WESTERN AGRICULTURAL PROCESSORS
ASSOCIATION

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May 17, 2016

Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Re: Regulation Concepts for Field Fumigation Notifications

Mr. Segawa,

The Western Agricultural Processors Association (WAPA) represents huller/shellers and processors of almonds, walnuts, pistachios and pecans in the state of California on regulatory and legislative issues that affect the tree nut industry including, but not limited to, pesticides, safety, water, labor, and air quality issues. WAPA appreciates the opportunity to provide public comment at the Fresno workshop as well as written comments on the Department of Pesticide Regulation's (DPR) proposal to change field fumigation notice for 1, 3-dichloropropene (1, 3-D), Chloropicrin and MITC.

Almonds, walnuts, pistachios and pecans require the use of fumigants prior to planting or re-planting an orchard. These above and listed fumigants provide nematode control and sterilize the soil of any pathogens that could be harmful to the tree's growth and sustainability. Nematodes are a great concern to the tree nut industry as they cause reductions in yield, lower vigor and cause stunting in nut producing trees. On average nematodes can cause 15-20 percent damage to tree nuts, however the damage can get as high as 50 percent. Having crop protection tools such as 1,3-D, Chloropicrin and MITC readily available for farmers is critical to ensure viability of the California tree nut industry. This is why our Association is opposed to the proposed field fumigation notice changes.

The current regulations and labels as mandated by the Environmental Protection Agency (EPA) were derived and implemented on sound-science, research and data. These proposed changes are not based on science and there has been a lack of evidence indicating the need to change the current regulations. WAPA sees the current proposal of extending the notification zone to 300ft beyond the buffer zone with two tier notification system as a one-size fits all approach for fumigants that are used in different ways within several different commodity groups. In addition the fumigation scheduling from a 4-week window to a 12 hour window, is not feasible given the ever-changing nature of the agricultural industry. The decision making for application are often based a number of factors including, but not limited to, temperature, soil conditions, precipitation, etc. most of which are beyond a farmer's control.

WAPA would support keeping of the current, science-based regulations as set forth by the EPA and would oppose DPR's proposed regulatory change to these fumigants. We, again, appreciate the opportunity to share these comments and concerns. If you have any questions please contact us at (559) 455-9272 or jodi@agprocessors.org.

Sincerely,

Jodi Raley

Jodi Raley
Director of Regulatory Affairs

May 7, 2015

Brian Leahy
Director
California Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015

Via email: brian.leahy@cdpr.ca.gov

Dear Director Leahy:

As organizations concerned about social justice, environmental justice and public health protection we are writing to urge the Department of Pesticide Regulation to develop and adopt fumigation notification or right to know regulations because it is vital to provide rural residents with information about soil fumigant pesticides applied near their homes, schools and work sites.

Soil fumigants are highly toxic and are prone to drift because they are highly volatile and applied at high concentrations. Use restrictions which are supposed to prevent drift are not fail safe because weather conditions change unexpectedly, tarps used to prevent drift can get damaged and applicators can make mistakes. Between 2003 and 2012, at least 30 fumigant drift incidents affecting over 800 people have been reported. Many of these incidents involved exposure to the chloropicrin and metam sodium which are potent respiratory irritants known to exacerbate asthma.

Of eve greater concern, the fumigants 1,3 dichloropropene and metam sodium are listed in California as chemicals known to cause cancer and metam sodium is also listed as a developmental toxin. Recent air monitoring in 2011-2013 conducted by DPR and ARB has documented 1,3 dichloropropene air levels which exceed DPR's regulatory goal for cancer risk of 1 excess cancer per 100,000 people exposed in Oxnard, Santa Maria, Salinas, Shafter, Ripon and Watsonville during one or more

years of monitoring. Cancer risk levels were above 1 in one million at all sites during all three years of monitoring.[1]

Advance notification would prevent acute illness and reduce chronic health risks by allowing these neighboring institutions and residences to take simple precautions to reduce potential for pesticide exposure such as keeping windows closed, minimizing outdoor activities during and a day or two after the fumigation. Residents with serious health problems or concerns would know when fumigations were planned so they could leave the premises if they so choose.

Notification also facilitates early detection of the source of illness symptoms and appropriate medical treatment. For example, in 2003 in one Kern county fumigant drift incident, 40 people living near a field undergoing fumigation became ill one night. Residents and emergency responders did not identify the source of the illness and an additional 150 people became ill the next evening.

Pesticide applicators and county officials are experienced in providing notification because regulations have been in place for over a decade which require notification of residences and schools before the fumigant methyl bromide is applied. Now that use of methyl bromide is being phased out and use of other fumigants is rising, comprehensive soil fumigation notification regulations are urgently needed.

Written notification in English and Spanish should be provided to all residences, schools and other institutions and work places within 1 mile of any planned fumigation. Notification should be provided at least one week before the fumigation with follow-up notice no more than 48 hours before the fumigation starts. The notice should include: name(s) of the fumigant(s), acute poisoning symptoms and chronic health risks, including whether the fumigant is known by the state of California to cause cancer or reproductive harm. The location of the field to be fumigated and contact information for the farm, and the county agricultural commissioner should be provided with specific guidance on how to contact the county in an emergency. Schools should be required to notify parents via robo-call systems, DPR should prepare sample notices and robo-call scripts in order to improve uniformity of notice and reduce the burden on counties and schools.

In addition, when state agencies find concentrations of fumigants in the air above their recommended "safe" levels, they should be required to notify the County Board of Supervisors, County Agricultural Commissioner, and all residents within 1 mile of the monitoring station in a timely manner. All of these parties must be involved in crafting immediate measures to prevent the problem from reoccurring.

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[1] DPR Air Monitoring Network Results for 2013 Report AIR 14-01. ; (ARB) Methyl bromide and 1,3 Dichloropropene Monitoring Results. DPR memorandum of September 24, 2014

We understand that the Department will be holding regional workshops this fall to get more input on fumigant notification and will then issue a proposed regulation. It is very important for this process to stay on track so that notification requirements can be adopted as soon as possible.

In conclusion, while notifications of field fumigations are essential they are not enough. Use of soil fumigants needs to be phased out and replaced with alternative methods to control soil pests that are healthier for both rural neighborhoods and the soil.

