



July 30, 2024

Julie Henderson, Director
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015

RE: DPR 23-003, Statewide Notification of Agricultural Use of Restricted Materials

Submitted via email to <dpr23003@cdpr.ca.gov>

Dear Director Henderson,

TriCal appreciates the opportunity to comment on the Department of Pesticide Regulation's (DPR's) modified text for the proposed regulation DPR 23-003, Statewide Notification of Agricultural Use of Restricted Materials. The TriCal Group of Companies are California's largest and most experienced soil fumigation specialists and committed to the safety of all communities that we serve. Agricultural communities statewide rely upon fumigants as one of the most important tools to manage pests and produce bountiful fruits and vegetables. Fumigants can increase production fourfold¹, which ensures that we are able to provide an adequate supply of affordable fruits and vegetables for California and the world. TriCal is proud to provide a vital tool to keep healthful fresh foods in production in California and honored to be part of communities statewide- conducting safe and efficacious applications, providing good local jobs, producing fresh foods, and serving California's agricultural communities for over 60 years.

We've worked with DPR for decades to evaluate new methods and application techniques that foster industry-wide improvements and reduced-risk pest management. TriCal has consistently led the introduction of measures to increase safety, and we continually improve practices, protections, and mitigation measures. TriCal has developed better application methods over the years, pioneered the use of "Totally Impermeable Films" for fumigations, for example, and adopted state of the art equipment. We pride ourselves on our continuous efforts to improve techniques and equipment.

Thank you for the opportunity to provide comments on the proposed regulation. Please consider the following comments:

TriCal agrees with the goals of public participation, sharing of information, and providing transparency regarding pesticide applications with a focus on protection of residents and applicators. DPR should consider the overall public benefit of this regulation. Over-notification to the public of intended pesticide applications can lead to the desensitization of environmental issues. Notifying the public of chemicals nearby should be reserved for circumstances of appreciable health concern. DPR's existing laws and regulations, which govern the application of restricted material pesticides, mitigate harm to people near treated fields. DPR has a robust PUR database that allows the public to learn about local

¹ Browne et al. 2013: California Ag 67: 128-138;; Hausbeck et al. 2012, USDA NIFA Grant report; and Guillino et al. 2002 Crop Protection 21: 741-749

pesticide applications. We, therefore, respectfully request DPR consider alternatives that would improve public understanding of pesticide applications, the regulatory processes, and protections provided to the public when pesticides are applied.

Unlike previous DPR regulations, this proposed regulation lacks scientific justification. DPR has not scientifically identified a human health or environmental impact this regulation is solving for, nor shown that the regulation will improve human health or protect the environment. Unfortunately, this regulation is based on unvalidated reasoning, acknowledging in the initial statement of reasons (ISOR) “(t)here is no information available to quantify these potential human health and environmental impacts.” We respectfully request DPR continue its long and successful history of making science based regulatory improvements to human health and the environment where improvements can be measured.

In addition, there is a real risk that well-intended public notifications will be abused to disrupt agricultural operations and hinder production of healthful California fresh foods. In light of recent changes to FAC 14009, notifications of fully compliant, safe applications can be used by protestors to appeal the restricted materials permit, physically disrupt intended field treatments, and harass agricultural workers and growers to halt applications. This tactic has occurred during previous notification pilots and led to significant delay, inefficiencies, and no appreciable benefits. Associated disruptions in agriculture treatments causes major delays as agricultural crews and equipment have to be moved and rescheduled.

As mentioned in DPR’s ISOR, the CAC’s permitting process of restricted material pesticides is a CEQA certified regulatory program, recognizing that agriculture is a major and essential component of California’s economy and permits must often be issued on short notice. In a meta-analysis of food demand studies, researchers projected that global food demand will increase between 35% in 2010 to 56% in 2050². California is a large provider of food throughout the world with an estimated market value of \$59 billion³. The proposed regulation has the risk of hindering the state’s goals of a strong agricultural economy, growing food and fiber which necessitates protecting resources from pests in a timely manner. TriCal respectfully requests DPR consider and include the adverse economic impacts of expected protests to pesticide applications and account for CAC and DPR resources needed to resolve associated permit appeal situations, on a regular basis, within DPR’s fiscal impacts.

TriCal recognizes the challenges of regulating chemicals in California and genuinely appreciates DPR’s efforts to minimize impacts to agriculture. Sharing information that is accurate and science based is important when communicating public risks. We appreciate DPR sharing the beta version of the proposed notification system called “SprayDays” however we are concerned with the name chosen as it does not accurately reflect how many pesticides are applied. Misleading the public to believe all restricted material pesticides are “sprayed” near them perpetuates false information about the various application methods that have been developed over the decades to protect human health and the environment. We respectfully request DPR rename the notification system to prevent public misinformation and reduce fears surrounding pesticides applied near them.

² van Dijk, M., Morley, T., Rau, M.L. *et al.* A meta-analysis of projected global food demand and population at risk of hunger for the period 2010–2050. *Nat Food* **2**, 494–501 (2021). <https://doi.org/10.1038/s43016-021-00322-9>

³ Based on USDA 2022 Census of Agriculture published in February 2024.

If DPR moves forward with a pesticide notification system, we agree that DPR should limit the location of applications to a one square mile area as it aligns with the existing Public Land Survey System and will reduce appeals to pesticide applications and disruption to agricultural businesses. Providing the exact location of a proposed pesticide application will result in frivolous permit appeals that will create a backlog of appeals for CACs and DPR to review, halting agricultural productions. TriCal also agrees that DPR should look back and evaluate the program over time. However, as mentioned previously, since DPR cannot quantify human health or environmental impacts of the regulation, DPR should consider metrics that are quantifiable to evaluate the program, costs, and public benefit. We respectfully request evaluation of impacts to agricultural businesses and changes to reduce impacts. TriCal also requests this proposed regulation help satisfy the public notification requirements for pesticides regulated under Proposition 65. Designing DPR's notification system to also comply with Proposition 65 will create efficiencies and lessen duplicative public warnings, reducing over notification and confusion.

TriCal supports DPR's continued efforts to protect human health and the environment. We look forward to ongoing discussions on how best to steward necessary tools and how to establish metrics and a framework that benefits communities, consumers, and the environment. As a third-generation family-operated California business, we sincerely appreciate the opportunity to be part of DPR's proposed regulatory process and we look forward to continuing to work together to provide Californians with pest management that is safe, effective, and sustainable.

Best regards,

Mike Stanghellini, Ph.D.
Chief Science Officer, The TriCal Group