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California Department of Pesticide Regulation
Via email

RE: Development of 1,3 D Occupational Bystander Regulation

Dear Director Henderson and DPR staff:

We are writing to follow up on the meeting last week where the development of the 1,3 D Occupational Bystander Regulation was discussed. While we appreciate the opportunity for discussion before the regulation is officially proposed we have grave concerns about the proposed content. It will fall far short of protecting bystander workers and runs counter to the vision of the SPM Roadmap.

The regulation should be designed to reduce the combined exposure from working in close proximity to fumigated fields and in the general vicinity of fumigations to 0.21 ppb. This should be the basis for the regulation rather than having to wait for evaluation of estimated air concentrations from 2025-2027 use data followed by consideration of possible means for reducing worker bystander exposures.

Exceedences of the 0.21 ppb level (as a rolling annual average) at any of the Air Monitoring Network sites should immediately trigger further mitigations, including requiring a new township cap. Additional air monitoring at more sites should be conducted multiple days per week to evaluate whether the new 24" depth untarped fumigation methods actually reduce emissions to the extent predicted by modeling.

Farmworkers typically work from dawn until early afternoon, especially during warmer months of the year. In addition, harvest of a growing number of crops including canning tomatoes,

onions, garlic, wine grapes, sweet corn, lettuce and spinach is often conducted at night. Assuming work hours of 8 am to 4 pm for near field and general vicinity exposure is thus not valid and will substantially underestimate bystander worker exposure to 1,3 D.

We do not support the use of region wide relative frequencies of use of field fumigation methods to reduce some buffer zone durations from the 5 or 7 days initially recommended by OEHHA to 48 hours and to eliminate some buffer zones entirely. Relative frequency of use of methods isn't going to be evenly distributed within a region. As a result, those workers who labor most often next to fields where higher emission field fumigation methods are used will not be adequately protected. We are also highly skeptical that 100 foot buffers in place for 48 hours will be adequate to protect bystander workers from exposure levels that pose high cancer risk given that 1,3 D is known to drift for miles over many days.

We remain baffled at how DPR can reconcile having two regulations for the same pesticide based on different risk assumptions. People who live across the street from fumigations don't understand why it is deemed acceptable for them to be exposed to much higher levels of 1,3 D. In addition to failing to account for general area exposure to 1,3 D during work hours this regulatory scheme completely ignores the additional exposure many workers get if they also live in high fumigant use areas. The health protective and just solution is to protect all people to the OEHHA NSRL of 0.04 ppb for 1,3-D.

In our view, this regulation is not designed to err on the side of protecting public and worker health. Instead, it maximizes continued use of a highly toxic and volatile chemical. DPR put tremendous effort into the SPM Roadmap but won't be able to realize its goals without tough actions – this regulation as drafted does the opposite. DPR needs to make the SPM Roadmap a reality, show that California can lead. We urge you to rethink the framework for this regulation.

Sincerely,



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