Sincerely,*

Tracey Brieger & Sarah Aird
Co-Directors
Californians for Pesticide Reform

Anne Katten
Pesticide and Work Safety Project Director
California Rural Legal Assistance Foundation

Caroline Cox
Research Director
Center for Environmental Health

Ann Lopez
Executive Director
Center for Farmworker Families

Rebecca Spector
West Coast Director
Center for Food Safety

Dan Jacobson
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Virginia Ruiz
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Adam Scow
California Director
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Executive Director
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Paul Towers
Organizing & Media Director
Pesticide Action Network North America

Brenda Ruiz
Chair, Policy Committee
Slow Food California

* For any correspondence with the signatories, please contact Paul Towers at ptowers@panna.org or 916-588-3100

cc:
Cliff Rechtschaffen, Office of Governor Brown
Martha Guzman-Aceves, Office of Governor Brown
Matthew Rodriquez, California Environmental Protection Agency
Gina Solomon, California Environmental Protection Agency
Arsenio Mataka, California Environmental Protection Agency
Chris Reardon, Department of Pesticide Regulation
Randy Segawa, Department of Pesticide Regulation

931 E Market St., Salinas, CA 93905

Brian Leahy, Director and Randy Segawa, Program Manager
Department of Pesticide Regulation (DPR)
P.O. Box 4015
Sacramento, CA 95812-4015
Emails: brian.leahy@cdpr.ca.gov, Randy.Segawa@cdpr.ca.gov

Re: Comprehensive Right to Know regarding Fumigation Notification

Dear Director Leahy and Mr. Segawa:

We, Safe Ag Safe Schools, a Monterey Bay coalition of farmworker, parent, educator, health professional, labor, civil rights, and environmental justice advocates, submit the following public comments in favor of a comprehensive right to know regarding Fumigant Notification in California:

1. Fumigants can cause serious health problems – notification is important to help community members protect their health.

- Soil fumigants are highly toxic pesticides that are prone to drift because they are applied in large quantities (up to several hundred pounds per acre) and are designed to break down into gases in the soil. As a matter of social justice people should be informed of nearby use of soil fumigations.

- Notifying people who live, go to school and work near a field that is going to be fumigated will prevent illnesses and reduce chronic health risks. People will have a chance to take simple precautions to reduce exposure such as keeping windows closed and minimizing outdoor play time and other activities during and a day or two after the fumigation. Residents with serious health problems or concerns would know when fumigations were planned so they could leave the premises if they chose to.

- Notification also makes it much easier to identify the cause of illness symptoms and get appropriate medical treatment.

- Notification will benefit the public, inspectors and farming operations by allowing rapid detection of sources of fumigant drift before large numbers of people are impacted.

- Between 2003 and 2013, at least 30 fumigant drift incidents affecting over 860 people have been reported. Many of these incidents occurred at night making it more difficult to identify the field under fumigation.

- Health concerning concentrations of fumigants—above or near state regulatory goals and screening levels—have been recorded at every state pesticide air-monitoring network site, including lifetime

cancer risk levels for 1,3-dichloropropene in 2011 at Salinas and 2012 at Ohlone Elementary, as well as above health screening levels for 4-week rolling chloropicrin average at Salinas in 2013.

- This is an opportune time for County Agricultural Commissioners to improve after hours and weekend emergency notification systems. Many low-income rural residents are hesitant to call 911 because they are afraid of getting charges from ambulance companies.

2. Written, bilingual notification is needed at least one week in advance of specific fumigations for all places where people live, work, study and play within 1 mile from the applied fields.

- Notification should be provided to all **residences, schools, day care centers, other institutions and businesses, including other farms, <u>within one mile</u>** of planned field fumigation because past drift incidents have affected people up to a mile from fumigated fields.

- A 1 mile area for notice is needed to allow early detection of drift problems, because there have been incidents where fumigant drift over 1 mile has caused illnesses. The only comprehensive academic study of pesticide drift incidents found that 85% of the harmed victims were within one mile of the application site.

- Written bilingual notification should be provided **at least one week before a scheduled fumigation** either by mail or hand delivery to residences including labor camps, schools, day care centers, other institutions and businesses within the notification area. Follow-up notice should be provided 48 hours before fumigation and re-noticed if the fumigation is delayed more than 12 hours.

- A brief notification update should be sent out when renotification is sent to the Agricultural Commissioner.

- Notification should be automatic rather than follow the methyl bromide regulation model where residents get a pre-notice early in the season and then have to have to request fumigation notification.

- Residents and businesses should be given the option to sign up for <u>supplemental</u> notification by email or robo-call for any future fumigation notices.

- Notification should be maintained as a separate right to know requirement rather than combined with emergency response requirements on the label because people need to be informed of both possible immediate and chronic health risks.

- Written notification in English and Spanish should include
    - a graphic showing a tarped field posted with the skull and crossbones sign,
    - the name(s) of fumigant(s) to be used,
    - date and time fumigation is expected to begin
    - immediate symptoms of exposure and chronic health risks, including any listing in California as a cancer causing chemical or reproductive toxin and website address for label and Safety Data Sheet.
    - farm name and business phone and address of field to be fumigated and a map of immediate area around the field showing the nearest roads
    - contact number for the county agricultural commissioner and instructions on where to call nights and weekends to report fumigation problems

- explanation of the state's pesticide drift emergency medical reimbursement process with website address for more information
- List of addresses distributed to and evidence most people received the notice should be adequate demonstration of compliance.

3. Institutions must provide additional notification for students, patients, employees etc.

- When a school is in the notification zone, parents should receive notification via "robo-call" systems which schools use for many types of notice and the written notice should also be posted at the school and on the school website. DPR should prepare a bilingual script for this robo-call notification, which the pesticide applicator can provide to the school.

- Other institutions or businesses should be required to post the written notification in an accessible central location and to notify employees about the fumigation.

4. If state air monitoring shows increased levels of fumigants in the air, local decision-makers and residents must be notified immediately

- When state agencies find concentrations of fumigants in the air above their recommended "safe" levels, within 3 weeks of receiving the results they must notify the County Board of Supervisors, County Agricultural Commissioner, and all residents within 1 mile of the monitoring station. All of these parties must be involved in crafting immediate measures to prevent the problem from reoccurring.

5. Fumigant notification is not enough. State officials must create a plan to phase out fumigants and transition to safe replacements

- Notification of field fumigations is vital but it is not enough. Use of soil fumigants needs to be phased out and replaced with alternative methods to control soil pests that are healthier for both rural neighborhoods and the soil.

Thank you for your commitment to a fair and safe fumigant notification process.

On behalf of Safe Ag Safe Schools, sincerely,

Carole Erickson

Carole Erickson
Co-chair

May 20, 2016

Randy Segawa
Department of Pesticide Regulations (DPR)
PO Box 4015
Sacramento, CA 95812
Randy.Segawa@cdpr.ca.gov

Re: Comments Regarding Notification of Field Fumigation

Dear Mr. Segawa,

Pesticide Action Network (PAN) is writing to support rigorous fumigant notification regulations in which one week advance notification will be provided for all planned field fumigation to residences, schools, day care centers, other institutions and businesses, including other farms, within one mile of these field fumigation sites. This is critical since many fumigant pesticides have been documented to drift a considerable distance from their application sites and have resulted in serious human health impacts.

