



April 22, 2024

Julie Henderson, Director
California Department of Pesticide Regulation
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Dear Director Henderson,

We have reviewed the 1,3 dichloropropene (1,3-D) Occupational Bystander [Risk Management Directive](#) (RMD) and are writing to share our perspective on [comments](#) from the California Air Resources Board (CARB) and the California Department of Food and Agriculture (CDFA) on the RMD and on the recommendations of the Office of Environmental Health Hazard Assessment (OEHHA), and DPR's response to these comments and recommendations.

CARB commented: "The proposed RMD notes that DPR will follow OEHHA's recommendations of December 13, 2023. On page 3 of OEHHA's comment memo to DPR dated December 13, 2023, OEHHA stated that if ambient air concentrations are found to be 'significantly' above the acceptable exposure level, DPR should evaluate additional mitigation options. We suggest stating in the RMD how DPR intends to interpret 'significantly above.' We suggest considering additional air monitoring or mitigation if ambient air concentrations are found to exceed the acceptable exposure level."

We strongly agree with CARB's recommendations. It is imperative that these are addressed during joint and mutual development of the regulation with OEHHA and as part of the TAC consultation. In our opinion any exceedance of the acceptable exposure level is significant.

In comments on the RMD, CDFA opined that OEHHA's occupational bystander exposure estimates are "extremely conservative". On the contrary, while we find OEHHA's occupational bystander exposure estimates to be reasonable, we conclude they are not conservative enough in the following ways and ask for consideration of

these points during the joint and mutual development of the regulation with OEHHA and as part of the TAC consultation:

- 1) The RMD does estimate exposures from working adjacent to applications. However, the RMD fails to estimate background exposure to 1,3 D during other workdays, when occupational bystanders are working in fields that are not adjacent to an application. Exposure during those other workdays needs to be accounted for in the RMD. In 2022 at the air monitoring network sites in Shafter, Parlier and Delhi there were quantifiable detections of 1,3 D respectively in 58.7%, 73% and 51% of weekly samples collected. This indicates that occupational bystander exposures are not limited to merely the workdays spent working adjacent to applications. Rather, exposures are likely during many additional workdays not estimated in the RMD.
- 2) Exposure of occupational bystanders who are preparing adjacent or nearby plots of land for soil fumigation (eg. tilling, irrigation) has not been estimated or accounted for.
- 3) Occupational bystanders are assumed to work from 8 am to 4 pm while in reality many agricultural workers work at night or start their shifts at or before dawn. During these hours the air conditions are calmer so the model would predict significantly higher 1,3 D exposure levels.
- 4) Background exposures during non-working hours which are allowed to reach 0.56 ppb averaged over a lifetime are not taken into account even though they will contribute to cancer risk. We note that, due to the Department's choice of cancer risk level in the residential bystander regulation for the same chemical, workers who live in high fumigant use areas in fact are enduring far higher levels of exposure at all times. This aggregate burden should be accounted for in order to protect the most heavily exposed bystander workers.

CDFA stated that they would be providing a memo with CDFA findings on how often crops could have been harvested next to 1,3-D applications for several focal counties. We hereby request a copy of said memo if and when it is provided to DPR.

CDFA also stated that they are "willing and able to provide detailed analyses of the spatial distribution of 1,3-D applications over time in several focal counties including Monterey and Fresno". We hereby request a copy of this analysis if and when it is provided to DPR. We also note that while maximum air concentrations may be greatest when working adjacent to an 80-acre application, in areas where most applications are

made to smaller parcel sizes, occupational bystanders can be expected to work in close proximity to recently fumigated fields more frequently.

Thank you for your careful consideration of these comments. We would also like to remind you of our request to provide input on development of the occupational bystander regulation early in the process of development of the regulation and your agreement to honor this request.

Sincerely,



Anne Katten, MPH
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Jane Sellen and Angel Garcia
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Cc: Lauren Zeiss, Dave Edwards, Ouabiba Laribi, Yana Garcia