



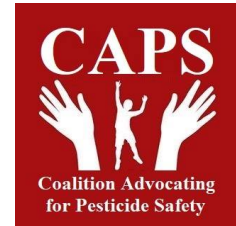
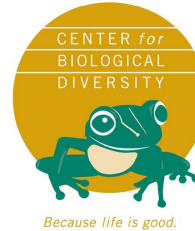
Californians For  
Pesticide Reform



CEH  
center for environmental health



Central California  
Asthma Collaborative



A project of  
Center for Environmental Health



Friends of  
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NATURAL RESOURCES  
DEFENSE COUNCIL



Physicians for  
Social Responsibility  
Los Angeles





September 9, 2022

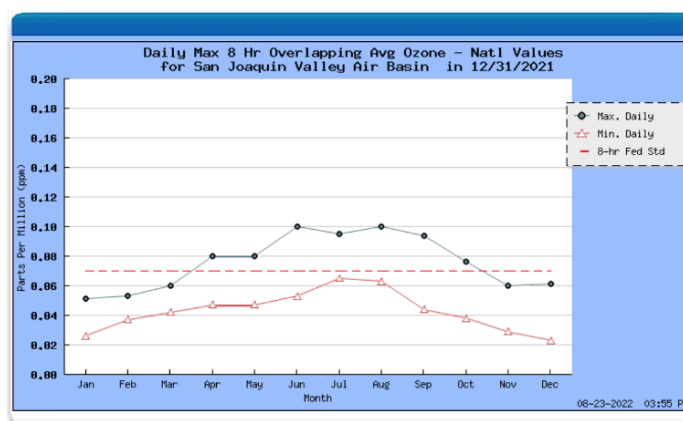
California Air Resources Board  
 1001 I Street, Sacramento, CA 95814 P.O. Box 2815, Sacramento, CA 95812  
 Submitted electronically: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Re: Draft State Strategy for the State Implementation Plan for Ozone

Dear CARB Board and staff,

The undersigned 52 community-based, environmental health and justice, air quality, labor, public health, environmental, and sustainable agriculture groups submit these comments for your consideration regarding the [Proposed 2022 State Strategy for the State Implementation Plan](#) (SIP) dated August 12, 2022. We urge CARB to include a commitment in the SIP to reduce pesticide VOC emissions by 30% by 2030 and by 75% by 2037 from 2020 levels in high pesticide use non-attainment air basins, with a focus on mandatory targets for reduced usage and adoption of agroecological practices. At a minimum, we urge CARB to include a mandatory emissions reduction target for 1,3 dichloropropene (1,3-D) because the proposed DPR 1,3-D regulation lacks an enforceable emissions reduction commitment.

Last year, the San Joaquin Valley exceeded the current federal 8-hour ozone standard 101 times. While there has been progress in cleaning the air, the San Joaquin Valley remains embroiled in an ongoing public health crisis. Health problems caused by ozone exposure include headaches, burning eyes, wheezing, coughing, asthma attacks, and heart attacks. Chronic exposure is linked to the development of heart and lung diseases and premature death. It's an ongoing injustice that residents of the San Joaquin Valley must breathe this dirty air.



Source: California Air Resources Board, AQMIS data for the San Joaquin Valley Air Basin (2021) <[www.arb.ca.gov/aqmis2/aqdselect.php](http://www.arb.ca.gov/aqmis2/aqdselect.php)>

Pesticide use contributes to the San Joaquin Valley's ozone problem. In 2020, pesticides in the region emitted 16 tons of volatile organic compounds (VOC) per day, which is roughly equivalent to all VOC emissions from the oil and gas industry in the region. VOCs combine with oxides of nitrate (NOx) to form ozone in the summertime. In the past, the California Air Resources Board (CARB) has recognized the importance of reducing VOCs from pesticides to reduce overall ozone levels in the state.

In the [1994 Ozone SIP](#) (page 7), the Department of Pesticide Regulation (DPR) and CARB worked together to achieve a commitment to reduce pesticide VOC emissions by 12% from 1990 levels in the San Joaquin Valley air basin, and by 20% in all other non-attainment air basins. Although problematic for not setting a uniformly protective reduction target across air basins, this nevertheless represented a significant and federally-enforceable commitment:

***Mandatory Measures:*** To ensure California meets its goals for reducing pesticide emissions, DPR will track emission trends closely and impose mandatory measures to cover any shortfall in emission reductions. Specifically, DPR will track emissions seasonally and annually for each ozone nonattainment



*air district, compare actual emission reductions (calculated from VOC content and PURs) to emission reduction targets, and monitor total VOC.*

Included was a trigger clause to further reduce the use of high VOC pesticides if it appeared that a region was not going to achieve its target:

*A backstop regulatory measure may be adopted in 1998 and will be automatically triggered if pesticide emissions fail to meet targeted reductions... Mandatory measures could be imposed annually or during the month(s) of VOC shortfalls.*

In 2013, DPR [ordered](#) prohibitions on major uses of certain pesticide products designated as high-VOC in the San Joaquin Valley to address the region's continued non-compliance.