Ambient air monitoring by the Air Monitoring Network has identified fumigants in the air, and these constitute nearly half of the pesticides that had quantifiable detections.[1] Much of the data available on fumigants relies on monitoring at sites adjacent to fumigated fields, though fumigants have been known to drift great distances. For instance, a receptor detecting methyl bromide located approximately 70 kilometers away to the south/southeast of Salinas, California, detected levels of methyl bromide in the air even though there were no reported applications within 30-40 kilometers of the receptor.[2]

Fumigant exposure impacts can be particularly hazardous for children, who have unique vulnerabilities when compared to adults. A 2011 study reviewing drift incidents in 11 states found that 14% of the exposure incidents were children under 15 years of age. The fumigant drift events only constituted 8% of the drift events (n=643 drift events) yet contributed to nearly half (45%) of the 2,945 illness cases. The distances identified for the non-occupational incidents ranged from 50 feet to over one mile, with 15% of the cases occurring at distances greater than one mile. Of the 738 fumigant-related cases identified in the study, 82% occurred over a quarter mile from the application site.[3]

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[1] California Department of Pesticide Regulation. "AIR MONITORING NETWORK RESULTS FOR 2014, Volume 4." Sacramento, CA: California Environmental Protection Agency, May 2015.

[2] Honaganahalli, Puttanna S., and James N. Seiber. "Measured and Predicted Airshed Concentrations of Methyl Bromide in an Agricultural Valley and Applications to Exposure Assessment." *Atmospheric Environment* 34, no. 21 (January 2000): 3511–23. doi:10.1016/S1352-2310(00)00138-2.

[3] Lee, Soo-Jeong, Louise Mehler, John Beckman, Brienne Diebolt-Brown, Joanne Prado, Michelle Lackovic, Justin Waltz, et al. "Acute Pesticide Illnesses Associated with Off-Target Pesticide Drift from Agricultural Applications: 11 States, 1998–2006." *Environmental Health Perspectives* 119, no. 8 (June 6, 2011): 1162–69. doi:10.1289/ehp.1002843.

These distances at which human health harms were documented are important for DPR to consider while finalizing the notification zone distance. Notification zones for fumigants at greater distances than currently mandated would allow for some decrease in risk as well as in addressing part of the undue burden of exposure to pesticides borne by Hispanic children attending schools in the 15 counties identified in the 2014 Department of Public Health report.[4] A review of cases occurring in California since the Lee et al. (2011) study would also help to identify whether any recent efforts in fumigant application mitigations have been successful in significantly reducing the fumigant-related illness cases.

A 2013 CHAMACOS study found that in California, living within 5 km (about 3.1 miles) of methyl bromide use in the second trimester of pregnancy was associated with decreased birth weight, length, and head circumference, despite a positive association between gestational age and residential proximity to methyl bromide use in the first trimester. The comparison was conducted with high methyl bromide use versus no use. Because chloropicrin was frequently used with methyl bromide in the same study area and during the same time period, it was not possible for the study authors to examine separately the effects of chloropicrin on these birth outcomes. The possibility that the effects found in this study may also be a result of chloropicrin exposure cannot be eliminated. While children attending school are obviously past gestational age, these risks are very real for rural communities living near field fumigation sites. Other health risks for children such as cancer exist and the CHAMACOS study findings are important considerations for DPR.

A 2014 study in Washington state on the breakdown products of the fumigant metam sodium was done at houses adjacent to fields where metam sodium was applied, during the peak season of fumigant application in the area.[5] Of the metam sodium breakdown products, methyl isothiocyanate (MITC) rapidly transforms to the more toxic breakdown product methyl isocyanate (MIC). The study results indicated that 22% of the 68 samples taken exceeded California EPA's chronic inhalation of MIC, suggesting that MIC products can also be expected in areas where MITC is found. This particular study monitored at nearby sites as is typical of many fumigant studies. The study does however identify an additional health concern for the current-use fumigant metam sodium.

These scientific studies provide additional weight to the widely acknowledged fact that fumigants drift and that they drift great distances relative to other kinds of pesticides. As seen from the studies discussed here, when fumigants are applied people living nearby have a high risk of getting exposed, and this exposure can occur at levels that can exceed regulatory screening levels. In spite of this knowledge, regulatory action has focused on mitigation measures that have not adequately protected children and

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[4] California Department of Public Health. "Agricultural Pesticide Use near Public Schools in California." California Environmental Health Tracking Program, April 2014.

[5] Woodrow, James E., Jane T. LePage, Glenn C. Miller, and Vincent R. Hebert. "Determination of Methyl Isocyanate in Outdoor Residential Air near Metam-Sodium Soil Fumigations." *Journal of Agricultural and Food Chemistry* 62, no. 36 (September 10, 2014): 8921–27. doi:10.1021/jf501696a.

rural communities from exposure to highly toxic fumigants known to have various adverse effects on human health.

There seem to be concerns raised by certain commentators that existing fumigant label requirements are sufficient to mitigate the impacts of fumigant exposures, and that additional notification requirements are unnecessary. However, fumigant labels for chloropicrin, methyl bromide and MITC-generating fumigants require either application monitoring or neighbor notification, not both, and therefore do not provide for adequate notification. The label for 1,3-dichloropropene lacks even these minimal requirements.

In the light of the scientific evidence pointing to the risks of fumigant exposure for children and rural communities, and to the risks being documented at distances even greater than 1 mile in some studies, PAN joins other public health and environmental justice organizations in the state to call upon DPR to require that:

- Notification should be provided to all residences, schools, day care centers, other institutions and businesses, including other farms, within one mile of planned field fumigations.
- Notification by mail, email or hand delivery (as chosen by residents) should be provided before each scheduled field fumigation, and not rely on residents needing to request specific individual fumigation notification.
- Written bilingual notification should be provided at least one week before a scheduled fumigation. Follow-up notice should be provided 48 hours before fumigation and re-noticed if the fumigation is delayed more than 12 hours. Notices
- In case of a school in the notification zone, parents should receive notification via robo-call systems used by schools for various types of notice. A copy of the written notice should be poste at the school and on the school website.

PAN strongly urges DPR to set up rigorous fumigant notification regulations that are truly health protective for vulnerable rural populations such as children and pregnant women in the state.

Sincerely,

Emily Marquez, PhD
Staff Scientist
Pesticide Action Network

Friends Committee on Legislation of California

1225 8th Street, Suite 220
Sacramento, CA 95814-4809

April 29, 2016

Brian Leahy, Director
Randy Segawa, Program Manager
Department of Pesticide Regulation
P.O. Box 4015
Sacramento, CA 95812-4015

Via email: brian.leahy@cdpr.ca.gov, Randy.Segawa@cdpr.ca.gov

Re: Comprehensive Right to Know regarding Fumigation Notification

Dear Director Leahy and Program Manager Segawa,

As a Quaker-based lobby group that advocates for environmental justice, the Friends Committee on Legislation of California (FCLCA), is concerned about the well-being of working families, primarily Latino, who are affected by fumigations of fields in our state. We are submitting the following public comments in favor of a comprehensive right to know regarding Fumigant Notification in California:

Written, bilingual notification is needed at least one week in advance of specific fumigations for all places where people live, work, study and play within 1 mile from the applied fields.

