesticide notification program and the demonstration of the system was very helpful and appreciated. This letter is a summary of comments received from the public. We are hopeful these comments will help to inform DPR's process and implementation of the proposed regulation.

More than twelve individuals representing agricultural associations and individual farmers provided public comment and the virtual meeting had approximately 78 attendees. Comments reflected concerns on the proposed regulation as well as on the need for a better understanding of the regulation's purpose and scope.

A summary of the key themes is listed below.

<u>Information/Education</u>
Several individuals commented that it is important to put the regulations in the context of California's pesticide regulatory program which is recognized as one of the most stringent and progressive evaluation and registration programs in the world. Throughout the history of the program California has continued to be a leader in the science and regulation of pesticides to protect environmental, worker and public health while maintaining the role as this country's most valuable agricultural producing state. In addition, California has licensed pest control advisors and pesticide applicators certified by DPR.

Concerns were expressed on how notifications could be misinterpreted and/or misused when accessed through the public website. Because a notice of intent may not result in an application due to changes in weather, applicator and equipment availability or other circumstances, a new notice can be filed more than once. Individuals accessing the system would see multiple application requests without context or a clear understanding that an application does not always occur.

Again, the need for greater public education was expressed. The notice of intent for pesticide applications are for products that are registered for use by federal and state laws. Regulated applications of restricted materials are approved by the DPR with appropriate measures to mitigate risk. There needs to be public clarification that the registration and regulated use of restricted materials requires safeguards to protect the health of individuals and the environment while maintaining essential agricultural production to ensure food security. The system design needs to provide greater context on the safety, allowability and need for the material.

Availability of Data

A number of individuals commented on the availability of data to website users. Inquiries for application notifications could be made by individuals non-adjacent or non-local to application grids as well as for individuals located out-of-state. As proposed, the number of inquiries/locations is not limited and seems contrary to the purpose of the system to provide awareness to those individuals within the community who may be impacted and have a local interest in notification.

Several commenters expressed concern that the notice of intent includes the number of acres of the crop to be treated. This information, in most cases, can be used to identify location and ownership. The level of data available may directly impact food, worker and public safety. Instances of past trespassing on farms has been attributed to availability of location data. By limiting public data to only product information and not the size of application meets the need of the proposed regulation and protects privacy and safety.

A common theme was to allow individuals (with address verification) from a local area to sign-up for notifications in their area versus a publicly available statewide website accessed by any individual (California/non-California based) with interest in pesticide applications.

Availability of Information and Potential Impacts to Local Officials

The county agricultural commissioner system is unique to California and they are required to go through rigorous licensing to qualify for the position. It was noted by some who commented that the information required for notice of application is submitted to the local

County Agricultural Commissioners' Office. This information is currently publicly available for local residents.

Several comments focused on the implementation cost of the proposed regulation, specifically on the workload impacts to County Agricultural Commissioners. Statewide notification could increase incidents of reporting by individuals on various aspects of the use of restricted materials – and even fears of interference with applications - requiring mandated action by local staff.

Ag Commissioners also play a critical role in the state's pest prevention programs and it was suggested that a notification system's educational elements should provide public information about the significant steps taken by California to prevent the introduction and establishment of invasive pests and plants to mitigate pesticide use.

There was a general expression of concern that a great deal more information and outreach is needed to help the agricultural community better understand the proposed regulation and its need. Ongoing communication and outreach to grower organizations is necessary. It will also be helpful for DPR to ensure that public access to the platform promotes the strength of DPR's existing regulatory system while adding information that contextualizes pesticide notifications. The Board encourages DPR to carefully consider the concern about non-regional individuals or organizations accessing notification information which should be available primarily to address local questions or concerns.

The Board strongly supports collaboration on smarter regulations to grow opportunities for farmers and ranchers, farmworkers, individuals and communities as part of California's Agricultural Vision. We look forward to continuing engagement on this issue and hope that these comments provide additional insight to thoughts expressed by agricultural stakeholders.

Sincerely

Don Cameron

cc: Secretary Karen Ross, California Department of Food and Agriculture