



May 30, 2023

Director Julie Henderson
Department of Pesticide Regulation
1001 I Street, 2nd Floor
Sacramento, California 95814

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

Director Henderson:

Thank you for the opportunity to provide additional comments on the proposed regulatory action (DPR 22-005) regarding the use of 1,3-Dichloropropene (1,3-D) in California. Our organizations represent farmers and industry professionals in California who service farm operations and grow fruits, nuts, vegetables, and other crops that are critical to the state's agricultural economy and communities.

While our previous correspondence noted, it bears repeating that soil fumigation is an integral part of farming operations throughout California and a fundamental practice used to protect farm fields from soil borne pests and diseases, such as nematodes, fungi, and others that damage plant root structures. 1,3-D has been confirmed to improve crop yields, allow for more efficient use of farm inputs (like water and fertilizers), and reduce reliance on other pesticidal products. The distribution, sale and use of products containing 1,3-D are highly regulated at the federal, state, and local level and may only be utilized by certified applicators, permitted under County Agricultural Commissioner oversight and approval, after considering field-level conditions. For other concerns about the provisions of the proposed regulations, we would request the Department refer to our previous correspondence dated January 13, 2023.

Regarding the recently proposed text modification, our organizations would like to raise the following concerns regarding the quarterly reporting period. As proposed, the regulations would require the Department of Pesticide Regulation 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 this coalition appreciates 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 Department 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 Department'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, this coalition posits that without a discernable benefit, the Department should endeavor to eliminate redundancies and unnecessary workload.

Thank you for providing the opportunity to provide comments. We invite further discussion with the Department on this rulemaking when appropriate.

Sincerely,



Richard Matoian, President
American Pistachio Growers



Manuel Cunha, Jr., President
Nisei Farmers League



Ruthann Anderson, President/CEO
California Association of Pest Control Advisers



Roger Isom, President/CEO
Western Agricultural Processors Association



Christopher Reardon, Director of Legislative
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California Farm Bureau Federation



Rick Tomlinson, President
California Strawberry Commission



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