- Notification should be provided to all residences, schools, day care centers, other institutions and businesses, including other farms, within one mile of planned field fumigation because past drift incidents have affected people up to a mile from fumigated fields.

- A one-mile area for notice is needed to allow early detection of drift problems, because there have been incidents where fumigant drift over one mile has caused illnesses. The only comprehensive academic study of pesticide drift incidents found that 85% of the harmed victims were within one mile of the application site.

- Written bilingual notification should be provided at least one week before a scheduled fumigation either by mail or hand delivery to residences including labor camps, schools, day care centers, other institutions and businesses within the notification area. Follow-up notice should be provided 48 hours before fumigation and re-noticed if the fumigation is delayed more than 12 hours.

- A brief notification update should be sent out when re-notification is sent to the Agricultural Commissioner.

(continued)

- Notification should be automatic rather than follow the methyl bromide regulation model where residents get a pre-notice early in the season and then must request fumigation notification.

- Residents and businesses should be given the option to sign up for supplemental notification by email or robo-call for any future fumigation notices.

- Notification should be maintained as a separate right to know requirement rather than combined with emergency response requirements on the label because people need to be informed of both possible immediate and chronic health risks.

- Written notification in English and Spanish should include the following:

    - a graphic showing a tarped field posted with the skull and crossbones sign;

    - the name(s) of fumigant(s) to be used;

    - the date and time fumigation is expected to begin;

    - the immediate symptoms of exposure and chronic health risks, including any listing in California as a cancer causing chemical or reproductive toxin and website address for label and Safety Data Sheet;

    - the farm name and the business phone number and address of field to be fumigated, including a map of immediate area around the field showing the nearest roads;

    - a contact number for the county agricultural commissioner and instructions on where to call nights and weekends to report fumigation problems;

    - an explanation of the state's pesticide drift emergency medical reimbursement process with website address for more information;

A list of addresses that the advance notification was distributed to and evidence that most people received the notice should be an adequate demonstration of compliance.

Thank you for your commitment to a fair and safe fumigant notification process.

Sincerely yours,

Jim Lindburg

JIM LINDBURG
Legislative Director

Familias Unidas por la Justicia

May 20, 2017

To: Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Re: Comprehensive Right to Know Regarding Fumigant Application

Dear Mr. Segawa,

As a farmworker and President of Familias Unidas Por La Justica, it is important to us, for the safety of farmworker families, that appropriate notification of fumigation in nearby farms be provided to neighboring schools, homes and farms.

I work with farmworkers and their families every day in rural areas. For our communities it is very important to know what is in the air that our families and children breathe. I have heard many stories from other workers of the illness they and their children have received from fumigants. We know that these fumigants can cause long term effects for us and our children. In the community of Mattawa, Washington eight farm worker children have been diagnosed with cancer, and there are high rates of asthma and other respiratory problems in our communities.

At least if we were notified, we could at least take basic precautions to protect ourselves and our children.

This affects all people no matter your race, color or economic status but it affects our communities significantly because we live near and work in these fields. I know that the farmworker children of California have more risk of exposure. I have heard stories from the mouths of California workers describing how they and their children have become sick from fumigation drift. In a 2010 report done by the California Department of Public Health, it was found that "Latino Children" were 46% more likely than white children to attend schools where pesticides of concern were applied nearby.

I write to emphasize that these poisoning incidents and the illnesses above are not just statistics to be read, analyzed and recorded. They represent real peoples' lives. Think of those children in Mattawa and other communities that have to face the daily effects of illness, the coughing, the headaches, the doctor's appointments, the treatments that make them even sicker.

P.O. Box 1206, Burlington, WA 98233
www.boycottsakumaberries.com www.facebook.com/Familias-Unidas-Por-La-Justicia

Familias Unidas por la Justicia

But Notification is at the minimum of what should be required. All drift-prone chemicals should be phased out and State Officials should move to safer alternatives. We know that alternatives exist and that is it possible.

Sincerely,

Familias Unidas Por La Justica

Ramon Torres, President

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Dow AgroSciences

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20 May 2016

Randy Segawa
Department of Pesticide Regulation
P.O. Box 4015
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Randy.Segawa@cdpr.ca.gov

RE: CONCEPTS FOR FUMIGANT NOTIFICATION

Dear Mr. Segawa:

On behalf of Dow AgroSciences, thank you for the opportunity to comment on the recent Department of Pesticide Regulation Workshops to Develop Regulation Concepts for Field Fumigation Notifications, held in Spreckels, California on April 14, 2016 and in Fresno on April 14. We look forward to working with DPR in this important area.

In the absence of any specific proposals for regulations or notification requirements beyond those in existence at this time, we have no specific comments to make. Rather, we offer the general comment and request that any requirements be supported by strong scientific foundation, taking into account factors such as volatility, dispersion characteristics, toxicological endpoints, and realistic characterizations of potential exposure. In this regard, we believe that the Department should examine carefully the question whether any additional notification requirements that DPR may consider for fumigant products, beyond those imposed under existing labels, are necessary or cost-effective and take into account as well the burdens they may impose on the agricultural community.

On that issue, DAS believes that requirements imposed under existing federal, state, and county authority are working well to protect the user community and the public at large, including residents of agricultural communities, from unreasonable adverse effects. We are pleased to discuss specific proposals for other requirements as they may develop, and to work with the Department in evaluating them.

Sincerely,

Brian L. Bret, Ph.D.
States Regulatory Manager

Cc: CA Correspondence File
Jim Baxter, Federal Regulatory Manager

THE CHLOROPICRIN MANUFACTURERS' TASK FORCE

c/o Niklor Chemical Co., Inc., 1667 Purdy Avenue, Mojave, CA 93501
Telephone (661) 824-2494 Fax (661) 824-2904

May 20, 2016

Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015
Email: Randy.Segawa@cdpr.ca.gov

RE: Regulatory Concepts for Notification Related to Soil Fumigants

Dear Mr. Segawa:

The Chloropicrin Manufacturers' Task Force (CMTF) appreciates the opportunity to comment on the regulatory concepts for notification related to the application of soil fumigants in California. The safety of workers and the community is important to everyone. The United States Environmental Protection Agency (USEPA) has set strict standards regarding the use of these products to make sure that they are properly applied in order to reduce the potential for exposure. In addition to the federal requirements, the California Department of Pesticide Regulation (DPR) has developed additional measures to address California specific geography, weather patterns, planting schedules and other issues. These provide an added level of protection for California residents. Finally, the County Agricultural Commissioners impose site specific measures as necessary to address unique conditions at specific sites as part of the permit conditions.

