



August 9, 2023

Julie Henderson, Director
Lauren Otani, Senior Environmental Scientist
Department of Pesticide Regulation
1001 I St.
Sacramento, CA 95812-4015

RE: Comment on Second Modification to Proposed Text of 1,3 Dichloropropene Health Risk Mitigation Regulation for Non-Occupational Bystanders

Via email: dpr22005@cdpr.ca.gov

Dear Director Henderson and Ms. Otani:

Thank you for the opportunity to comment on the second modification to the proposed 1,3-dichloropropene (1,3-D) regulation.

We support the addition of the specification that the annual report for 1,3-D shall be issued for each calendar year by October 1st of the following year. It is critical to promptly evaluate and report on how implementation of this regulation affects 1,3-D use and air levels.

However, we strongly oppose the broad escape clause which allows release of the report by October 1st of the following year "or as soon thereafter as is reasonably practicable." We recommend narrowing this exception to "The release of analysis of air monitoring data may be delayed up to 3 months, no later than January 1st if there are **documented** delays in laboratory analysis of air monitoring samples." This would be consistent with the explanation in the Notice of Second Modifications. Furthermore, the regulation should affirm that, regardless of any delays in laboratory analysis, 1,3-D **use data** must be released by October 1, with no delays.

We remain convinced that the scope of the report must be extended beyond the 10 highest use townships. At minimum it should include all high use townships¹ in each county and spanning multiple counties. As noted in rulemaking documents, over 90% of use is concentrated in 13 counties. The regulation also needs to include clear requirements for timely tightening of use restrictions if 1,3-D levels documented in air monitoring or predicted by modeling exceed action levels, rather than the vague obligation to “determine if additional restrictions are needed” in the proposed regulation.

We continue to have grave concerns that the regulation as proposed falls far short of protecting rural residents from harmful levels of exposure to 1,3-D because it is designed to protect to a regulatory target for cancer risk that is more than an order of magnitude higher than the No Significant Risk Level set by OEHHA. In a recent meeting Cal-EPA Secretary Yana Garcia reaffirmed her position that when two CalEPA BDOs disagree on a toxicity endpoint, the state should choose the more health-protective option as a regulatory target.

We stand by the more detailed comments we submitted in January and May and incorporate here by reference.²

Sincerely,



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¹ We recommend including all townships with annual 1,3 D use exceeding 45,000 pounds.

² <https://www.pesticidereform.org/wp-content/uploads/2023/05/CRLAF-CPR-13-D-modifications-comments-5.31.23.pdf>

<https://www.pesticidereform.org/wp-content/uploads/2023/01/13-D-CRLAF-CPR-comment-letter-1.18.23.pdf>