Almond Alliance

May 30, 2023

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

Re: Revisions to the REVISIONS TO HEALTH RISK MITIGATION AND VOLATILE ORGANIC COMPOUND EMISSION REDUCTION FOR 1,3-DICHLOROPROPENE DPR REGULATION NO. 22-005

Dear Ms Otani:

These comments are provided on behalf of the Almond Alliance (the Alliance), in cooperation with the Almond Board of California (ABC). The Almond Alliance is an association which serves as the almond industry's advocacy voice, promoting the policy solutions for the sustainability and success of the almond community. The Almond Board of California administers the almond industry's grower-enacted federal marketing order under the supervision of USDA. Together Alliance and the Almond Board represent the 7,600 growers and 100+ processors of almonds in California. Virtually 100% of U.S. commercial almond production is in California; this production also represents over 80% of the global supply. Almonds are grown on some 1.6 mill acres within the Central Valley and the 2021 production was 2.9 billion lbs. The California Almond industry appreciates the opportunity to comment on Health Risk Mitigation and Volatile Organic Compound Emission Reduction for 1,3-Dichloropropene (DPR Regulation No. 22-005).

We still hold to a number of points we raised in our comments in response to the initial draft regulations submitted in January. Soil Fumigation continues to be an important tool to ensure orchards start and remain productive as long as possible, using water, fertilizers, and land more efficiently.

Here are comments based on the proposed changes as well as on our previous comments:

1) We appreciate that DPR is taking a more refined look at how weather in different locations might affect the need to limit the size of application areas differently. However, a similar request submitted in our January comments to consider more flexibility based on actual weather conditions during the month of November was not included in the revisions.

2) We appreciate DPR taking different between-row spacings when planting an orchard into account for the wider spacing of larger trees (40% of acreage covered with tarp). However, it seems that with tarp on 40% of the acreage the acreage sizes (Table 8 a & b) go down for some rates compared to the previous 50% tarp coverage. This change

hurts almonds and other orchards or vineyards not as widely spaced. The most common between row spacing is 21 ft for almonds. Thus if one assumes an 11ft wide tarp, the 50% coverage is more appropriate for almonds. Is there a way to have a calculator to account for the amount of soil covered if tarp in strips are applied or to add the original 50% tarp coverage back to the available options?

3) We appreciate DPR including a GPS guided option for 24 inch depth, which was not included previously.

4) We repeat a request for clarification as included in the January comments that doesn't not seem to be addressed in the revisions to the regulations: "Need clarification on what is considered an "occupied" structure. The current language in section 6448 b) says a setback is also "required for any other indoor or outdoor site that will be occupied for at least 72 consecutive hours during and following a 1,3- D application."

   We are unsure how the 72 hours is defined. Would that exclude an office building that is occupied during normal business hours but not in the evenings? Would that exclude a workshop on-farm that is intermittently occupied to obtain materials or repair equipment?

5) We find the requirement of electronic reporting fair, though we continue to wonder at the value of trying to report quickly on the use of 1,3-D every quarter. In our experience the use data does often need a careful assessment for accuracy prior to release. Additionally, should DPR decide to move forward with a revised notification system, we request that additional consideration be given to what information is relevant as this proposal now increases the regulatory burden on growers/ applicators with reporting both before and after applications.

   We still question the utility of listing the top 10 townships with usage per county, as townships that are tree/vine heavy may have high usage in one year and then zero or limited usage for several years. 1,3-D applications only occur prior to planting, meaning that depending on the type of orchard/vineyards, this occurs once every 20-40 or more years. Again how is this information useful and is it relevant if DPR decides to move forward with a notification requirement?

6) We reiterate our concerns with the very small total acreage that can be treated if need to use a broadcast, full rate of 1,3-D treatment in November. There is just no way to maintain the right soil moisture conditions, weather conditions, etc. to complete

treatment of a block when only 10, 5, 4 acres can be treated at a time. This adds incredible complexity, additional costs, and increased accident risk of having an applicator and their equipment return to a field multiple times.

Again, I'd like to reiterate our appreciation that DPR took the time to better understand different application methods to meet the emissions reduction goals and provide growers with options for how to meet the goals. We aim alway to be partners in solutions.

As noted previously, 1,3-D continues to be a very important tool to protect the young trees and help maintain the long-term health of an orchard improving efficiency in the management of resources in the growing of the trees, hulls, shells and kernels - three coproducts which all are vital to the almond industry and the customers we support across the globe; local, state, and national economy; and our community. The Almond Board of California maintains a robust, grower funded research program that includes pest management, and continues to fund research to better understand the biology to manage plant parasitic nematodes and replant disease, methods for monitoring, methods to reduce off-gassing, non-fumigant methods, as well as seek resistance via breeding. While alternatives continue to be developed, the benefits of soil fumigation have been proven time and time again, and thus remains a critical tool for the continued development and success of the almond industry of California and the nation.

Sincerely,

Aubrey Bettencourt
President, Almond Alliance of California

Cc: Gabriele Ludwig, Almond Board of California