Soil fumigants help California farmers grow abundant vegetable and fruit crops to feed a hungry world. Soil fumigants are applied prior to planting and there are no fumigants on the crops. California farmers comply with the strict application requirements described above. Now DPR is considering imposing additional requirements. Farmers and community representatives have told DPR about the burdens and economic impacts to the community at the workshops, particularly the workshops in Sacramento and Spreckels. These burdens are proposed without scientific data demonstrating that current regulations are insufficient.

DPR has pointed to the difference between the California methyl bromide regulations and the regulations for other fumigants; however these differences do not justify the need for additional regulation. First, when the methyl bromide regulations were promulgated in 2001, the federal labels for the soil fumigant products did not have details such as the Good Application Practices that are now part of the legally enforceable labels. The revised federal labels, effective in 2012, made certain application practices that were designed to reduce emissions mandatory. Emergency preparedness information including notifications and monitoring are now also part of the federal label. Therefore, arguments that may have supported the need for the methyl bromide regulations in 2001 due to limited information on the federal label were mooted by the detailed label requirements from 2012.

Second, the difference between the DPR methyl bromide notification requirements and the other soil fumigants is not a significant problem as there are substantially less soil fumigation application uses of methyl bromide now than in 2001. The preplant soil fumigation uses of methyl bromide are being phased out under the Montreal Protocol. These preplant soil fumigation uses will continue to decline under the Critical Use Exemption program. The products that are now used in place of methyl bromide have labels that have been or will be harmonized under the federal process. Therefore, there is no need to spend California resources and place additional burdens on California farmers to address these differences.

There is no public health need for the additional burdens. Numerous studies have been conducted on emissions from fumigant applications as well as ambient air monitoring that include soil fumigants. These data do not show a public health need. Some proponents point to the California Department of Health report (*See Agricultural Pesticide Use Near Public Schools in California* (April 2014), pgs. 2, 12), however, as the report itself states that report looked at applications not exposure. Pounds of product applied does not equate to exposure to the product. Numerous techniques such as tarps and soil sealing have been developed and DPR has data from the registrants showing how these methods work. These and other data do not support the need for additional regulations to protect human health and the environment.

The notification requirements that were promulgated 15 years ago have been superseded by the federal requirements, new data and techniques on keeping soil fumigants in the ground, and existing DPR programs. To impose this burden on California growers is not justified by the data. Communities around fields that are fumigated already receive information under the existing federal, state and county programs. For example, the outer perimeters of buffer zones are posted with signs warning people to keep out and providing a website where people can learn additional information on fumigants. The website is in both Spanish and English. DPR should not impose addition requirements on the growers and County Agricultural Commissioners, but should leave those resources to implement the existing programs.

Regards,

Stephen Wilhelm

May 20, 2016

Brian Leahy, Director
Randy Segawa, Program Manager
Department of Pesticide Regulation (DPR)
P.O. Box 4015
Sacramento, CA 95812-4015
Emails: brian.leahy@cdpr.ca.gov, Randy.Segawa@cdpr.ca.gov

Re: Comprehensive Right to Know regarding Fumigation Notification

Dear Director Leahy and Mr. Segawa:

Representing hundreds of thousands of Californians – the 66 organizations listed below, along with the Californians for Pesticide Reform coalition – support a comprehensive right to know when agricultural fumigants are to be applied nearby. It is common for residences and schools to be located near agricultural fields in California; advance notification will enable residents to take precautions to reduce fumigant exposure, and to recognize and report fumigant drift while it is occurring so that county officials can take appropriate steps.

Between 2003 and 2013 at least 33 fumigant drift incidents affecting over 910 people were documented in the DPR CalPIQ database. The incidents itemized in the table below occurred at distances up to 3 miles from the fumigation site, and illustrate the need for large notification zones:

Incident	**Description**
Monterey 2005	Nighttime drift from a tarped chloropicrin drift application affected residents **2 to 3 miles** from the treated field.
Santa Barbara 2010	Students and cafeteria workers at a school **1/3 mile** from a chloropicrin fumigation suffered burning eyes, nausea and sore throats.
Ventura 2009	Workers installing solar panels on an industrial building **1,800 feet** from a chloropicrin fumigation felt irritant symptoms of burning eyes, wheezing, lightheadedness, vomiting.
Ventura 2012	At least 52 people developed symptoms the day after a tarped chloropicrin application **at least 100 feet** from their homes. Symptoms started in the morning and lasted all day. One man reported that 20 guests at a party at his home experienced symptoms.
Monterey 2012	Field crews **700 and 2,000 feet** from a chloropicrin treated field began harvesting lettuce at 4 am and began to experience eye tearing, headache and nausea around 6 am.
Monterey 2013	10 lettuce harvesters began to develop symptoms, including coughing and burning eyes, while working **830 feet** from a fumigated field.
Monterey 2013	48 fieldworkers experienced eye pain and difficulty breathing when winds blew a tarp off a chloropicrin-fumigated field about **420 feet** from their worksite.

Source: DPR CalPIQ database

1611 Telegraph, Suite 1200, Oakland, CA 94612
510-788-9025 • Fax: 415-981-2727 • www.PesticideReform.org

Written, bilingual notification is needed at least one week in advance of specific fumigations for all places where people live, work, study and play within 1 mile from applied fields.

- Notification should be provided to all **residences, schools, day care centers, other institutions and businesses, including other farms, <u>within one mile</u>** of planned field fumigation.

  - A one-mile area for notice is needed to allow early detection of drift problems, because there have been incidents where fumigant drift over 1 mile has caused illnesses. The only comprehensive academic study of pesticide drift incidents found that 85% of the harmed victims were within one mile of the application site.[1]

- Written bilingual notification should be provided **at least one week before a scheduled fumigation** either by mail or hand delivery, or email if that option is chosen, to residences (including labor camps), schools, day care centers, and other institutions and businesses within the notification area. Follow-up notice should be provided 48 hours before fumigation and re-noticed if the fumigation is delayed more than 12 hours. This follow-up notification could be accomplished via a brief notification update by the grower when re-notification is sent to the Agricultural Commissioner.

- Notification should be automatic rather than follow the methyl bromide regulation model where residents get a pre-notice early in the season and then have to request specific fumigation notification.

- Residents and businesses should be given the option to sign up for <u>supplemental</u> notification by email or robo-call for any future fumigation notices.

- When a school is in the notification zone, parents should receive notification via "robo-call" systems which schools use for many types of notice and the written notice should also be posted at the school and on the school website. DPR should prepare a bilingual script for this robo-call notification, which the pesticide applicator can provide to the school.

- Other institutions or businesses should be required to post the written notification in an accessible central location and to notify employees about the fumigation.