We previously [wrote to you on March 4, 2022](#) to urge CARB to include in the SIP a regulatory strategy in partnership with the Department of Pesticide Regulation (DPR) to reduce VOC emissions from agricultural pesticide use in California, with a particular emphasis on creating a regulatory framework to establish and attain ambitious pesticide use reduction targets. We noted that DPR has not updated its commitment to reduce VOC emissions since the 1994 SIP, when the regulatory target was 80 ppb. The August 12 draft includes no such mandatory measures to reduce pesticide emissions, despite the dwindling set of emissions sources over which the state has jurisdiction and which can be targeted in the plan. Notably, the August 12 draft:

- **Does not include** any SIP-enforceable pesticide measures with specific VOC emission reduction commitments;
- **Fails to acknowledge CARB's statutory authority** to regulate pesticide Toxic Air Contaminants and smog-forming compounds once they volatilize after their pesticidal use; and
- **Employs misleading language and formatting** that appears intended to suggest that the SIP does address the contribution of agricultural pesticides to ozone in one of the nation's two extreme non-attainment air basins, when in fact it does very little.

The 2-page section of the August 12 draft entitled "Proposed Measures: Pesticides" starting on page 104, is misleading because it lacks real measures with SIP-enforceable VOC emission reduction commitments. The section consists of a description of DPR's Sustainable Pest Management Roadmap - noting that it "could potentially result in VOC emissions reductions" - and DPR's current rulemaking for the fumigant TAC pesticide 1,3-dichloropropene - noting that it "would not address any mandatory SIP element or other Clean Air Act requirement" but "may reduce VOC emissions... once it is fully implemented." This is not good enough, and falls far short of the kind of all-of-government coordinated and enforceable response needed to achieve compliance with federal air quality standards in the San Joaquin Valley.

Furthermore, DPR's proposed 1,3-D regulation in its current form a) is explicitly not intended to reduce use; b) actually removes existing guardrails by eliminating the use cap which previously set a limit for 1,3-D use in each 6x6 mile township; and c) relies on largely unproven emissions reduction measures wishfully extrapolated from a few small pilot field projects - one such unrealistic measure being increased soil moisture requirements during a drought. The other non-mandatory pesticide-related item included in the draft SIP text, the Sustainable Pest Management roadmap, lacks any kind of enforcement mechanism or funding in its current form, and its still-unspecified use reduction goals are undermined by DPR's ongoing reliance on pesticide sales for the majority of its funding.

The Pesticide Section in the SIP also fails to acknowledge CARB's statutory authority to regulate pesticides after pesticidal use. The Draft states that "DPR is the agency responsible for regulating the sale and use of pesticides in California," but fails to make note of CARB's primary authority to regulate pesticide Toxic Air Contaminants (TACs) once they enter the ambient air. This authority was affirmed in *Harbor Fumigation, Inc. v. County of San Diego Air Pollution Control District*. CARB also avowed their authority in the [Shafter Community Emissions Reduction Program plan](#), noting:

"DPR has regulatory authority over pesticides *in their pesticidal use*. Some pesticides are also classified as TACs and so can be regulated as a TAC, *and as smog-forming compounds* as they become waste gases outside of their pesticidal use; State law establishes a system of overlapping authorities between pesticide and air regulators to address these complex problems" [italics added.]

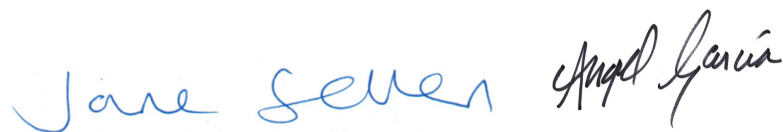
CARB's authority to regulate smog-forming Toxic Air Contaminants is of particular relevance given the draft SIP's reliance on regulation of 1,3-D (a TAC and VOC) to achieve unspecified VOC emissions reductions. In a federally-enforceable air pollution reduction plan, the failure to proactively assert CARB's admitted authority over an entire class of emissions must be rectified.

In conclusion, federally-enforceable pesticide emissions reduction measures - with specific VOC reduction commitments - are a necessity if our state is to do better than the wishful thinking evoked in phrasing such as "could potentially result in reductions" and "may reduce emissions." In its current form, **this SIP draft has a gaping hole**. We call on CARB to: 1) Proactively assert its authority to regulate smog-forming emissions from use of pesticides classified as TACs, and 2) Include in the SIP meaningful and enforceable measures to reduce use of pesticides that contribute to VOC emissions. Specifically, we urge CARB to include a commitment to reduce pesticide VOC emissions by 30% by 2030 and by 75% by 2037 from 2020 levels in high pesticide use non-attainment air basins, with a focus on mandatory targets for reduced usage and adoption of agroecological practices.

At a minimum, if CARB proceeds with the inclusion of the 1,3-D regulation as a measure in the SIP, we ask that CARB exercise their admitted authority to regulate 1,3-D air emissions by setting a SIP-enforceable 1,3-D emissions reduction target. This would add a real and enforceable pesticide VOC emissions reduction goal to the SIP.

Above all, it would provide some respite from exposure to a particularly noxious carcinogenic VOC for the residents of one of the most severely impacted air basins in the nation.

Sincerely,



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