



CALIFORNIA WALNUT COMMISSION

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May 30, 2023

1,3-Dichloropropene (1,3-D) Proposed Rulemaking Formal Comments

Attn: Julie Henderson, California Department of Pesticide Regulation (CDPR)

PO Box 4015, Sacramento, CA 95812-4015

Email: dpr22005@cdpr.ca.gov

RE: Health Risk Mitigation and VOC Emission Reduction for 1,3-Dichloropropene

Dear Director Henderson:

The California Walnut Commission (CWC) is writing to express support for communities and people of impact, the continued safe, practical use and availability of 1,3-Dichloropropene (1,3-D). 1,3-D is critically important to U.S. walnut production. The CWC represents the California walnut industry, comprised of over 4,500 family farms and 77 handlers that generate more than 85,000 jobs directly and indirectly, and just over \$1 billion in farm gate product value. Walnuts are California's ninth largest valued agricultural commodity and 99% of English walnuts grown in the United States are produced in California.

Walnut growers require access to new and emerging technologies in order to stay competitive. Therefore, the CWC strongly supports safe and responsible product usage of what is currently proven effective and available. Effective pest management is one of many critical components of producing a successful walnut crop. Walnut growers utilize 1,3-D as part of their responsible pest management programs due to the exceptional nematode pest control it offers during the pre-plant process protecting new walnut plantings. Current walnut trees are very sensitive to infection by root lesion nematode and as little as one nematode per 250 cubic centimeters (cc) of soil can damage walnuts. Further, preplant soil treatments are currently the most effective way to protect new walnut plantings. Alternative treatment options are either not as effective, face challenges to control nematode pest pressures, or face regulatory hurdles themselves. 1,3-D is one of the most important tools in the grower toolkit to responsibly manage pests and prevent economic crop losses of the long-term investment in a climate friendly walnut orchard.

Without practical access to 1,3-D, walnut growers will have no alternative treatment options available. This will be detrimental to future US walnut production and the industry as a whole. Furthermore, while the current regulatory proposal makes significant progress from previous iterations, there are a number of items to offer sound, beneficial solutions on, which include items previously mentioned in our dated January 18, 2023, formal comment letter and more specifics on nuanced items below.

Setback Distances

There is an overly conservative approach to interpreting the science associated with 1,3-D toxicity, human exposure potential and risk assessment, which greatly threatens the practical uses for some California growers. The updated proposal includes unnecessarily large setback distances and small maximum field sizes.

In the updated proposal, CDPR has indicated the willingness to establish location-specific setback distances and maximum field sizes (e.g., “Inland” vs. “Coastal” counties). However, CDPR continues to apply “worst-case” meteorological conditions across county-types (i.e., “Inland” vs. “Coastal”) despite county-specific meteorological data having been evaluated by CDPR. An improvement opportunity for consideration is if CDPR were to calculate setback distances and maximum field sizes based on county-specific meteorological conditions, important refinements in setback distances and maximum field sizes would result, providing important logistical flexibility to many growers in the state.

Quarterly Reporting

We would like to raise the following concerns regarding the quarterly reporting period. As proposed, the regulations would require the CDPR to provide preliminary totals for 1,3-D use by county, township, crop, and fumigation method on a quarterly basis. The noticing materials identify that this use reporting is necessary to “provide a timely and transparent method to measure the effectiveness of the 1,3-D regulations in mitigating cancer risk to non-occupational bystanders without a township cap.”

While it is appreciated that the township cap program may have some of this information broken out on a township basis, if the use restrictions and mitigations are sufficient to mitigate cancer risks to non-occupational bystanders alone, why is additional reporting with this level of detail is necessary? Should the CDPR determine that the use data by county, crop type, township or method of application be greater (or less) than the previous use data under the township cap standard; what will be the course of action?

Moreover, as the CDPR’s own omission that these quarterly reports will not be conclusive, it is concerning that preliminary data is used as a basis for determining sufficient health protective measures. Additionally, should annual use reports contain information about crop type, fumigation method, and month of use, it’s unclear by redundant quarterly data retrieval and reporting is necessary. Adoption of new, lower emission methods of fumigation and monthly use restrictions will be best articulated through annual use reporting data as a metric of overall lawful adoption of the mandated regulations and day-by-day applications of 1,3-D will be publicly noticed for interested parties in the Statewide Notification system under development. Simply put, quarterly reporting of this detailed information is unnecessary. Therefore, it is suggested that without a discernable benefit, the CDPR should work to eliminate redundancies and unnecessary workload.

In closing, 1,3-D is critically important to U.S. walnut production. Walnut growers and PCAs who provide product recommendations strictly follow state, federal and local regulations ensuring that products are safely and responsibly used in accordance with label guidelines. The CWC appreciates the efforts conducted by the CDPR and the opportunity to communicate the importance of 1,3-D to the industry, and lack of efficacious alternatives available. 1,3-D has been used in agriculture since the 1950s and has been extensively studied by various agencies worldwide. It is an active ingredient in soil fumigations that control nematodes, fungi, and other pests that otherwise would damage root structures of new plants. 1,3-D boost crop yields, but also allows for more efficient use of water, fertilizers, and nutrients and less reliance on other pesticide products. CDPR has previously acknowledged there is no commercially viable alternative to 1,3-D for pre-plant nematode control.

The CWC strongly supports the continued access to 1,3-D by U.S. walnut growers with environmentally safe and practical regulations in place for the future. Thank you for your consideration on this important matter. We look forward to working together towards an even greater environmentally sound, climate resilient and sustainable future for Californians and all involved.

Respectfully submitted,

Joshua Rahm

Director, Technical & Regulatory Affairs, California Walnut Commission