- Written notification in English and Spanish should include:
  - A graphic showing a tarped field posted with the skull and crossbones sign
  - The name(s) of fumigant(s) to be used
  - Date and time fumigation is expected to begin
  - Immediate symptoms of exposure and chronic health risks, including any designation in California as a cancer-causing chemical or reproductive toxin, and website address for label and Safety Data Sheet.
  - Farm name and business phone, address of field to be fumigated, and a map of

---

[1] Lee, S-J, et al. "Acute Pesticide Illness Associated with Off-Target Pesticide Drift from Agricultural Applications: 11 States, 1998-2006" *Environmental Health Perspectives*, 119(8) 1162-1169. 2011. http://ehp.niehs.nih.gov/wp-content/uploads/119/8/ehp.1002843.pdf

1. Table 8: 15% of the people impacted in pesticide drift incidents were over 1 mile from the pesticide application, so 85% of those affected would have been protected by a 1-mile buffer zone

2. The authors are concerned about the inadequacy of ¼-mile buffer zones. Pages 1167-1168: "We found that, of the 738 fumigant-related cases with information on distance, 606 (82%) occurred > 0.25 miles from the application site, which suggests that the new buffer zone requirements, independent of other measures to increase safety, may not be sufficient to prevent drift exposure."

immediate area around the field showing the nearest roads
- Contact number for the county agricultural commissioner and instructions on where to call on nights and weekends to report fumigation problems
- Explanation of the state's pesticide drift emergency medical reimbursement process with website address for more information

- When state agencies find concentrations of fumigants in the air above their recommended "safe" levels, within 3 weeks of receiving the results they must notify the County Board of Supervisors, County Agricultural Commissioner, and all residents within 1 mile of the monitoring station. All of these parties must be involved in crafting immediate measures to prevent the problem from recurring.

Some commenters have stated that existing fumigant label requirements are sufficient, and that additional notification requirements are therefore not needed. However, fumigant labels for chloropicrin, methyl bromide and MITC-generating fumigants require either application monitoring or neighbor notification, and therefore do not provide for adequate notification. The label for 1,3-dichloropropene lacks even these minimal requirements.

We recognize that there are challenges to notifying residents of apartments and other multiple unit dwellings. However, it is particularly important to provide notification to more densely populated structures, which also have greater evacuation challenges.

Thank you for your commitment to a fair and safe fumigant notification process.

Sincerely,

Californians for Pesticide Reform
Co-Directors
Mark Weller and Sarah Aird

Nathan Harkleroad
Program Manager
Agriculture and Land-Based Training Association

Pamela Miller
Executive Director
Alaska Community Action on Toxics

Tom Frantz
President
Association of Irritated Residents

Marce Gutiérrez-Graudiņš
Founder / Director
AZUL

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The Better World Group

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Sarah de Guia
Executive Director
California Pan-Ethnic Health Network

Debbie Reyes
Director
California Prison Moratorium Project

Anne Katten
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Farmworker Justice

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Lisa Archer
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Executive Director
Monterey Bay Central Labor Council

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North Coast Rivers Alliance

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Parents for a Safer Environment

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Transition to Organics

Todd Steiner
Executive Director
Turtle Island Restoration Network

Mibs McCarthy
Chair
Unitarian Universalist Social Justice, Carmel CA

Hilary Avalon
Representative
Watertrough Children's Alliance

Dr. Elizabeth Dougherty
Director
Wholly H2O

Shepherd Bliss
Steering Committee Member
Wine and Water Watch

Doug Parker
Executive Director
Worksafe

CALIFORNIA COTTON GINNERS AND GROWERS ASSOCIATIONS

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Fax: 559 / 252-0551

May 17, 2016

Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Re: Regulation Concepts for Field Fumigation Notifications

Mr. Segawa,

The California Cotton Ginners and Growers Associations, represent over 800 cotton growers in California and 100% of the cotton ginning industry in the state. Our Associations represent our members on regulatory and legislative issues that affect the cotton production industry such as, but not limited to, pesticide, safety, water, labor and air quality issues. The California Cotton Ginners and Growers Associations appreciates the opportunity to provide public comment at the Fresno workshop as well as written comments on the Department of Pesticide Regulation's (DPR) proposal to change field fumigation notice for 1, 3-dichloropropene (1, 3-D), Chloropicrin and MITC.

The California cotton industry greatly relies upon the availability and flexibility to use 1,3-D for nematode control. Nematode, a soil-borne pest, not only causes damage to a cotton plant but leads to additional complications including Fusarium and Verticillium Wilt infections. These soil-borne, incurable diseases attack susceptible plants most often those that have nematode or seedling diseases early in the plant's life. With cotton acreage in California at historically low levels, having crop protection tools such as 1,3-D, Chloropicrin and MITC readily available to manage these pests and diseases is critical now more than to ensure viability of the California cotton industry.

The current regulations and labels as mandated by the Environmental Protection Agency (EPA) were derived and implemented on sound-science, research and data. These proposed changes are not based on science and there has been a lack of evidence indicating the need to change the current regulations. CCGGA sees the current proposal of extending the notification zone to 300ft beyond the buffer zone with two tier notification system as a one-size fits all approach for fumigants that are used in different ways within several different commodity groups. In addition the fumigation scheduling from a 4-week window to a 12 hour window, is not feasible given the ever-changing nature of the agricultural industry. The decision making for application are often based a number of factors including, but not limited to, temperature, soil conditions, precipitation, etc. most of which are beyond a farmer's control.

CCGGA would support keeping of the current, science-based regulations as set forth by the EPA and would oppose DPR's proposed regulatory change to these fumigants. We, again, appreciate the opportunity to share these comments and concerns. If you have any questions please contact us at (559) 252-0684 or jodi@ccgga.org.

Sincerely,

Jodi Raley

Jodi Raley
Director of Regulatory Affairs

Community to Community
De Comunidad a Comunidad
Empowering People and Respecting the Land that Sustains Them

May 20, 2017

To: Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Re: Comprehensive Right to Know Regarding Fumigant Application

Dear Mr. Segawa,

This letter is submitted on behalf of Community to Community Development, a nonprofit Social Justice and Farmworker Advocacy Group regarding the Comprehensive Right to Know Regarding Fumigation Application.

We are constantly concerned and see the real effects of fumigation application on farmworkers, farmworker families, and rural communities. It well established that fumigants are highly volatile, which increases their propensity for off-site movement.

People who live, work or go to school near fields that are going to be fumigated must be notified so that they have a chance to take simple precautions to protect their health and that of their children. A study of drift incidents has found that 85% of the harmed victims were within a mile of the application.

Therefore automatic written bilingual notification is needed at least one week ahead of planned fumigations for all residences, schools and businesses within one mile.

Written notification in English and Spanish should include:

1. The name of the fumigant to be used
2. Date and time fumigation is expected to begin
3. Immediate symptoms of exposure and chronic health risks
4. Farm name and business phone number, and address of the field to be fumigated and a map of the area to be fumigated
5. Contact number of County Agricultural Commissioner and instructions of where to call at night and weekends to report problems
6. Explanation of and link to the state's pesticide drift emergency medical reimbursement process

When a school is in the notification area, parents should receive at a minimum notification via "robot-call" systems, along with written notice prominently posted at the school and on the school's website. Whenever possible parents should be contacted in the community surrounding the school using culturally appropriate outreach. Other institutions and businesses

should post the written notification in an accessible central location.

And when the state's air monitors find concentrations of fumigants above the recommended safe levels, they should immediately notify local officials and all residents within one mile.

The right to know when hazardous chemicals will be unleashed in neighborhoods is a matter of basic social justice, and a minimal safeguard. Notification is necessary but not enough.

Based upon the number and severity of poisoning incidents for different fumigants, “safe use” of fumigants cannot be ensured. Fumigants are part of an unsustainable system of agriculture that needs to be replaced with readily available ecologically based alternatives. It is time to move toward a new agricultural system that will provide people with healthy food, homes, schools, and work places.

Non-chemical alternatives to fumigants exist, are documented, and warrant greater emphasis and evaluation. State officials must act to phase these hazardous, drift-prone chemicals out entirely, and replace them with safe alternatives.

Sincerely,

Community to Community Development

Rosalinda Guillen

Signed by Rosalinda Guillen, Executive Director

Community To Community Development
203 W. Holly, Suite 317 ■ Bellingham, WA 98225
360.738.0893 ■ www.foodjustice.org

CAUSE
Central Coast Alliance United for a Sustainable Economy

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A Ventura County Safer and Free from Hazardous Pesticides

April 8, 2015

Brian R. Leahy, Director
California Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015

Dear Director Leahy:

As community-based organizations that prioritize the health of low-income farmworker communities we are working to protect the health of farmworkers most directly exposed to fumigants on an on-ongoing basis and to protect the health of children, youth and adults in sensitive use areas, including schools. With regard to fumigant notification, we recommend the following at this time:

1. Written, bilingual notification is needed at least one week in advance for all places where people live, work, study and play within 1 mile from fields.

- Notification should be provided to all **residences, schools, day care centers, other institutions and businesses, including other farms, within one mile** of planned field fumigation because past drift incidents have affected people up to a mile from fumigated fields.
- Written bilingual notification should be provided **at least one week before a scheduled fumigation** either by mail or hand delivery to residences including labor camps, schools, day care centers, other institutions and businesses within the notification area. Follow-up notice should be provided 48 hours before fumigation and re-noticed if the fumigation is delayed more than 12 hours.
- Notification should be automatic rather than follow the methyl bromide regulation model where residents get a pre-notice early in the season and then have to have to request fumigation notification.
- Residents and businesses should be given the option to sign up for supplemental notification by email or robo-call for any future fumigation notices.
- Notification should be maintained as a separate right to know requirement rather than combined with emergency response requirements on the label because people need to be informed of both possible immediate and chronic health risks.

- Written notification in English and Spanish should include
  - a graphic showing a tarped field posted with the skull and crossbones sign,
  - the name(s) of fumigant(s) to be used,
  - date and time fumigation is expected to begin
  - immediate symptoms of exposure and chronic health risks, including any listing in California as a cancer causing chemical or reproductive toxin and website address for label and Safety Data Sheet.
  - farm name and business phone and address of field to be fumigated and a map of immediate area around the field showing the nearest roads
  - contact number for the county agricultural commissioner and instructions on where to call nights and weekends to report fumigation problems
  - explanation of the state's pesticide drift emergency medical reimbursement process with website address for more information
- Work with organizations dedicated to Indigenous communities to develop effective notification for monolingual indigenous (eg Mixteco, Hmong etc).

2. Institutions must provide additional notification for students, patients, employees etc.

- When a school is in the notification zone, parents should receive notification via "robo-call" systems which schools use for many types of notice and the written notice should also be posted at the school and on the school website. DPR should prepare a bilingual script for this robo-call notification which the pesticide applicator can provide to the school.

3. If state air monitoring shows increased levels of fumigants in the air, local decision-makers and residents must be notified immediately

- When state agencies find concentrations of fumigants in the air above their recommended "safe" levels, within 3 weeks of receiving the results they must notify the County Board of Supervisors, County Agricultural Commissioner, and all residents within 1 mile of the monitoring station. All of these parties must be involved in crafting immediate measures to prevent the problem from reoccurring.

4. Fumigant notification is not enough. State officials must create a plan to phase out fumigants and transition to safe replacements

- Notification of field fumigations is vital but it is not enough. Use of soil fumigants needs to be phased out and replaced with alternative methods to control soil pests that are healthier for both rural neighborhoods and the soil.

Sincerely,

Maricela Morales MA	Arcenio Lopez	Suguet Lopez	Jenna Tosh, Ph.D.
Deputy Executive Director	**Executive Director**	**Executive Director**	**President & CEO**
CAUSE	**MICOP**	**Lideres Campesinas**	**PPSBVSLO**

CC: Secretary of Environmental Protection, Matt Rodriguez
Senator Hannah Beth Jackson, SD 19
Assemblymember Das Williams, AD 37
Assemblymember Jacqui Irwin, AD 44
Ventura County Supervisor, John Zaragoza, 5th District
Ventura County Supervisor, Steve Bennett, 1st District

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May 20, 2016

Mr. Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Mr. Segawa,

We want to thank the Department of Pesticide Regulation (DPR) for the opportunity to comment on the department's recent regional workshops on regulation concepts for field fumigation notification.

The California Strawberry Commission (CSC) represents California's 400 family farmers, shippers, and processors of strawberries. On about ½ a percent of California's farmland, California strawberry farmers create the third most valuable crop in California, employing over 55,000 people on farms and contributing over $3 billion annually to rural communities along California's Central Coast.

With one treatment of fumigant before planting, farmers are able to reduce their footprint on nature - reducing water use by 50%, reducing all other pesticide use by at least 50%, and reducing the amount of land used by 50%. More specifically, field fumigants are used to manage soilborne pests, diseases and weeds. Applications of field fumigants are made in strict compliance with local, state, and federal regulations - including:

- Use of materials which have been fully reviewed, approved, and labeled by both the US Environmental Protection Agency (EPA) and DPR;
- Approval of site specific permits;
- Formulation of emergency response plans including implementation of monitoring or notification; and
- Application of materials made under the supervision of or by a certified applicator.

California's pesticide program has led the nation in establishing safeguards for pesticides based on facts and scientific evidence. To further this scientific process, California strawberry farmers were able to provide funding for the University of California to conduct independent research of new technologies that can further reduce emissions. This science-based process has ensured the safety of applicators, farm workers, growers, and the surrounding community and allowed for the development, review, and utilization of new technologies and practices to continually improve safety.

In contrast to nearly a century of science-based safeguards, we are concerned by current California Environmental Protection Agency (Cal/EPA) regulation concept which shifts from safeguarding our rural communities from potential risks to a "right to know" philosophy- where notification would be required regardless of risk. Farmers already provide public information on their pesticide use by reporting ALL

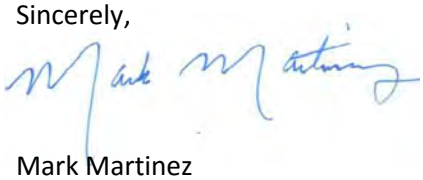
agricultural use; DPR makes this information available to the public in an easy online fashion; and local agricultural commissioner offices also make this information available.

We worry that Cal/EPA's shift away from science-based safeguards will lead to confusion and create unwarranted fear for communities located within proximity to agriculture. Unfortunately, we have experienced instances where notification has caused confusion. Court records for a case in Monterey County (Chase, Amalia, et al vs. Warmerdam, Mary-Ann, et al, Case No. M85670), document an instance where an individual sought medical treatment for alleged symptoms before the application of the pesticides occurred. Other counties have reported similar episodes. Instances such as these are problematic as they create unnecessary fear and divert valuable enforcement resources to situations where no fumigant was even applied.

We support the new regulatory requirement recently adopted by US EPA and DPR in 2012, that requires either notification or monitoring on a scale based on the potential for risk in an emergency situation. The benefit of maintaining the flexibility for the grower or local agricultural commissioner to choose notification or monitoring is that there are instances where one or the other of the options is best suited.

Thank you again for the opportunity to comment. If you have any questions, please do not hesitate to contact me.

Sincerely,



Mark Martinez
Vice President, Public Policy
California Strawberry Commission

CALIFORNIA FRESH FRUIT ASSOCIATION

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PHONE 559.226.6330 FAX 559.222.8326
www.CAFreshFruit.com

E-mail: Randy.Segawa@cdpr.ca.gov

May 5, 2016

Randy Segawa
Department of Pesticide Regulation
PO Box 4015
Sacramento, CA 95812-4015

Re: Regulation concept for notification of field fumigations

Dear Mr. Segawa:

The California Fresh Fruit Association (CFFA) is a voluntary, nonprofit agricultural trade association that represents California's permanent, fresh fruit (except citrus and avocados) industry on legislative and regulatory issues, at state, federal and international levels. On behalf of our member growers it is important to communicate concerns and identify areas within the proposal that stand to cause confusion, and reduce the likelihood of ensuring either more effective communication with members of the public or improvements in health protection.

As you are aware field fumigant applications are highly regulated. This category of materials undergoes extensive evaluation for health related impacts through a rigorous risk-based evaluation which results in specified health protective label use requirements. We are concerned that eliminating the monitoring option for assessing exposure to sensory irritation without describing why its benefits are perceived as inadequate fails to convey any scientifically sound, risk-based rationale for leaving only one option, mandatory notification.

The training and education requirements required in order to become a licensed applicator in California is expected to result in the knowledgeable application of soil applied fumigants. Under a three-tiered layer of regulatory requirements applicators are required to be highly knowledgeable about buffer zone calculations and triggers for requiring an additional monitoring or notification zone. To narrow choice down to one action presupposes notification is of greater value than monitoring. DPR, to date, has omitted any consideration of the value of monitoring, why it exists as an option, the balance between monitoring or notification, and has yet to convey that it has recognized the value of monitoring when performed by individuals with a high level of understanding of the fumigant material and the experience to understand site, use, and weather conditions and their effect on the likelihood of fumigant off-site movement. Hence, we believe the value of monitoring should be appropriately qualified within the proposed concept as the failure to do so would overlook the important role played by the applicator in those cases where monitoring is the chosen option.

We are concerned that requiring notification alone would increase public contact in a manner that would cause alarm while failing to adequately convey the appropriate, risk-based regulatory context within which the applicator is required to conduct a soil applied fumigant application. Notification is a valuable tool when used appropriately, and in situations where monitoring may be overly burdensome when fumigating in areas with few people, however establishing a blanket notification requirement is arbitrary, not related to risk and may have the unintended consequence of conveying an absence of protective measures which would only lead to confusion and alarm while failing to balance stakeholder interests.

Eliminating an important post-application, protective measure in a narrow attempt to enhance awareness of soil-applied fumigant use must be reconsidered and, at a minimum, analyzed within the context of overall protective benefits that factor in the protective measures in place as required by U.S. EPA, DPR, and county permit conditions. We remain interested in continuing to work together to ensure these materials are used in the safest and most effective manner possible. Please feel free to reach out to me (cvaladez@cafreshfruit.com) to discuss any related comments or questions.

Regards,

Christopher Valadez
Director, Environmental &
Regulatory Affairs
California Fresh Fruit Association

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AMVAC CHEMICAL CORPORATION ◆ TAMINCO US LLC ◆ TESSENDERLO KERLEY INC.

May 20, 2016

Via E-Mail

Mr. Randy Segawa
Department of Pesticide Regulation
California Environmental Protection Agency
1001 I Street
P.O. Box 4015
Sacramento, CA 95812-4015

Re: Regulation Concepts for Notification of Field Fumigations

Dear Mr. Segawa:

This comment is submitted on behalf of the Metam Task Force (Task Force), which is comprised of AMVAC Chemical Corporation, Tessenderlo Kerley, Inc., and Taminco US LLC, to address the California Department of Pesticide Regulation's (DPR) regulation concepts for notification of field fumigations. The Task Force has significant concerns with DPR's regulation concepts and urges DPR to consider these concerns as it proceeds to evaluate these regulation concepts. These concerns include, but are not limited to, the following:

1. To the extent that DPR is considering implementing a notification process similar to that required for methyl bromide and/or a uniform notification trigger of 300 feet as it states it currently has in place for methyl bromide applications, the Task Force has concerns. These measures would not be science- or risk-based determinations, but arbitrary ones that could have a significant and unnecessary burden on growers without a corresponding health and safety benefit. Any potential notification process or notification trigger should not be considered unless it is based upon a well-grounded assessment of potential risks supported by defensible science, and only if such a requirement is necessary to address any such potential risks.

   In this regard, it is important to consider that the methyl bromide notification process was developed before current label requirements now in place existed. These existing label requirements address emergency preparedness and response measures, including the circumstances triggering notification or monitoring. It concerns the Task Force that DPR is considering a notification requirement that has no relationship to risk, is not needed, and would provide no corresponding health or safety benefit.

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2. The notification requirements that DPR is considering could create unwarranted and unnecessary fear and confusion. Label requirements already in place address the concerns that DPR states would be addressed by the notification requirements. These new procedures would not create additional risk reduction, but will burden growers and cause unwarranted community concerns.

The Task Force appreciates this opportunity to comment. If you have any questions or need additional information, please do not hesitate to contact me at (202) 557-3802 or by e-mail at lcampbell@lawbc.com.

Sincerely,

Lisa Campbell

Lisa M. Campbell
Counsel to the Metam Task Force